

## **I-77 High Occupancy/Toll (HOT) Lanes**

From I-277 (Brookshire Freeway – Exit 11) to NC 150 (Exit 36)  
Mecklenburg and Iredell Counties

Federal Aid Project No. NHS-077-1(210)  
WBS No. 34181.1. 1  
STIP Project No. I-3311C

Federal Aid Project No. NHF-077-1(209)9  
WBS No. 45454.1. 1  
STIP Project No. I-5405


Federal Aid Project No. IMF-077-1(183)299  
WBS No. 40099.1. 1  
STIP Project No. I-4750AA


### **ADMINISTRATIVE ACTION Finding of No Significant Impact**

**October 2013**

Submitted Pursuant to 42 USC 4332(2)(c)  
UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION  
&  
NC DEPARTMENT OF TRANSPORTATION

**Approved**

10/16/13  
Date   
FOL Richard W. Hancock, PE, Manager  
Project Development and Environmental Analysis Unit  
North Carolina Department of Transportation

10/16/13  
Date   
for John F. Sullivan, III, PE, Division Administrator  
Federal Highway Administration



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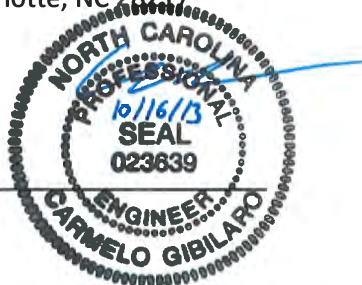
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10/16/13  
Date

  
Eric Midkiff, PE, Project Development Section Head – Central Region  
NCDOT – Project Development and Environmental Analysis Unit



## Project Commitments

During the National Environmental Policy Act (NEPA) process, commitments are made to avoid, minimize, or mitigate project impacts. Commitments result from consideration of public comment or through the requirements of, or agreements with, environmental resource and regulatory agencies.

In addition to compliance with applicable federal and state requirements and regulations, such as Section 404 Individual Permit Conditions and State Consistency Conditions; North Carolina Department of Transportation (NCDOT) *Guidelines for Best Management Practices for the Protection of Surface Waters*; General Certification Conditions and Section 401 Conditions of Certification, and the Endangered Species Act, **Table PC-1** lists special project commitments that have been agreed to by NCDOT.

**TABLE PC-1: Special Project Commitments**

Item	Resource	EA Section	Project Commitment	Project Stage
1	Community Services	5.1.5	NCDOT will coordinate with the Charlotte Area Transit System (CATS) during final design and construction to minimize impacts to the operations of its park and ride lots in the project's study area.	Final Design through Construction Management
2	Hazardous Materials	5.2.5	If any UST or other potential source of contamination is discovered during construction activities, NCDOT Geotechnical Unit should be notified of its presence immediately upon discovery. An assessment will then be conducted to determine the extent of any contamination and identify the potential impacts and potential measures to address the issue.	Construction Management
3	Floodplains and Floodways	5.2.6	The NCDOT Hydraulics Unit will coordinate with the NC Floodplain Mapping Program (FMP) to determine the status of the project with regard to the applicability of NCDOT'S Memorandum of Agreement with the NC Floodplain Mapping Program (April 22, 2013), or approval of a Conditional Letter of Map Revision (CLOMR) and subsequent final Letter of Map Revision (LOMR).	Final Design through Construction Management
4	Floodplains and Floodways	5.2.6	This project involves construction activities on or adjacent to FEMA-regulated stream(s). Therefore, NCDOT Divisions 10 and 12 shall submit sealed as-built construction plans to the NCDOT Hydraulics Unit upon completion of project construction, certifying that the drainage structure(s) and roadway embankment located within the 100-year floodplain were built as shown in the construction plans, both horizontally and vertically.	Post-Construction

**TABLE PC-1: Special Project Commitments**

Item	Resource	EA Section	Project Commitment	Project Stage
5	Cultural Resources	5.3	NCDOT will provide a visualization of what proposed walls could look like to assist local communities in making aesthetic decisions regarding noise walls adjacent to listed or eligible for listing properties.	Final Design
6	Cultural Resources	5.3	This project involves construction activities adjacent to a property with a known archaeological anomaly. If the adjacent property cannot be avoided, additional archaeological investigations will be necessary.	Final Design through Construction Management
7	Water Resources	5.4.2	Erosion and sediment control BMPs will be implemented in accordance with NCDOT's <i>Design Standards in Sensitive Watersheds</i> during the design and construction of this project in and around all watersheds draining to Lake Norman and Byers Creek.	Final Design through Construction Management
8	Transportation Planning	Commitment based on comments received on EA	NCDOT will participate in the development of a MUMPO led comprehensive, multi-modal strategy to address the complex mobility issues in the Charlotte to Statesville corridor.	Final Design through Construction Management

## **Table of Contents**

1	Type of Action .....	1
2	Description of Proposed Action .....	1
2.1	Summary of Project Need .....	2
2.2	Summary of Project Purpose .....	2
3	Alternatives Considered.....	2
3.1	No-Build Alternative.....	2
3.2	Build Alternatives.....	2
3.3	Summary of Impacts from Project Alternatives.....	4
3.4	Selected Alternative.....	5
3.5	Risk Assessment Cost Estimate Review Draft Findings.....	6
4	Agency Coordination and Public Involvement.....	6
4.1	Circulation of the Environmental Assessment.....	6
4.2	Agency Comments Received on the Environmental Assessment.....	7
4.3	Public Involvement.....	7
4.4	Additional Project Coordination .....	8
5	Environmental Assessment Errata .....	8
5.1	Impact Summary Tables.....	8
5.2	Project Setting.....	9
5.3	State Transportation Improvement Program .....	9
5.4	Local Transportation and Land Use Plans .....	10
5.5	Traffic Analysis for the Build Alternatives.....	10
5.6	Rail Corridor .....	11
5.7	Noise Impacts.....	12
5.8	Cultural Resources .....	16
5.9	Environmental Justice .....	17
5.10	Wetlands and Streams .....	18
5.11	Public Involvement.....	18
5.12	Preferred Alternative Design and Notable Features Map .....	18

6	Basis for Finding of No Significant Impact .....	18
6.1	Statute of Limitation .....	23
7	Contact Information.....	24

## List of Tables

Table 1:	Comparison of Build Alternative Impacts .....	4
Table 2:	State Transportation Improvement Plan (STIP) Projects Near the Project Study Area .....	9
Table 3:	Regional and Local Planning Documents .....	10
Table 4:	2017 No-Build and Build Alternative Peak Period Updated Analysis Results .....	11
Table 5:	Predicted Traffic Noise Impacts by Alternative .....	12
Table 6:	Project Recommended Noise Barriers .....	13
Table 7:	Summary of Findings for the Selected Alternative .....	19

## List of Figures

### (Figures Follow Report Text)

Figure 1:	Project Vicinity
Figure 2:	Project Area Map Alternatives 1, 2, and 3 - Sheet Y

## Appendices

Appendix A:	Agency Comments & Responses
Appendix B:	Public Comments & Responses
	B1 – July 17, 2013 Public Hearing Transcripts
	B2 – July 18, 2013 Public Hearing Transcript
	B3 – Public Hearing Comment Forms
	B4 – Southern Environmental Law Center Letter
Appendix C:	Agency Correspondence



## **1 Type of Action**

This document is a Federal Highway Administration (FHWA) Administrative Action, Finding of No Significant Impact (FONSI).

The North Carolina Department of Transportation (NCDOT) and FHWA have determined this project will not have any significant impact on the human or natural environment. This FONSI is based on the Environmental Assessment (EA) prepared for the project, which was signed by FHWA and NCDOT on July 1, 2013. The EA was independently evaluated by FHWA and determined to adequately and accurately disclose the environmental issues and impacts of the proposed project. The EA, together with the information contained in this FONSI (including responses to comments on the EA), provides sufficient evidence and analysis for determining that an Environmental Impact Statement (EIS) is not required.

## **2 Description of Proposed Action**

The NCDOT, in cooperation with the FHWA, proposes to improve 26 miles of I-77 from I-277 (Brookshire Freeway – Exit 11) in Mecklenburg County to NC 150 (Exit 36) in Iredell County and along I-277 from I-77 eastward to North Brevard Street by implementing High Occupancy/Toll (HOT) lanes. The limits of the project are shown on **Figure 1**.

HOT lanes are high-occupancy vehicle (HOV) lanes that allow vehicles that do not meet occupancy requirements the opportunity to pay a toll to use the lane. Vehicles meeting HOV3+ requirements (buses, motorcycles, and vehicles with three or more passengers) will be permitted to use the HOT lanes free of charge (100 percent discounted). Non-HOV vehicles choosing to use the lanes would be charged a variable fee depending on congestion levels.

The project is designated with three NCDOT *State Transportation Improvement Program* (STIP) project numbers: I-3311C, I-5405, and I-4750AA. These projects are included in the amended Mecklenburg-Union Metropolitan Planning Organization's (MUMPO) 2035 Long Range Transportation Plan (LRTP) (approved May 22, 2013) and 2012-2018 Transportation Improvement Program (TIP), and are described in the LRTP as follows:

- I-3311C – Construct two HOT lanes along I-77 from just north of the I-77/I-85 interchange (connecting to I-5405 HOT lane project) to and along I-277
  - Southbound I-77 - Construct one HOT lane from the southern terminus of the existing southbound HOT Lane (south of I-85) to I-277
  - Southbound I-77 - Construct an additional HOT lane southbound from the southern terminus of I-5405 (north of I-85/I-77 interchange) to I-277
  - Northbound I-77 - Construct two HOT lanes northbound from I-277 to northbound southern terminus of I-5405 (north of I-85)
  - Both Directions of I-277 - Construct one HOT lane in each direction from I-77 to North Brevard Street (with HOT lane designation beginning and ending at North Tryon Street)
- I-5405 - I-77 from I-277 (Brookshire Freeway) to Exit 28; convert existing HOV lanes to HOT lanes and extend northward to Exit 28. Add additional HOT lane in each direction beginning at I-85 to Exit 28 for a total of 2 HOT lanes in each direction.

- I-4750AA – Construct one HOT lane in each direction along I-77 from Exit 28 (connecting to I-5405 HOT lane project) to Brawley School Road (Exit 35), with construction ending approximately 5,500 feet north of the NC 150 bridge (Exit 36).
  - Northbound and southbound HOT designations begin and end at Brawley School Road bridge (Exit 35).

## **2.1 Summary of Project Need**

I-77 is part of the national Interstate Highway System and is a critical, north-south transportation corridor for the Charlotte-metro region and beyond. Within the immediate study area for this project, I-77 links the major employment center of downtown Charlotte, known locally as “Uptown”, with the rapidly growing residential communities of northern Mecklenburg and southern Iredell counties. I-77 serves traffic demands and travel patterns for commuters (single-occupant vehicles, carpools, and transit) and other travelers within and outside of the project study area, and is a vital route for regional commerce. Currently, heavy traffic occurs during peak periods within the project limits, resulting in frequent congestion and delays.

The project study area has grown faster than the financial resources available to complete long-term transportation improvements. Existing traffic congestion within the I-77 corridor results in unpredictable delays, as well as excessive travel times for commuters and travelers. Predicted growth in the northern communities of Mecklenburg and southern Iredell Counties will continue to increase these delays and travel times.

## **2.2 Summary of Project Purpose**

The purpose of the proposed action is to provide immediate travel time reliability along I-77 from Uptown Charlotte to the Lake Norman area. Because the project is designed to address an immediate need, the opening and design years are both proposed for 2017.

## **3 Alternatives Considered**

Detailed study alternatives evaluated in the EA include a No-Build Alternative and three Build Alternatives (Alternative 1, Alternative 2, and Alternative 3).

### **3.1 No-Build Alternative**

The No-Build Alternative represents the I-77 corridor without the proposed project. Under the No-Build Alternative, the only improvements that would be made to I-77 within the project limits through the design year 2017 would be implementation of STIP Project I-3311E. Project I-3311E is the widening of the existing lanes and shoulders of southbound I-77 between I-277 (Brookshire Freeway) and I-85, which was a commitment made when Project I-3311A was constructed. The existing southbound lanes (general purpose and HOV) would be widened from 11 feet to 12 feet under I-3311E. Impacts related to I-3311E can be found in Chapter 5 of the EA.

### **3.2 Build Alternatives**

Three Build Alternatives were evaluated in the EA. The differences between the Build Alternatives are the number of HOT lanes provided along various sections of I-77. Build Alternative 2 is the Preferred Alternative in the EA and the Selected Alternative in this FONSI.

### **General Description**

All Build Alternatives under consideration include the conversion of the existing HOV lanes within the project limits to HOT lanes. Under all Build Alternatives, the HOT lanes would be the center lanes of I-77, with the outer lanes serving as general purpose lanes. The HOT lanes are proposed to be separated from the general purpose lanes by a 4-foot buffer. The Build Alternatives also would require replacement/reconstruction of some cross-street bridges over I-77 and I-277, as described later in this section.

The improvements for all of the Build Alternatives north of I-85 will be within the existing right of way, with work being done primarily in the median. Additional right of way will be required south of I-85 under Build Alternatives 1 and 2, but not Build Alternative 3.

**Build Alternative 1.** This alternative will convert the existing HOV lanes within the project limits to HOT lanes (southbound between I-277 [Brookshire Freeway] and Hambright Road, and northbound from I-85 to I-485). One new HOT lane would be constructed for northbound travel between I-277 (Brookshire Freeway) and I-85. An additional HOT lane in each direction would be constructed in the median between I-85 and West Catawba Avenue (Exit 28). One new HOT lane would be constructed in the median in each direction between West Catawba Avenue (Exit 28) and NC 150 (Exit 36). One HOT lane would be built in each direction on I-277 from I-77 to N. Brevard Street. A new direct connection flyover bridge for the HOT lanes would be provided from I-77 to I-277. One new bridge will be constructed to carry northbound HOT traffic over I-85 and southbound I-77.

A total of six bridges would be replaced under this alternative, including Hamilton Street over I-277, and the following bridges over I-77: Oaklawn Avenue, Lasalle Street, Hambright Road, Westmoreland Road, and Griffith Street. Additional right of way will be required south of I-85. Alternative 1 provides the proposed lane and shoulder widening identified in STIP Project I-3311E.

In summary, one HOT lane would be provided in each direction between I-277 (Brookshire Freeway) and I-85 (Exit 13); two HOT lanes will be provided in each direction between I-85 (Exit 13) and West Catawba Avenue (Exit 28), and one HOT lane in each direction between West Catawba Avenue (Exit 28) and NC 150 (Exit 36).

**Build Alternative 2.** This alternative is the same as Alternative 1, except that an additional HOT lane would be constructed in each direction from I-277 (Brookshire Freeway) to I-85, for a total of two HOT lanes in each direction on I-77 between I-277 and I-85. In summary, this alternative would provide two HOT lanes in each direction from I-277 (Brookshire Freeway-Exit 11) to West Catawba Avenue (Exit 28) and one HOT lane in each direction between West Catawba Avenue (Exit 28) and NC 150 (Exit 36). Alternative 2 provides the proposed lane and shoulder widening identified in STIP Project I-3311E.

**Build Alternative 3.** This alternative includes the same elements north of I-85 that are in Alternatives 1 and 2. Namely, two HOT lanes in each direction from I-85 (Exit 13) north to West Catawba Avenue (Exit 28), and one HOT lane in each direction from West Catawba Avenue (Exit 28) north to NC 150 (Exit 36). Build Alternative 3 also includes the replacement of three bridges over I-77 at Hambright Road, Westmoreland Road, and Griffith Street. South of I-85, the existing southbound HOV lane would be converted to HOT and no HOT lane would be added for northbound travel.

Alternative 3 does not provide the lane and shoulder widening improvements identified in STIP Project I-3311E. STIP Project I-3311E would be built as a separate project if Alternative 3 is implemented.

### 3.3 Summary of Impacts from Project Alternatives

**Table 1** is a summary of the impacts from the Build Alternatives. This table is the same as Table ES-1 and Table 3-4 in the EA, with a few minor updates/corrections as explained in the **Table 1** notes. NCDOT recommends Alternative 2 as the Selected Alternative to best fulfill the purpose and need for the project, as discussed in **Section 3.4**.

**Table 1: Comparison of Build Alternative Impacts**

Resource	Alternative 1	Alternative 2 (Selected)	Alternative 3
Human Environment			
Transportation & Land Use Plans	Consistent	Consistent	Consistent
Relocations - Residential	7	7	0
Relocations - Business	3	3	0
Communities and Neighborhoods	Positive effect due to travel time savings offered by the HOT lanes; minor impact due to right-of-way acquisition	Positive effect due to travel time savings offered by the HOT lanes; minor impact due to right-of-way acquisition	Positive effect due to travel time savings offered by the HOT lanes; minor impact due to right-of-way acquisition
Environmental Justice <sup>1</sup>	Relocation impacts in EJ communities would not result in a disproportionately high and adverse effect.	Relocation impacts in EJ communities would not result in a disproportionately high and adverse effect.	No disproportionately high and adverse impacts
Community Services and Public Health and Safety	Temporary indirect impacts to CATS bus service routes that operate on I-77 and emergency services response times during construction.	Temporary indirect impacts to CATS bus service routes that operate on I-77 and emergency services response times during construction.	Temporary indirect impacts to CATS bus service routes that operate on I-77 and emergency services response times during construction.
Section 4(f) and Section 6(f) Resources	No impact.	No impact.	No impact.
Economic Effects	Temporary economic benefits during construction (construction jobs and boost to local businesses); travel delays during construction may have temporary impact on businesses adjacent to I-77; long-term benefits to the local and regional transportation network from enhanced mobility, reliable travel times, and reduced fuel costs		
Physical Environment			
Noise	Approximately 721 receptors impacted by noise before mitigation. Approximately 519 noise-impacted receptors and an additional 436 noise-sensitive receptors would benefit from 22 preliminary feasible and reasonable noise barriers. Minor impact.	Approximately 737 receptors impacted by noise before mitigation. Approximately 535 noise-impacted receptors and an additional 424 noise-sensitive receptors would benefit from 22 preliminary feasible and reasonable noise barriers. Minor Impact.	Approximately 661 receptors impacted by noise before mitigation. Approximately 368 noise-impacted receptors and an additional 395 noise-sensitive receptors would benefit from 19 preliminary feasible and reasonable noise barriers. Minor Impact.
Air Quality	No impact.	No impact.	No impact.
Utilities	Low impact	Low impact	Low impact
Visual	Minor changes in the visual landscape will occur, including noise barriers and two new bridges.	Minor changes in the visual landscape will occur, including noise barriers and two new bridges.	Minor changes in the visual landscape will occur, including noise barriers.

**Table 1: Comparison of Build Alternative Impacts**

Resource	Alternative 1	Alternative 2 (Selected)	Alternative 3
Hazardous Materials	Low potential for impact	Low potential for impact	Low potential for impact
Floodplains	Existing culverts will be extended, new culverts are proposed, and future supplemental drainage structures are recommended.	Existing culverts will be extended, new culverts are proposed, and future supplemental drainage structures are recommended.	Existing culverts will be extended, new culverts are proposed, and future supplemental drainage structures are recommended.
<b>Cultural Resources</b>			
Historic Architecture <sup>2</sup>	None of the Build Alternatives would result in an Adverse Effect to historic resources on or eligible for listing on the National Register of Historic Places. Noise barriers may be constructed adjacent to three of the five historic districts identified in the project study area.		
Archaeological	No impact.	No impact.	No impact.
<b>Natural Environment</b>			
Biotic Communities and Wildlife <sup>3</sup>	All project related impacts will occur in an area already heavily disturbed by development. Impacts to biotic resources are not likely as project-related impacts to terrestrial (vegetative) communities will be largely restricted to the disturbed (maintained) areas along existing right of way and habitat for small or disturbance-adapted species will not change as a result of any build alternatives.		
Water Quality	Short-term impacts such as sedimentation and turbidity, can be anticipated from construction-related activities, but will be minimized through use of Best Management Practices (BMPs). No harmful effects to the groundwater system are expected.		
Wetlands	0.007 acre (305 sq ft) impacted.	0.007 acre (305 sq ft) impacted.	0.007 acre (305 sq ft) impacted.
Ponds	0.016 acre impacted.	0.016 acre impacted.	0.016 acre impacted.
Streams <sup>4</sup>	2,925 linear feet impacted.	3,237 linear feet impacted.	1,072 linear feet impacted.
Catawba River Riparian Buffer	Total estimated impacts from all encroachment into Zone 1 is 47,916 square feet (1.1 acres). Total estimated impacts from all encroachment into Zone 2 is 135,036 square feet (3.1 acres).		
Protected Species	No Effect	No Effect	No Effect

1. Statement re-worded to clarify conclusion of impact.

2. Minor change made to impact description to clarify the determination of effects.

3. Tables ES-1 and 3-4 in the EA duplicated the impact to Historic Architectural resources in the row for Biotic Communities and Wildlife.

4. Table ES-1 in the EA identified 1,071 linear feet of stream impact for Alternative 3. This potential impact should be 1,072 linear feet as identified here and in Table 3-4 of the EA.

### 3.4 Selected Alternative

Based on data gathered and presented in the Environmental Assessment (EA) and comments received during the public review period and during the July 2013 Public Hearings, Build Alternative 2 has been identified as the Selected Alternative and determined to be the one that best fulfills the project purpose and need. The project's purpose and need is consistent with the financial objective identified in MUMPO's 2035 LRTP which states to "Make investment decisions for transportation modes that make the most efficient use of limited public resources". This includes actively exploring new sources of revenue and to foster innovative financing and partnership opportunities for project development and implementation. Build Alternative 2 would provide double the HOT lane capacity over Alternative 1, while increasing project costs minimally. This added capacity would allow for the continued flow and improved travel time reliability of HOT traffic in the event of an accident or vehicle breakdown. Build

Alternative 3 would not improve travel time reliability along northbound I-77, south of I-85. South of I-85, Build Alternative 3 improves capacity and travel time reliability for southbound I-77 traffic, however, because Build Alternative 3 does not include a direct connection to I-277 the improved capacity and travel time reliability south of I-85 would provide less benefit than Alternatives 1 and 2.

### **3.5 Risk Assessment Cost Estimate Review Draft Findings**

A risk-based cost estimate review was conducted for the preferred alternative by the Federal Highway Administration Local and Headquarter Offices to verify the accuracy and reasonableness of the total cost estimate, and to develop a probability range for the cost estimate. In addition to the costs itemized in the Environmental Assessment, this range of estimates also includes year-of-expenditure costs for items applicable to all alternatives, such as: construction engineering and inspection, design, inflation rates ranging from 3.8% to 5.1%, project development, tolling equipment and tolling-related back office (integration), stipends, stream restoration mitigation, and railroad coordination and flagging as well as potential costs attributable to potential project delays.

The results of the preliminary (or draft) cost estimate review include a range of probable project costs from \$539,906,762 to \$597,334,028 representing a 30 to 70 percent confidence level respectively.

## **4 Agency Coordination and Public Involvement**

This section provides a summary of the agency coordination and public involvement efforts that took place after approval of the Environmental Assessment on July 1, 2013.

### **4.1 Circulation of the Environmental Assessment**

The EA was approved on July 1, 2013 by FHWA and NCDOT. Copies of the approved EA were made available for public review at the Charlotte-Mecklenburg Government Center and the Huntersville Planning office. An electronic copy of the EA was also posted on the NCDOT's website. The approved EA was circulated to the following federal, state, and local agencies for review and comment. An asterisk (\*) indicates a written response was received from the agency.

- Federal Agencies
  - Federal Emergency Management Agency (FEMA)
  - Federal Highway Administration (FHWA)
  - US Army Corps of Engineers (USACE) Wilmington District and Asheville and Regulatory Office
  - US Environmental Protection Agency (USEPA)\*
  - US Fish and Wildlife Service (USFWS) Western North Carolina Office
- State Agencies
  - North Carolina State Clearing House
  - NC Department of Environment and Natural Resources (NCDENR) –Mooresville Office\*
  - NCDENR – Division of Waste Management\*
  - NC Division of Water Resources (DWR) – Public Water Supply (PWS)\*
  - NCDOT – Transportation Planning Branch\*
- Local Governments
  - City of Charlotte\*
  - Town of Huntersville

- Town of Davidson
- Town of Cornelius\*
- Town of Mooresville\*
- Mecklenburg County
- Iredell County
- Mecklenburg-Union Metropolitan Planning Organization (MUMPO)\*
- Lake Norman Regional Planning Organization
- Duke Energy Lake Services
- Charlotte Fire Department

The Centralina Council of Governments (Centralina COG) also provided written comments.

## **4.2 Agency Comments Received on the Environmental Assessment**

Comments on the EA were received from a number of agencies, as noted in **Section 4.1**. The comments and responses to the comments are provided in **Appendix A**. None of the comments received required a change in the proposed Project.

## **4.3 Public Involvement**

Since distribution of the EA, public involvement efforts by NCDOT included two Pre-Hearing Open Houses, each followed by a Public Hearing in order to solicit input on the project. Additional small group meetings also were conducted, as described in **Section 4.4**.

### **4.3.1 Public Hearings**

In accordance with 23 USC 128, NCDOT certifies that Public Hearings for the subject project were held, and the social, economic, and environmental impacts; consistency with local community planning goals and objectives; and comments from individuals have been considered in the selection of the recommended alternative for the project. Alternative 2 was presented as the NCDOT Preferred Alternative at the Public Hearings.

Two Pre-Hearing Open Houses were held, each followed by a Public Hearing. The first Pre-Hearing Open House and Public Hearing were held on Wednesday, July 17, 2013, at the Charles Mack Citizen Center located at 215 N. Main Street, Mooresville, NC. The second Pre-Hearing Open House and Public Hearing were held on Thursday, July 18, 2013, at the Lincoln Heights Academy located at 1900 Newcastle Street, Charlotte, NC. A public notice (postcard) advertising the Pre-Hearing Open Houses and Public Hearings was mailed to property owners with property adjacent to the I-277 and I-77 right of way within the project limits.

A public notice and press release were prepared by NCDOT and published in local newspapers. The hearing notice was also advertised on websites maintained by local governments in the study area.

Based on sign-in sheets, a total of 80 citizens signed in at the Public Hearing held in Mooresville on July 17 and a total of 57 citizens signed in at the Public Hearing held in Charlotte on July 18, for a combined total of 137 citizens.

### **4.3.2 Public Hearing Comments**

The public comment period on the Environmental Assessment closed on August 1, 2013. During the formal Public Hearing on July 17, 2013, fifteen citizens provided verbal comments. In addition, 14



comment forms were received at the hearing. During the formal Public Hearing on July 18, 2013, eleven citizens provided verbal comments. In addition, four comment forms were received, and a letter from the Oaklawn Park Community Improvement Organization was submitted. The official Public Hearing Transcripts are included in **Appendix B**.

After the public hearings, six additional comment forms were submitted and seven comments were submitted via email and mail. All public comments received are included in **Appendix B**, along with comment response tables.

#### **4.4 Additional Project Coordination**

Subsequent to the Public Hearings, local community organizations requested that NCDOT meet with their representative neighborhoods to further discuss the process regarding the selection of noise barriers.

On August 1, 2013 NCDOT representatives met with representatives of Oaklawn Park, Northwood Park, Beatties Ford Road, Lincoln Heights, Fourth Ward, Dalebrook and Center City Partners. The meeting was held at the NCDOT Traffic Management Center and attended by approximately 25 people. Three main areas of concern were raised at this meeting. 1) Noise Wall balloting process, 2) Coordination of existing privacy walls with the proposed noise walls, and 3) Aesthetics of the proposed noise walls. NCDOT committed to provide the communities with a visualization of what the proposed wall could look like to assist the communities in making their decision regarding the noise walls.

A second meeting was held on August 20, 2013 with representatives of the Fourth Ward neighborhood. The meeting was held at St. Peters Episcopal Church and attended by approximately 30 people. Primary concerns at this meeting also centered on the aesthetics of the proposed noise walls and how it would visually affect their neighborhood. NCDOT again committed to provide the communities with a visualization of what the proposed wall could look like to assist the communities in making their decision regarding the noise walls.

### **5 Environmental Assessment Errata**

This chapter identifies additions, corrections, and revisions to the *I-77 High Occupancy/Toll Lanes Environmental Assessment* (July 2013).

#### **5.1 Impact Summary Tables**

Summary **Tables ES-1 and 3-4, Comparison of Build Alternative Impacts**, in the EA duplicated the impact to Historic Architectural resources in the row for Biotic Communities and Wildlife. As identified in Section 5.4.1 of the EA, all project related impacts to biotic communities and wildlife will occur in an area already heavily disturbed by development. Impacts to biotic resources are not likely, as project-related impacts to terrestrial (vegetative) communities will be largely restricted to the disturbed (maintained) areas along existing right of way and habitat for small or disturbance-adapted species will not change as a result of any of the Build Alternatives. The incorrect summary included in these tables does not change the conclusions of the EA. The correct information is shown in **Table 1** of this document.

Summary **Table ES-1, Comparison of Build Alternative Impacts** in the EA identified 1,071 linear feet of stream impact for Alternative 3. This potential impact should be 1,072 linear feet as identified in **Table 3-4** of the EA.



## 5.2 Project Setting

Chapter 1, Page 1, Section 1.1 of the EA listed the number of travel lanes on I-77 near I-277 as six lanes. There are eight general purpose lanes on I-77 between I-277 (Brookshire Freeway) and I-85 in this segment of roadway. The traffic analysis included eight general purpose lanes in this roadway section and therefore does not change the finding reported in the EA.

## 5.3 State Transportation Improvement Program

An updated State Transportation Improvement Program (STIP) was released in September 2013. The NCDOT Current STIP includes five interstate project, three rural projects, one urban project and one enhancement project in the project study area. STIP projects located within the study area can be found in **Table 2**.

**Table 2: State Transportation Improvement Program (STIP) Projects Near the Project Study Area**

Current STIP Project Number	Description	Status
Interstate Projects		
I-3311E	I-77 from north of I-277/NC 16 (Brookshire Freeway) to North of I-85. Widen existing southbound lanes to restore the widths that were reduced when the I-77 southbound HOV lanes were constructed in 2004.	Construction beginning in FY 2014.
I-4733	I-77/SR 5544 – West Catawba Avenue (Exit 28) in Cornelius. Modify interchange.	Construction in FY 2013
I-4750AB	I-77 from SR5544 - West Catawba Avenue (Exit 28) to US 21 (Exit 36) in Iredell County. Construct one additional general purpose lane in each direction.	Developmental program in Current STIP, anticipated right of way and utilities funding in FY 2020 for I-4750AB and right of way for I-4750B, and unfunded construction beyond 2020 for I-4750AB, I-4750B and I-4750C.
I-4750B	I-77 from NC 150 (Exit 36) to NC 115/US 21 (Exit 42) in Iredell County. Widen and reconstruct roadway, add one general purpose lane.	
I-4750C	I-77, from NC 115/US 21 (Exit 42) to I-40 in Iredell County. Widen and reconstruct roadway, add one general purpose lane.	
Rural Projects		
R-2307B	NC 150 from SR 1902 (Harvel Road) in Catawba County to I-77. Widen to multi-lanes.	Construction in FY 2019
R-3833C	SR 1100 (Brawley School Road) in Mooresville, from I-77 to US 21. Widen to multi-lanes.	Unfunded construction beyond 2020.
R-2555	SR 5544 – West Catawba Avenue (Exit 28) from NC 73 (Sam Furr Road) to east of SR 2195 (Torrence Chapel Road). Widen to multi-lanes.	The portion of this project adjacent to I-77, R-2555A, West Catawba Avenue (Exit 28) from SR 2151 (Jetton Road) to SR 2195 (Torrence Chapel Road), has been completed.
Urban Projects		
U-5108	Northcross Drive Extension, north end of Northcross Drive to Westmoreland Road in Cornelius. Construct road on new location.	Construction in FY 2014. This project is adjacent to the west side of I-77 and is to be administered by the Town of Cornelius.

**Table 2: State Transportation Improvement Program (STIP) Projects Near the Project Study Area**

Current STIP Project Number	Description	Status
<b>Enhancement Projects</b>		
E-4953	Construct multi-use facility adjacent to McDowell Creek, linking Birkdale neighborhood in Huntersville to Westmoreland Road in Cornelius.	Project currently under construction

Source: NCDOT's Current State Transportation Improvement Program 2012-2020 (September 2013)

Construction of the following projects is complete and they are not listed in the current STIP:

Chapter 2, Page 6, Section 2.5.1 of the EA identifies Project R-3833 as currently under construction. This segment of the project is now complete.

Chapter 2, Page 6, Section 2.5.1 identifies Project R-2632 as currently under construction. Only a segment of this project was under construction (US 21 to NC 115), and it is now complete.

## 5.4 Local Transportation and Land Use Plans

The following plans and plan amendments identified in **Table 3** were not included in EA **Table 2-2 Regional and Local Planning Documents**. The proposed project does not conflict with any of the recommendations included in these plans.

**Table 3: Regional and Local Planning Documents**

<b>Charlotte Center City Partners</b>
<i>Charlotte Center City 2020 Vision Plan</i> (October 2011)
<b>Town of Cornelius</b>
<i>Comprehensive Pedestrian Plan</i> (June 2012)
<b>Town of Mooresville</b>
<i>Mooresville Comprehensive Transportation Plan</i> (Adopted December 6, 2012 amended April 4, 2013)

## 5.5 Traffic Analysis for the Build Alternatives

Additional review of the traffic operations analysis identified further reduction in travel delay resulting from Build Alternatives 1 and 2. This review was conducted as a result of a comment from the Town of Mooresville about travel speeds in the PM Peak Period for northbound travel on I-77. The results of the updated analyses are summarized in **Table 4** and documented in the *Addendum to the Traffic Operations Technical Memorandum* (Atkins, September 2013).

Both Build Alternatives 1 and 2 would modify I-77 northbound between Exit 12 (Lasalle Street) and Exit 13 (I-85) by converting the short Lasalle Street on-ramp acceleration lane to an auxiliary lane with the off-ramp to I-85 northbound. This was not modeled accurately in the original *Traffic Operations Technical Memorandum* (Atkins July, 2013). The analysis has been updated to correct this minor error. The result of this modification slightly improves the operations results of the I-77 northbound / I-277 outer general purpose lanes in the PM peak period for Build Alternatives 1 and 2. The modifications and updated analysis results further support the conclusions from the EA.

Changes in **Table 4** from **Table 3-3** of the EA only occurred to Alternatives 1 and 2.

**Table 4: 2017 No-Build and Build Alternative Peak Period Updated Analysis Results**

Comparison of AM Peak Period Network MOE*	Alternative			
	No-Build	Alt 1	Alt 2	Alt 3
Vehicles Miles Traveled (VMT) [mi]	704,164	763,827	767,352	726,213
	-	8.5%	9.0%	3.1%
<b>I-77 Southbound / I-277 Inner</b>				
Average Speed [All Vehicles] [mph]	46.7	57.8	57.5	53.5
	-	23.9%	23.3%	14.6%
Average Speed [General Purpose Vehicles] [mph]	46.7	55.7	55.0	51.2
	-	19.5%	18.0%	9.7%
Average Speed [HOV/HOT Vehicles] [mph]	46.9	64.0	64.2	62.7
	-	36.6%	36.9%	33.8%
<b>I-77 Northbound / I-277 Outer</b>				
Average Speed [All Vehicles] [mph]	54.9	63.8	63.8	63.7
	-	16.2%	16.2%	16.0%
Average Speed [General Purpose Vehicles] [mph]	54.9	63.6	63.6	63.5
	-	15.8%	15.8%	15.6%
Average Speed [HOV/HOT Vehicles] [mph]	55.2	65.0	65.2	64.8
	-	17.7%	18.0%	17.4%
Comparison of PM Peak Period Network MOE*	Alternative			
	No-Build	Alt 1	Alt 2	Alt 3
Vehicles Miles Traveled (VMT) [mi]	744,049	824,492	828,984	803,198
	-	10.8%	11.4%	7.9%
<b>I-77 Southbound / I-277 Inner</b>				
Average Speed [All Vehicles] [mph]	51.3	60.1	60.3	53.8
	-	17.2%	17.6%	4.9%
Average Speed [General Purpose Vehicles] [mph]	51.3	59.1	59.3	51.3
	-	15.3%	15.7%	0.0%
Average Speed [HOV/HOT Vehicles] [mph]	51.5	65.0	65.2	64.5
	-	26.3%	26.7%	25.3%
<b>I-77 Northbound / I-277 Outer</b>				
Average Speed [All Vehicles] [mph]	56.0	61.8	61.8	61.8
	-	10.4%	10.3%	10.4%
Average Speed [General Purpose Vehicles] [mph]	56.0	61.3	61.1	61.2
	-	9.4%	9.1%	9.3%
Average Speed [HOV/HOT Vehicles] [mph]	56.4	63.6	63.6	63.3
	-	12.7%	12.7%	12.1%

\*Percentage is percent change compared with the 2017 No-Build Alternative

## 5.6 Rail Corridor

Chapter 3, Page 17, of the EA identified a bridge to be widened on I-277 over an abandoned rail corridor. This bridge is located between North Brevard Street and North College Street. This rail corridor is not abandoned; rather, it is the proposed light rail corridor for the future Lynx Blue Line Extension.

## 5.7 Noise Impacts

Section 5.2.1 of the EA identifies noise impacts in the project study area. Since publication of the EA, a refinement to the noise analysis along I-277 in Noise Study Area 277NSA2 was conducted, as documented in the memorandum *Addendum to I-3311C Final Design Noise Report* (Atkins, August 2013). This analysis was initiated as a result of comments received at the Fourth Ward Neighborhood meeting held by NCDOT on August 20, 2013, at St. Peters Episcopal Church in Charlotte. At this meeting, attendees who are residents of the area provided information regarding receptor locations. As a result of this input, two receptor locations were deleted and four were added in Noise Study Area 277NSA2. The new analysis determined that there is one additional traffic noise impact in Noise Study Area (277NSA2).

The EA incorrectly identified the number of predicted traffic noise impacts for Alternatives 1 and 2, as a noise study area was inadvertently not counted. The corrected predicted noise impacts are included in **Table 5**. These numbers have also been updated in **Table 1** of this FONSI. The change in the number of potential impacts does not change the conclusions of the EA.

**Table 5: Predicted Traffic Noise Impacts by Alternative\***

Alternative	Traffic Noise Impacts			
	Residential (NAC B)	Churches/Schools, etc. (NAC C & D)	Businesses (NAC E)	Total
Existing and No-Build	499	62 <sup>1,2</sup>	0	561
1	650	71 <sup>1,2</sup>	0	721
2	666	71 <sup>1,2</sup>	0	737
3 <sup>3</sup>	597	64 <sup>1,2</sup>	0	661

\*Per TNM®2.5 and in accordance with 23 CFR Part 772

Source: I-3311C *Design Noise Report* (Atkins, June 2013), *Addendum to I-3311C Final Design Noise Report* (Atkins, August 2013), I-5405 *Design Noise Report* (Atkins, June 2012), I-5405 *Draft Design Noise Report Addendum* (Atkins, April 2013), and I-4750 HOT *Draft Design Noise Report* (RK&K, April 2013).

- For category C impacts, these impacts include McColl Center for Visual Arts (1), 1<sup>st</sup> Ward Elem School (40), private park at 901 N. Brevard (1), Oaklawn Cemetery (1), Lincoln Heights Academy playground (5 for Build Alts only), Greenville Park/Walter Byer Elem/Middle School (1 for Build Alts only), Anita Stroud Park Basketball half court (1 for Build Alts only), Double Oaks Park playground (1), New Life Christian Academy (7), Right Choices Alternative School track (7), Comfort Inn pool (1), Sterling Bay Apts tennis court (1), Sterling Bay Apts sand play area (1), Emerald Bay Condo pool (1), Harborwatch Condominiums pool (1), and Gibbs Cove Neighborhood boat launch (1).
- For category D impacts, these impacts include the New Life Christian Academy on Samuel St. (7 equivalent receptors). The wood frame buildings have single-glazed windows that are opened in warm weather (10 dB(A) exterior to interior noise reduction for window open and 20 dB(A) exterior to interior noise reduction for windows closed).
- The design limits for Alternative 3 do not include improvements along I-277, therefore, the number of existing noise impacts along I-277 are not included in the Alternative 3 impacts.

**Tables 5-3, *Project Recommended Noise Barriers***, in the EA identified the number of potential noise barriers proposed for Alternatives 1 and 2 as 21. The total number of potential barriers should be 22 because Noise Barrier NW6 was inadvertently left off the summary table. The change in the total

number of proposed noise barriers does not change the conclusions of the EA. The correct number of noise barriers is shown in **Table 6**. These numbers have also been updated in **Table 1** of this FONSI.

**Table 6: Project Recommended Noise Barriers**

Report	Wall		Potential Barrier Location	Approx Length (ft)	Approx Area (sq. ft.)	Number of Impacted Receptors Benefited	Total Number of Benefits	Quantity of Wall per Benefit (sq ft) / Allowable Base Quantity
Alternative 1								
I-3311C	1	277NW 2bc (system)	NW2b - eastbound I-277 shoulder from North Graham St. ramp to North Church St. ramp	705	13,875	67	80	525 / 2,535
			NW2c - eastbound I-277 shoulder from North Church St. ramp to North Tryon St. ramp	1,125	28,095			
	2	277NW3	Along westbound I-277 shoulder from near North Brevard St. to near North Tryon St.	1,260	24,150	10	34	710 / 2,500
I-3311C	3	77NW1A	Along southbound I-77 shoulder, near Oaklawn Ave. and Patton Ave.	1,335	28,275	10	16	1,767 / 2,535
	4	77NW1B	Along southbound I-77 shoulder south of Lasalle Street and north of Oaklawn Ave.	3,180	70,140	40	53	1,323 / 2,535
	5	77NW2A	Along westbound I-277 near Polk Street	2,130	36,090	21	35	1,031 / 2,570
	6	77NW2B	Along northbound I-77 near Whisnant St. south of Oaklawn Ave.	1,755	35,025	17	19	1,843 / 2,605
	7	77NW2C	Along northbound I-77 near Genesis Park Dr. north of Oaklawn Ave.	2,280	51,270	63	81	633 / 2,710
	8	77NW3	Along northbound I-77 near Double Oaks Park playground south of Lasalle St.	1,305	23,940	8	9	2,660 / 2,500 If considered w/ 77NW2C, then 836 / 2,500
	9	77NW4	Along southbound I-77 north of Lasalle St. and south of I-85 near Lincoln Heights Ct.	2,760	59,580	35	56	1,064 / 2,535
	10	77NW5	Along northbound I-77 south of I-85 near Julia Ave.	2,775	56,475	25	42	1,345 / 2,535
I-5405	11	NW6	West of I-77, along shoulder near Biesterfield Dr.	3,690	66,555	34	63	1,056 / 2,500
	12	NW7	East of I-77, along Juniper Dr. just north of Cindy Ln.	1,785	35,925	7	34	1,057 / 2,500
	13	NW8	East of I-77, along shoulder near Suburban Dr. and Ivy Hollow Apts.	2,325	41,940	49	104	403 / 2,500
	14	NW9	West of I-77, along shoulder near Lakeview Rd. Javitz Rd. Shalom Dr.	4,290	74,070	16	53	1,398 / 2,500
	15	NW12	West of I-77, primarily along shoulder near Hickorywood Apts and Leslie Brooke Dr. area.	3,510	53,655	29	76	706 / 2,500

**Table 6: Project Recommended Noise Barriers**

Report	Wall		Potential Barrier Location	Approx Length (ft)	Approx Area (sq. ft.)	Number of Impacted Receptors Benefited	Total Number of Benefits	Quantity of Wall per Benefit (sq ft) / Allowable Base Quantity
	16	NW14	West of I-77, along shoulder near Northstar Dr.	1,365	22,965	11	15	1,531 / 2,500
	17	NW15	West of I-77, along shoulder near Doe Valley Dr.	1,395	28,290	12	41	690 / 2,500
	18	NW 16	West of I-77, along cut and shoulder near Ogden Cove Rd.	1,875	35,325	7	19	1,859 / 2,500
	19	NW17	East of I-77, along shoulder near Sterling Bay Apts.	2,295	42,210	13	37	1,141 / 2,500
I-4750AA	20	NW 24	Adjacent to I-77 southbound from Wades Way to Edgeway Rd.	1,740	30,810	8	12	2,568 / 2,605
	21	NW 25	Adjacent to I-77 southbound, from Sapphire Dr. to Bear Run Cir.	2,280	33,066	16	43	769 / 2,605
	22	NW 27	Adjacent to I-77 southbound, from Hickory Hill Rd. to the northern end of Gibbs Rd.	4,080	72,596	21	33	2,200 / 2,640
<b>Alternative 1 Totals</b>				<b>51,240</b>	<b>964,322</b>	<b>519</b>	<b>955</b>	<b>--</b>
<b>Alternative 2</b>								
I-3311C	1	277NW 2bc (system)	NW2b - eastbound I-277 shoulder from North Graham St. ramp to North Church St. ramp	705	13,875	67	80	525 / 2,535
			NW2c - eastbound I-277 shoulder from North Church St. ramp to North Tryon St. ramp	1,125	28,095			
	2	277NW3	Along westbound I-277 shoulder from near North Brevard St. to near North Tryon St.	1,260	24,150	10	34	710 / 2,500
I-3311C	3	77NW1A	Along southbound I-77 shoulder, near Oaklawn Ave. and Patton Ave.	1,425	27,735	11	15	1,849 / 2,535
	4	77NW1B	Along southbound I-77 shoulder south of Lasalle Street and north of Oaklawn Ave.	3,105	69,510	42	53	1,312 / 2,535
	5	77NW2A	Along westbound I-277 near Polk Street	2,130	33,810	21	35	966 / 2,570
	6	77NW2B	Along northbound I-77 near Whisnant St. south of Oaklawn Ave.	1,770	34,560	18	18	1,920 / 2,605
	7	77NW2C	Along northbound I-77 near Genesis Park Dr. north of Oaklawn Ave.	2,400	52,620	63	84	625 / 2,710
	8	77NW3	Along northbound I-77 near Double Oaks Park playground south of Lasalle St.	1,335	25,245	8	9	2,805 / 2,500 If considered w/ 77NW2C, then 837 / 2,500
	9	77NW4	Along southbound I-77 north of Lasalle St. and south of I-85 near Lincoln Heights Ct.	2,730	58,230	44	59	987 / 2,535

**Table 6: Project Recommended Noise Barriers**

Report	Wall		Potential Barrier Location	Approx Length (ft)	Approx Area (sq. ft.)	Number of Impacted Receptors Benefited	Total Number of Benefits	Quantity of Wall per Benefit (sq ft) / Allowable Base Quantity
	10	77NW5	Along northbound I-77 south of I-85 near Julia Ave.	2,850	56,190	28	42	<b>1,338</b> / 2,535
	11	NW6	West of I-77, along shoulder near Biesterfield Dr.	3,690	66,555	34	63	<b>1,056</b> / 2,500
I-5405	12	NW7	East of I-77, along Juniper Dr. just north of Cindy Ln.	1,785	35,925	7	34	<b>1,057</b> / 2,500
	13	NW8	East of I-77, along shoulder near Suburban Dr. and Ivy Hollow Apts.	2,325	41,940	49	104	<b>403</b> / 2,500
	14	NW9	West of I-77, along shoulder near Lakeview Rd. Javitz Rd. Shalom Dr.	4,290	74,070	16	53	<b>1,398</b> / 2,500
	15	NW12	West of I-77, primarily along shoulder near Hickorywood Apts and Leslie Brooke Dr. area.	3,510	53,655	29	76	<b>706</b> / 2,500
	16	NW14	West of I-77, along shoulder near Northstar Dr.	1,365	22,965	11	15	<b>1,531</b> / 2,500
	17	NW15	West of I-77, along shoulder near Doe Valley Dr.	1,395	28,290	12	41	<b>690</b> / 2,500
	18	NW 16	West of I-77, along cut and shoulder near Ogden Cove Rd.	1,875	35,325	7	19	<b>1,859</b> / 2,500
	19	NW17	East of I-77, along shoulder near Sterling Bay Apts.	2,295	42,210	13	37	<b>1,141</b> / 2,500
I-4750AA	20	NW 24	Adjacent to I-77 southbound from Wades Way to Edgeway Rd.	1,740	30,810	8	12	<b>2,568</b> / 2,605
	21	NW 25	Adjacent to I-77 southbound, from Sapphire Dr. to Bear Run Cir.	2,280	33,066	16	43	<b>769</b> / 2,605
	22	NW 27	Adjacent to I-77 southbound, from Hickory Hill Rd. to the northern end of Gibbs Rd.	4,080	72,596	21	33	<b>2,200</b> / 2,640
<b>Alternative 2 Totals</b>				<b>51,465</b>	<b>961,427</b>	<b>535</b>	<b>959</b>	--
<b>Alternative 3</b>								
5405	1	NW1A	West of I-77, along right of way south of Oaklawn Ave.	750	16,500	7	9	<b>1,833</b> / 2,500
5405	2	NW1B	West of I-77, along shoulder from Oaklawn Ave. past Dean St.	3,645	96,240	43	57	<b>1,688</b> / 2,500
5405	3	NW2A	East of I-77, along right of way near Whisnant St. south of Oaklawn Ave.	1,230	23,280	9	14	<b>1,663</b> / 2,500
5405	4	NW2B	East of I-77, along shoulder north of Oaklawn Ave., past Genesis Park Dr.	2,280	57,210	32	58	<b>986</b> / 2,500
5405	5	NW3	East of I-77, along shoulder of I-77 and Lasalle St. off ramp.	1,755	33,480	8	9	<b>3,720</b> / 2,500 But if considered w/ 77NW2B, then <b>1,354</b> / 2,500
5405	6	NW4	West of I-77, along shoulder	1,530	39,015	33	48	813 / 2,500

**Table 6: Project Recommended Noise Barriers**

Report	Wall		Potential Barrier Location	Approx Length (ft)	Approx Area (sq. ft.)	Number of Impacted Receptors Benefited	Total Number of Benefits	Quantity of Wall per Benefit (sq ft) / Allowable Base Quantity
			near Lincoln Heights Ct.					
5405	7	NW5	East of I-77, along shoulder near Julia Ave. and Carmine St.	3,000	63,990	13	38	1,684 / 2,500
5405	8	NW6	West of I-77, along shoulder near Biesterfield Dr.	3,690	66,555	34	63	1,056 / 2,500
I-5405	9	NW7	East of I-77, along Juniper Dr. just north of Cindy Ln.	1,785	35,925	7	34	<b>1,057</b> / 2,500
	10	NW8	East of I-77, along shoulder near Suburban Dr. and Ivy Hollow Apts.	2,325	41,940	49	104	<b>403</b> / 2,500
	11	NW9	West of I-77, along shoulder near Lakeview Rd. Javitz Rd. Shalom Dr.	4,290	74,070	16	53	<b>1,398</b> / 2,500
	12	NW12	West of I-77, primarily along shoulder near Hickorywood Apts and Leslie Brooke Dr. area.	3,510	53,655	29	76	<b>706</b> / 2,500
	13	NW14	West of I-77, along shoulder near Northstar Dr.	1,365	22,965	11	15	<b>1,531</b> / 2,500
	14	NW15	West of I-77, along shoulder near Doe Valley Dr.	1,395	28,290	12	41	<b>690</b> / 2,500
	15	NW 16	West of I-77, along cut and shoulder near Ogden Cove Rd.	1,875	35,325	7	19	<b>1,859</b> / 2,500
	16	NW17	East of I-77, along shoulder near Sterling Bay Apts.	2,295	42,210	13	37	<b>1,141</b> / 2,500
I-4750AA	17	NW 24	Adjacent to I-77 southbound from Wades Way to Edgeway Rd.	1,740	30,810	8	12	<b>2,568</b> / 2,605
	18	NW 25	Adjacent to I-77 southbound, from Sapphire Dr. to Bear Run Cir.	2,280	33,066	16	43	<b>769</b> / 2,605
	19	NW 27	Adjacent to I-77 southbound, from Hickory Hill Rd. to the northern end of Gibbs Rd.	4,080	72,596	21	33	<b>2,200</b> / 2,640
<b>Alternative 3 Totals</b>				<b>44,820</b>	<b>867,122</b>	<b>368</b>	<b>763</b>	<b>--</b>

Source: I-3311C *Design Noise Report* (Atkins, June 2013), I-5405 *Design Noise Report* (Atkins, June 2012), I-5405 *Draft Design Noise Report Addendum* (Atkins, April 2013), and I-4750AA *Draft Design Noise Report* (RK&K, April 2013).

## 5.8 Cultural Resources

Section 4.3 of the EA identifies cultural resources in the project study area. NCDOT is aware of the Fourth Ward Historic District's 1995 determination of eligibility for listing in the National Register of Historic Places. However, as part of the Section 106 Consultation, the North Carolina Historic Preservation Office (NC-HPO) concurred in a letter dated January 31, 2013 that the historic integrity of the district along I-277, within the I-77 HOT lanes Area of Potential Effect, has been severely compromised making those blocks of the district no longer eligible for listing in the National Register. This letter is included in Appendix C – Agency Correspondence, of the EA. As a result, the Fourth Ward Historic District was not identified in the EA as a district in the project study area.



The Fourth Ward Historic District is a Local Landmark District. Accordingly NCDOT consulted with planning staff for Charlotte-Mecklenburg Historic District Commission. On September 23, 2013 Charlotte-Mecklenburg Historic District Commission staff stated in an email that the proposed walls are outside of the Fourth Ward Historic District boundary and therefore would not require a Certificate of Appropriateness. The commission believes the Section 106 process is sufficient to address this type of project. A copy of this correspondence is included in **Appendix C**.

## **5.9 Environmental Justice**

The entire study area, south of I-85, includes identified EJ populations. All identified relocations as a result of the project are proposed to occur within EJ communities. NCDOT has proposed design alternatives that would reduce relocation impacts, where possible, while providing offsetting benefits where relocations cannot be avoided.

Preliminary designs would have relocated approximately nine single family residences along Dean Street in the Oaklawn Park neighborhood. Following public meetings held in August 2012, residents of the Oaklawn Park neighborhood requested follow-up meetings with NCDOT about relocations. NCDOT modified the design to shift the widening east and avoid permanent right-of-way impacts along Dean Street. The Oaklawn Park neighborhood generally supported the new plan at a March 2013 meeting.

Cohesive EJ communities exist on either side of I-77 but none span the highway. The proposed project would not sever any existing connections across I-77 or form any barriers. Therefore, impacts to community cohesion, including recurring impacts, are not anticipated. These communities are joined by the Oaklawn Avenue bridge. Replacement of the bridge on new alignment (parallel to the existing alignment) is anticipated to relocate seven residences. No other community impacts are anticipated to result from these relocations. Adequate replacement housing is available in the surrounding area. NCDOT's right-of-way acquisition process itself will be a factor in mitigating relocation impacts. The replacement of the Oaklawn Avenue bridge on new alignment will allow the existing bridge to remain open, maintaining community connectivity during construction.

The three potential business relocations associated with the Selected Alternative were further evaluated to determine if they provide a unique or vital service to EJ communities in the project area. The potential business relocations include an architecture firm, a graphics/reproduction company, and a commercial building that is currently vacant. None of these businesses provide unique or vital services to EJ communities in the area.

With regard to benefits and burdens, transit riders and carpoolers from these EJ communities should benefit from the travel time reliability of managed lanes. Transit and HOV use is free. Other residents may choose to use the managed lanes or avoid paying tolls by using I-77 general purpose lanes. Statesville Road provides an alternative free route on the east side of I-77 through the project area.

In conclusion, while minority and low income populations are present in the study area south of I-85, no disproportionately high and adverse community impacts are anticipated with this project because adverse impacts to these communities have been avoided, minimized or mitigated, consistent with FHWA Order 6640.23A. Benefits and burdens resulting from the project are anticipated to be equitably distributed throughout the community.

## 5.10 Wetlands and Streams

Chapter 5, Page 67 of the EA states that impact calculations from preliminary design construction limits plus 20-feet were done in accordance with NCDOT standard procedures. NCDOT standard procedures for impact calculations typically utilize a 25-foot buffer. The level of available mapping and confidence level in the project design limits resulted in a 20-foot buffer identified as appropriate for this widening project.

The following sentence on page 69 of the EA has been removed: *Three general types of wetland and stream mitigation include avoidance, minimization and compensatory mitigation.*

## 5.11 Public Involvement

Chapter 6 of the EA summarizes the agency coordination and public involvement activities conducted in association with the project. The EPA commented that the EA did not fully document the public involvement and outreach with affected EJ communities.

The EA did not specifically label the outreach conducted with the Oaklawn Park neighborhood as EJ outreach. However, public involvement and outreach to EJ communities in the project study area has been conducted throughout the study process. The EA incorporates by reference the *Community Impact Assessment and Indirect and Cumulative Effects Screening Assessment* (Atkins, May2013). This document notes that adverse impacts to EJ populations would include right-of-way acquisition and relocations and that preliminary designs would have relocated approximately nine single-family residences along Dean Street in the Oaklawn Park neighborhood; an identified EJ area. The Community Impact Assessment also notes "Following the public workshops in August 2012, residents of the Oaklawn Park neighborhood requested follow-up meetings regarding the relocation of homes in their neighborhood. NCDOT subsequently prepared an updated conceptual design that shifts the widening to the east side of I-77 and avoids permanent impacts to the Oaklawn Park neighborhood. The conceptual design was presented to the neighborhood in March 2013 and was well received."

All of the meetings conducted with the Oaklawn Park Neighborhood, identified in Section 6.2.3 of the EA, were meetings held with an EJ community.

## 5.12 Preferred Alternative Design and Notable Features Map

Appendix A, Page A-50 in the EA; the label for the Future Langtree Charter Academy School identifies the wrong parcel. The correct location of the school is 154 Foundation Court, Mooresville, NC. The parcel is not impacted by the project. A page showing the correct location of the school is included as **Figure 2** of this FONSI.

## 6 Basis for Finding of No Significant Impact

Impacts to the human and natural environment from the Selected Alternative are summarized in **Table 7** in the order they appear in the EA, not in order of importance.

**Table 7: Summary of Findings for the Selected Alternative**

Section in EA	Significant Impact?
Transportation and Land Use Plans	No. The Selected Alternative is consistent with all land use and transportation plans adopted by local and State planning agencies.
Relocations	No. For the Selected Alternative, seven (7) residences and three (3) businesses will be relocated by the project. NCDOT will use three programs to minimize the inconvenience of relocation: Relocation Assistance, Relocation Moving Payments, and Relocation Replacement Housing Payments or Rent Supplement. These programs are in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Comparable replacement housing is available in the project area for displaced homeowners and tenants.
Communities and Neighborhoods	No. Positive effect due to travel time savings offered by the HOT lanes; minor impact due to right-of-way acquisition. Community cohesion will be maintained by keeping the existing Oaklawn Avenue bridge open during construction of the new bridge.
Environmental Justice	No. Relocation impacts in Environmental Justice communities would not result in a disproportionately high and adverse effect. Resulting community impacts are offset by existing Oaklawn Avenue bridge remaining open while new bridge is constructed.
Community Services and Public Health and Safety	No. Temporary indirect impacts to CATS bus service routes that operate on I-77 and temporary indirect impacts to emergency services response times during construction are anticipated. NCDOT will coordinate with CATS during final design and construction to minimize impacts to services. A construction mitigation plan will be developed during final design containing detailed information regarding traffic operations during construction. As with all construction projects, proper traffic management plans will be developed and implemented in coordination with the local agencies and in compliance with local agency and federal guidelines in an effort to minimize traffic pattern changes and associated impacts. The plans may require the development of an emergency response plan to ensure emergency responders have sufficient and available roadway access to respond to calls.
Section 4(f) and 6(f) Resources	No. No acquisition of land from any Section 4(f) resource in the study area will be required. Proposed noise barriers will not result in an adverse effect to the Oaklawn Park or Seaboard Street historic districts. Therefore, there is no Section 4(f) impact. There are no Section 6(f) resources located within the project area.

**Table 7: Summary of Findings for the Selected Alternative**

Section in EA	Significant Impact?
Economic Effects	No.
	Temporary economic benefits are anticipated during construction (construction jobs and boost to local businesses), however travel delays during construction also may have a temporary adverse impact on businesses adjacent to I-77. Long term benefits to the local and regional transportation network from enhanced mobility, reliable travel times, and reduced fuel costs are anticipated.
Noise	No.
	Approximately 737 receptors would be impacted by noise before mitigation. Approximately 535 noise-impacted receptors and an additional 424 noise-sensitive receptors would benefit from 22 preliminary feasible and reasonable noise barriers.
Air Quality	No.
	Mobile Source Air Toxics (MSAT) emissions will likely be lower than present levels in the design year as a result of EPA's national programs that are projected to reduce MSAT emissions. Section 176(c) of the Clean Air Act requires that transportation plans, programs, and projects conform to the intent of the state air quality implementation plan (SIP). The USDOT made a conformity determination on the MUMPO 2035 LRTP Amendment/FY 2012-2018 TIP Amendment on May 31, 2013. The current conformity determination includes Build Alternative 2 and is consistent with the final conformity rule found in 40 CFR Parts 51 and 93.
Utilities	No.
	Potential for temporary impacts during construction. NCDOT will coordinate with utility providers and local agencies during final design to minimize disruption of utility service during construction.
Visual	No.
	Minor changes in the visual landscape will occur, including noise barriers and two new bridges. Where applicable, NCDOT will incorporate aesthetic elements into the final design of proposed noise barriers. The P3 contract will require the Developer to develop a Corridor Landscaping and Aesthetics Plan (CLAP) that establishes an overall vision for the corridor. The CLAP also will include details regarding future landscaping and future aesthetic hardscape elements that will ultimately result in a uniform, corridor-wide landscape. Further, the P3 contract provides for an allowance available for expenditure during construction to initiate the implementation of the CLAP.
Hazardous Materials	No.
	There are no hazardous material sites or underground storage tanks anticipated to be impacted by the project. If any UST or other potential source of contamination is discovered during construction activities, the NCDOT Geotechnical Unit should be notified of its presence immediately upon discovery. An assessment will then be conducted to determine the extent of any contamination and identify the potential impacts.

**Table 7: Summary of Findings for the Selected Alternative**

Section in EA	Significant Impact?
Floodplains	No.
	<p>As shown in Appendix A of the EA, there are floodplains and floodways crossing and adjacent to I-77 in the project area.</p> <p>The NCDOT Hydraulics Unit will coordinate with the NC Floodplain Mapping Program (FMP) to determine the status of the project with regard to the applicability of NCDOT'S Memorandum of Agreement with the NC Floodplain Mapping Program (April 22, 2013), or approval of a Conditional Letter of Map Revision (CLOMR) and subsequent final Letter of Map Revision (LOMR).</p> <p>This project involves construction activities on or adjacent to FEMA-regulated stream(s). Therefore, NCDOT Divisions 10 and 12 shall submit sealed as-built construction plans to the NCDOT Hydraulics Unit upon completion of project construction, certifying that the drainage structure(s) and roadway embankment located within the 100-year floodplain were built as shown in the construction plans, both horizontally and vertically.</p>
Historic Architectural Resources	No.
	<p>There are no direct physical impacts to any historic architectural resources in the study area. Section 106 consultation concluded on June 25, 2013 that there will be No Effect to the Orient Manufacturing Co/Chadwick-Hoskins No. 3. Alpha Cotton Mill, Dalebrook Historic District, McCrorey Heights Historic District, Elmwood/Pinewood Cemetery, and the Sears Roebuck Department Store. The Section 106 consultation also concluded that there is No Adverse Effect for the Oaklawn Avenue historic district and the Seaboard Street historic district provided NCDOT coordinates with the neighborhoods on the proposed noise walls. As discussed in Section 4.4, NCDOT has met with affected residents in these neighborhoods to discuss noise walls</p>
Archaeological Resources	No.
	<p>Known archaeological resources are not anticipated to be impacted by the project.</p> <p>This project involves construction activities adjacent to a property with a known archaeological anomaly. If the adjacent property cannot be avoided, additional archaeological investigations will be necessary.</p>
Biotic Communities and Wildlife	No.
	<p>Project-related impacts to terrestrial communities will be restricted to the disturbed (maintained) areas along existing right of way. Habitat for small or disturbance-adapted species will not change as a result of the Selected Alternative.</p>
Water Quality	No.
	<p>Short-term impacts such as sedimentation and turbidity, can be anticipated from construction related activities, but will be minimized through use of Best Management Practices (BMPs). No harmful effects to the groundwater system are expected.</p> <p>Erosion and sediment control BMPs will be implemented in accordance with NCDOT's Design Standards in Sensitive Watersheds during the design and construction of this project in and around all watersheds draining to Lake Norman and Byers Creek.</p>

**Table 7: Summary of Findings for the Selected Alternative**

Section in EA	Significant Impact?
Wetlands, Ponds, and Streams	No.
	<p>Wetlands - 0.007 acre (305 sq ft) impacted. Ponds – 0.016 acre impacted. Streams – 3,237 linear feet impacted.</p> <p>A permit from the US Army Corps of Engineers under Section 404 of the Clean Water Act (CWA) will be required for roadway encroachment into jurisdictional Waters of the United States (wetlands, streams, and ponds). In addition, a Water Quality Certification under Section 401 of the CWA will be required from the NC Division of Water Resources (formerly called the Division of Water Quality).</p> <p>Impacts were avoided and minimized to the extent practicable in the design of the Selected Alternative. Roadway widening occurs within the existing I-77 and I-277 median wherever possible. Impacts at sixteen stream crossings totaling 761 linear feet (lf) are minor extensions of existing culverts (an average of 48 lf per crossing). Longer impacts occur at Dillons Twin Lakes (467 lf) and Irwin Creek (2,009 lf), both of which run parallel to I-77. Impacts to Dillons Twin Lakes occur north of Cindy Lane, where the stream is parallel to the west side of I-77 within the existing right of way. I-77 widening occurs to the outside of the existing lanes in this area (due to lack of space in the median), and is constrained on the east side by an existing noise wall located along the edge of pavement. The impacts to Dillons Twin Lakes are primarily within the 20-foot impact buffer, and actual impacts are likely to be less.</p> <p>Impacts to Irwin Creek occur south of LaSalle Street, where the stream parallels the east side of I-77 within the existing right of way. The stream would be placed in a box culvert paralleling the roadway. Irwin Creek is a low quality stream listed on the Final 2012 303(d) list of impaired streams for copper, lead, and zinc.</p> <p>A retained earth wall was investigated to separate the LaSalle Street off ramp from Irwin Creek to minimize impacts, but this would require a 30-40 foot vertical wall due to the fact the creek is much lower in elevation than I-77 in this location. With the retaining wall option, the flow of the creek would be along the base of the wall, which could create maintenance and long-term stability issues. This area also is constrained by the presence of Double Oaks Park (a Section 4(f) resource) and a noise wall proposed to be constructed in this area.</p> <p>Avoiding impacts to Irwin Creek under the Selected Alternative by shifting the design to the west would not be practicable. The shifted design would result in relocations of residences along Dean Street in the Oaklawn Park neighborhood. This neighborhood is an EJ community and a historic district eligible for listing on the National Register of Historic Places. Shifting the design to the west also would require land from the Lincoln Heights Academy.</p> <p>For unavoidable impacts, compensatory mitigation will be implemented. Compensatory mitigation is meant to replace, on at least a one-to-one basis, the lost functions and values of natural streams and wetlands affected by development activities. NCDOT will investigate the potential for on-site stream and wetland mitigation opportunities. However, if on-site mitigation is not feasible, then mitigation for impacted wetlands and streams will be coordinated with the North Carolina Ecosystem Enhancement Program (EEP).</p>
Catawba River Riparian Buffer	No.
	<p>Total estimated impact from encroachment into Zone 1 is 47,916 square feet. Total estimated impacts from all encroachment into Zone 2 is 135,036 square feet (3.1 acres).</p> <p>Impact to the Catawba River Riparian Buffer cannot be avoided by the Selected Alternative</p>

**Table 7: Summary of Findings for the Selected Alternative**

Section in EA	Significant Impact?
	<p>because the current alignment of I-77 already crosses Lake Norman, which is subject to the buffer rule. The majority of this encroachment into the buffer area is the result of resurfacing the existing travel lanes and shoulders on the causeway.</p> <p>Implementation of the Selected Alternative would be designated as a use that is allowable with mitigation because the impact is more than one-third acre of buffer. A determination of “no practical alternative” is required from the NCDWQ, and approval of mitigation (15A NCAC 02B.0244).</p> <p>The required area of mitigation shall be determined by the NCDWQ by applying a multiplier of 2.0 to impacts in Zone 1 of the riparian buffer and a multiplier of 1.5 to impacts in Zone 2. Mitigation may be met by payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund, donation of real property or of an interest in real property, or restoration or enhancement of a non-forested riparian buffer (15A NCAC 02B.0244). The NCDWQ will issue a mitigation determination that specifies the required mitigation (15A NCAC 02B.0244).</p>
Protected Species	No.
	The federally protected species listed for Mecklenburg and Iredell counties were not found in the study area.

Based upon a detailed study of the proposed project as documented in the EA and upon comments received from the public and federal, state, and local agencies, it is the finding of the NCDOT and FHWA that this project will not have a significant impact upon the human or natural environment. The project is not controversial from an environmental standpoint. No significant impacts to natural, ecological, cultural, or scenic resources are anticipated.

Every effort has been made to avoid and/or minimize impacts to wetlands, streams, and riparian buffers. Potential on-site mitigation opportunities may exist and will be investigated; however, it is likely that most of the mitigation requirements will be provided by the NC Ecosystem Enhancement Program (EEP). No significant impact on air or water quality is expected and no effects on federally listed endangered or threatened species are anticipated. The proposed project is consistent with local plans and will not disrupt any communities.

In view of this evaluation, it has been determined a Finding of No Significant Impact (FONSI) is applicable for this project. Therefore, neither an Environmental Impact Statement (EIS) nor further environmental analysis will be required.

## 6.1 Statute of Limitation

According to the provisions of the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21), the FHWA may publish a notice in the Federal Register, pursuant to 23 USC §139(l), indicating that one or more Federal agencies have taken final action on permits, licenses, or approvals for the subject transportation project. If such notice is published, claims seeking judicial review of those Federal agency actions will be barred unless such claims are filed within 150 days after the date of publication of the notice, or within such shorter time period as is specified in the Federal laws pursuant to which judicial

review of the Federal agency action is allowed. If no notice is published, then the periods of time that otherwise are provided by the Federal laws governing such claims will apply.

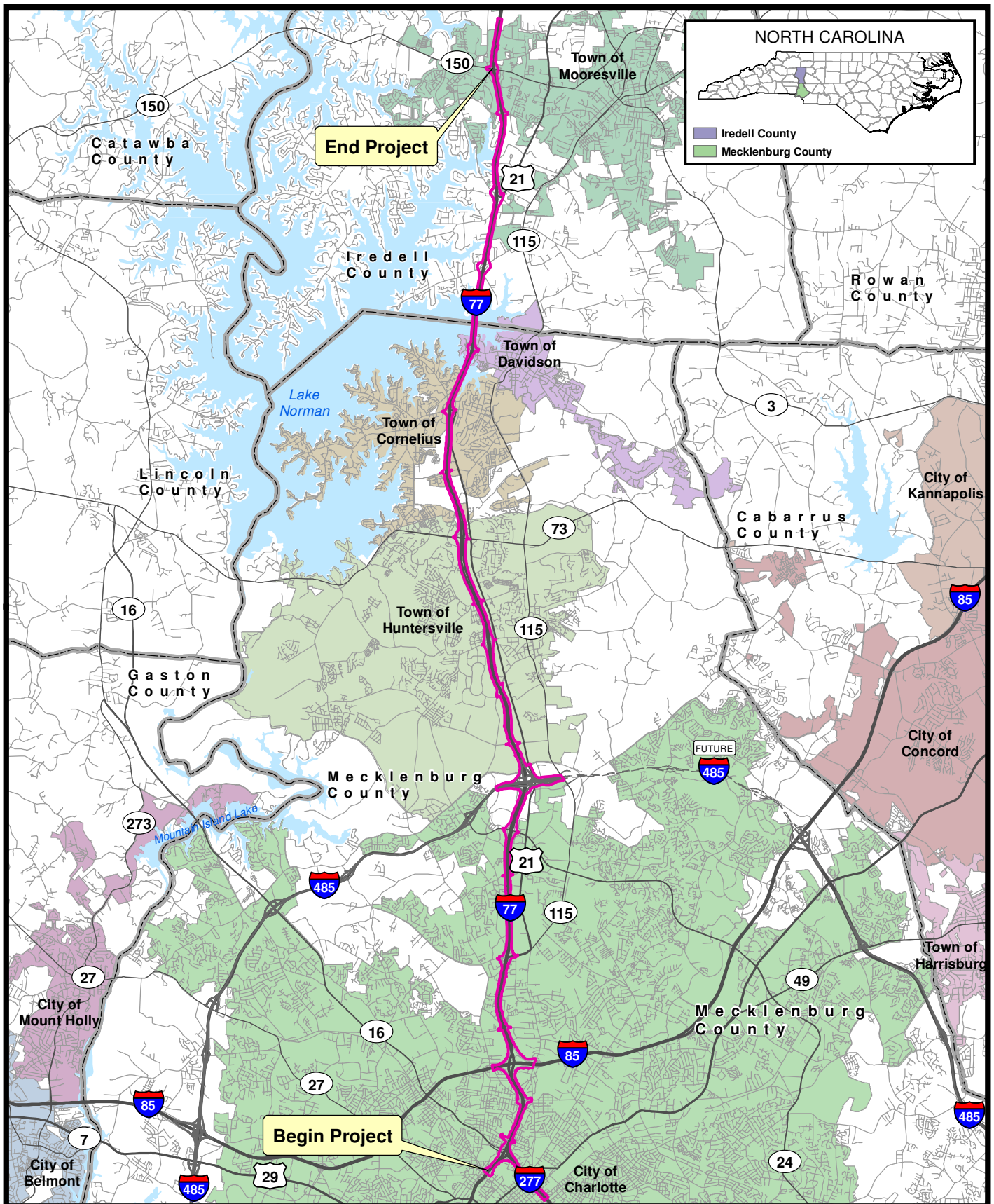
## **7 Contact Information**

The following persons can be contacted for additional information concerning this document:

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Federal Highway Administration  
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Eric Midkiff, PE  
Project Development Section Head – Central Region  
NC Department of Transportation  
Project Development and Environmental Analysis Branch  
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Raleigh, NC 27699  
(919) 733-3141





## I-77 HOT LANES

STIP PROJECT NO. I-3311C,  
I-5405 and I-4750AA

Mecklenburg and Iredell Counties,  
North Carolina

### Legend

 Project Study Area

Source: Mecklenburg County GIS,  
NCDOT GIS, ESRI GIS.



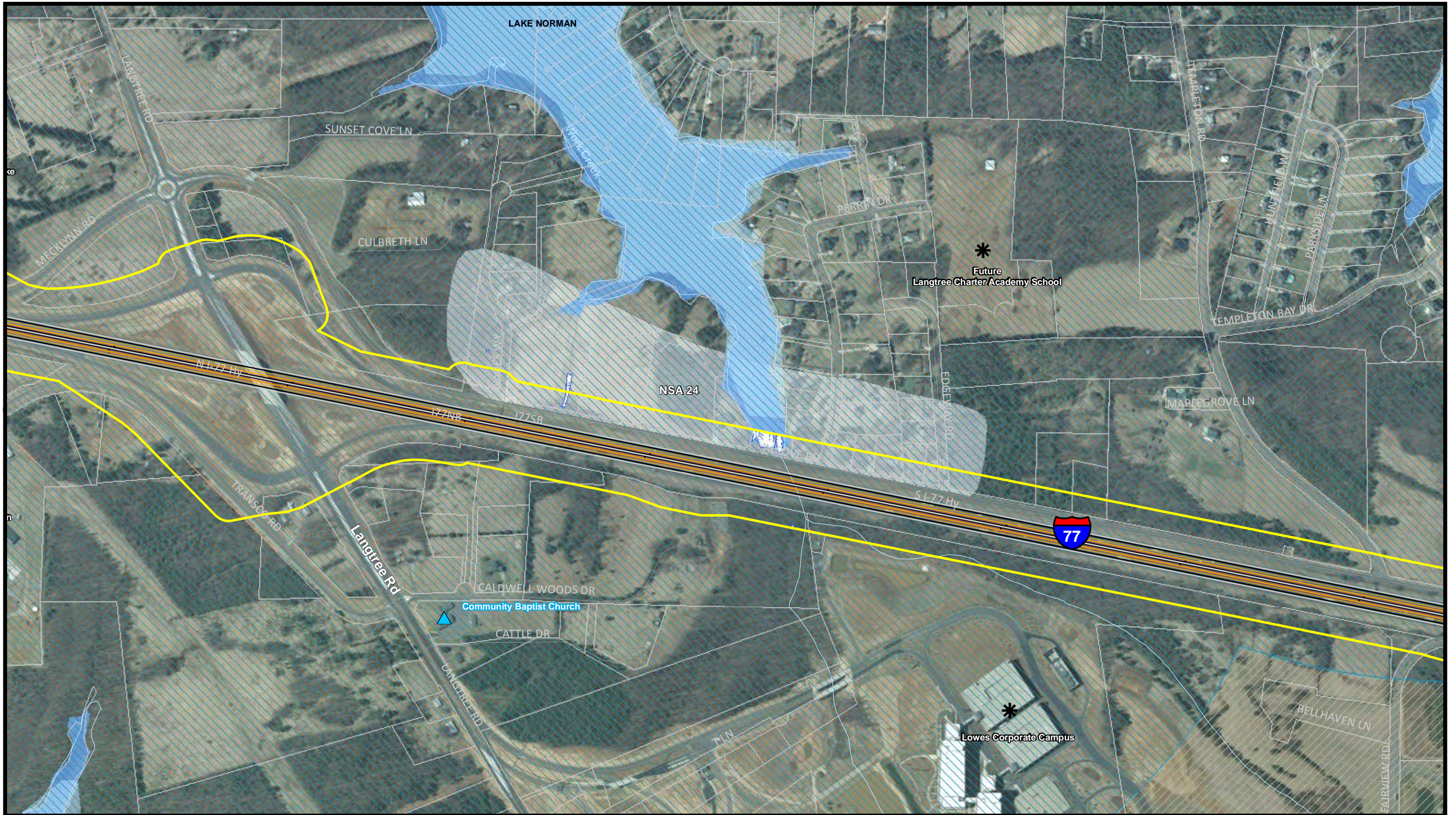
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## PROJECT VICINITY

FIGURE 1

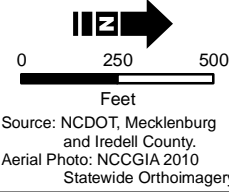


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## I-77 HOT LANES

STIP PROJECT NO. I-3311C,  
I-5405 and I-4750AA  
Mecklenburg and Iredell Counties,  
North Carolina



Legend	Project Study Area	Proposed Concrete Barrier	Existing Culvert	Notable Feature	303(d) Stream	Hazardous Site	Critical Watershed
	Proposed HOT Lane	Proposed Edge of Travel	FEMA Property	Historic Site (Nat'l Register)	Creek / Stream	Lake / Pond	Protected Watershed
	Proposed Bridge / Widening	Proposed Paved Shoulder	Parcel Boundary	Cemetery	Greenway	Floodway	Existing Privacy Wall
	Existing Bridge Removed	Proposed Culvert	School	Fire Station	Railroad	100 Year Floodplain	Existing Noise Wall
	Replace Existing Bridge	Proposed Lane Line	Church	State Owned Land	Community Park	Delineated Wetland	Noise Study Area (NSA)
	Proposed Access Point	Proposed Slopestake Line			Delineated Stream	Delineated Stream	County Boundary

## PROJECT AREA MAP ALTERNATIVES 1, 2 & 3

Figure 2 Y



## **Appendix A**

### **Agency Comments and Responses**

<b>Document Number</b>	<b>Agency/Organization</b>	<b>Comment</b>	<b>Response</b>
A1	US Environmental Protection Agency	A-1	A-16
A2	Mecklenburg-Union Metropolitan Planning Organization – Tech Coordinating Committee	A-4	A-24
A3	Town of Cornelius	A-7	A-32
A4	Town of Mooresville	A-8	A-35
A5	Centralina Council of Governments	A-8	A-36
A6	City of Charlotte	A-9	A-37
A7	NC Dept of Environment and Natural Resources	A-10	A-38





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

A1

A1

Sincerely,

Heinz J. Mueller, Chief  
NEPA Program Office  
Office of Environmental Accountability

August 8, 2013

Dr. Gregory J. Thorpe, Ph.D.  
Manager, Project Development and Environmental  
Analysis Branch  
North Carolina Department of Transportation  
1548 Mail Service Center  
Raleigh, North Carolina 27699-1548

Attachment A – EA Detailed Technical Comments

cc: C. Coleman, FHWA-NC, w/Attachment

SUBJECT: EPA Review Comments of the Federal Environmental Assessment for the I-77 High Occupancy/Toll (HOT) Lanes Project, Mecklenburg and Iredell Counties, N.C.; TIP Nos.: 1-3311C/1-5405/I-4750AA

Dear Dr. Thorpe:

The U.S. Environmental Protection Agency (EPA) has been requested by the North Carolina Department of Transportation (NCDOT) and Federal Highway Administration (FHWA) to review the subject document and is providing comments in accordance with Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act (NEPA). The NCDOT and FHWA propose to improve 26 miles of Interstate 77 in Mecklenburg and Iredell Counties by adding High Occupancy Vehicle (HOV)/Toll (HOT) lanes.

The proposed project is not included in the NEPA/Section 404 Merger process. The project's purpose is to provide immediate travel time reliability along the I-77 corridor. The NCDOT and FHWA evaluated 3 build alternatives in the EA (Alternatives 1, 2, and 3). The Interstate 77 corridor has been separated into three (3) sections: A, B and C and each section has a different typical section and design. The transportation agencies have identified Alternative 2 as their preferred alternative. EPA has attached detailed technical comments to this letter (Please see Attachment A).

In summary, the EA did not provide for a 20 or 30 year design horizon and air and water quality indirect and cumulative effects were not fully assessed. EPA has identified Alternative 3 as its environmentally preferred alternative because it provides the same benefits as the other alternatives and has substantially fewer impacts to jurisdictional streams and on the human environment, including environmental justice populations. EPA recommends that the transportation agencies further assess these issues in the next document before proceeding. Mr. Christopher Militscher of my staff can be contacted at [Militscher.chris@epa.gov](mailto:Militscher.chris@epa.gov) or directly at 404-562-9512 should your staff have any questions.

**ATTACHMENT A**  
**EA Technical Review Comments**  
**I-77 High Occupancy/Toll (HOT) Lanes Project**  
**Mecklenburg and Iredell Counties, N.C.**  
**TIP Nos.: I-3311C/I-5405/I-4750AA**

Design Year of 2017

- 1 The transportation agencies are proposing a design year of 2017 that corresponds with the completion of the construction for the increased lane capacity for I-77. The decision to only assess indirect and cumulative impacts of the proposed action for less than 5 years is inconsistent with other FHWA/NCDOT EA level projects. Most major Federal transportation projects evaluate the impact on a 20 to 30-year design year. The EA does not provide a rationale for the extremely shortened design year. EPA believes that there are potential indirect and cumulative impacts to water quality and air quality resulting from the proposed project that will extend beyond the 2017 design year.

Alternatives Analysis

The transportation agencies have identified Alternative 2 as their preferred alternative which is tied for the largest number of residential and business relocations (7 and 3, respectively), the greatest number of impacted noise receptors at approximately 695, and the highest jurisdictional stream impacts at 3,237 linear feet. Alternative 2 also represents the most costly alternative of the three alternatives studied in detail at \$393,494,288.

Under Table 3-4 of the EA, most of the other impacts to human and natural resources appear to be the same with the exceptions noted above for relocations, noise receptors and streams. Under Communities and Neighborhoods, EPA notes that Alternative 3 cites *"a positive effect due to travel time savings offered by the HOT lanes"*. Alternative 3 also has no residential or business relocations, no disproportionately high and adverse impacts to environmental justice communities, 504 noise receptor impacts (191 less than Alternative 2), and 1,072 linear feet of stream impacts. Alternative 3 is also \$154,213,552 less than Alternative 2. EPA acknowledges the footnote on page 21 regarding Alternative 3 and improvements along I-277.

- 2 EPA believes that there may be other alternatives to additional lane capacity as currently proposed that were not studied in detail in the EA and may address the underlying problem of congestion along I-77. Widening existing roadways to address congestion has not been found by FHWA to provide any long-term benefit to ease congestion.

- 3 The information provided in Section 5.5 is very confusing regarding the indirect and cumulative effects of the proposed project and the STIP project I-3311E along I-77 from I-277 to I-85. This proposed project was processed as a CE in June of 2011 and *"would have a cumulative effect under the No Build Alternative and Build Alternative 3"*. Project I-3311E would widen I-77 southbound travel lanes to 12-foot lanes, widen the inside shoulder to 10 feet, and widen the outside shoulder to 12 feet. The relationship of the I-3311C/I-5405 and I-4750AA

- 3 cont project needs to be better defined in the context of the independent utility of the I-3311E project and the indirect and cumulative effects referenced in this section of the EA.

The EA identifies the increased noise receptor impacts and details the recommended noise barriers for each location and each alternative in Table 5-3. There are 21 proposed noise barriers for Alternatives 1 and 2 and 19 noise barriers for Alternative 3.

Wetlands and Streams

- 4 It would appear from the information in Table 3-4 that Alternatives 1 and 2 are not potentially the Least Environmentally Damaging Practicable Alternative (LEDPA) under Clean Water Act Section 404(b)(1) Guidelines. Alternatives 1 and 2 both have higher jurisdictional stream impacts (2,925 linear feet and 3,237 linear feet, respectively) as well as greater impacts to human resources (i.e., Residential and business relocations including environmental justice effects that are disproportionately high and substantially greater noise receptor impacts). According to Table 3-4, all 3 alternatives have the same estimated impacts to Zones 1 and 2 of the Catawba River Riparian Buffer (i.e., 1.1 acres and 3.1 acres, respectively).

- 5 It is noted that estimated impacts to wetlands and streams were based upon 20-foot preliminary design construction limit buffers and not 25-foot buffers as is typical for most NCDOT projects. The EA states: *"Impacts were calculated from preliminary design construction limits plus 20 feet, in accordance with NCDOT standard procedures"*. Please provide the specific procedural reference in a subsequent NEPA document.

- 6 The EA identifies that if Alternative 3 is selected and STIP Project I-3311E is implemented, the actual impact to jurisdictional streams is 48 linear feet due to culvert extensions. This needs to be more fully explained in Table 3-4 in a subsequent NEPA document as Project I-3311E is a 'reasonably foreseeable action' as currently approved by the transportation agencies. The statement that regarding no impact to the Catawba River Riparian Buffer on page 68 is confusing with respect to the information in Table 3-4 concerning encroachment and impacts from the alternatives.

- 8 The statement concerning mitigation on page 69 of the EA is inaccurate. Avoidance and minimization is not a general type of mitigation. The transportation agencies should identify those efforts that were made to avoid and minimize impacts to jurisdictional streams and wetlands. These avoidance and minimization efforts should be clearly identified with the permitting agencies. After on-site mitigation opportunities are investigated, the transportation agencies propose to utilize the N.C. Ecosystem Enhancement Program (EEP) for compensatory mitigation needs.

- 9 The EA identifies that hazardous spill catch basins may be required by the North Carolina Division of Water Quality (NCDWQ). EPA requests that any proposed hazardous spill catch basins be designed, located and constructed such that they do not directly impact jurisdictional wetlands and streams.

### Environmental Justice

Section 5.1.4 includes information on Environmental Justice under E.O. 12898. Demographic information including race/ethnicity and income/poverty status is included in Section 4.1.2 of the EA. EPA notes that the proposed project's Demographic Study Area (DSA) for the percentage of African Americans is 34.9 percent and for Mecklenburg County it is 30.8 percent. Moreover, for Iredell County the percentage of African Americans in the DSA is 57 percent while the county-wide average is 11.9 percent. The majority of the African American block groups are located south of I-85. There is also a substantial population of Hispanic persons in Census tract 62.15, Block group 1. Low income populations (Below the poverty level) include 11 Block groups mostly south of I-85 and 1 additional Block group just south of the Iredell County line. Based upon the median household income, 21 of the 39 Block groups in the DSA have median incomes below the county median (Page 25 of the EA).

Under Build Alternatives 1 and 2, adverse impacts to communities with EJ concerns would include right-of-way acquisition and relocations (Page 50 of the EA). Alternatives 1 and 2 would include 7 residential relocations all of which are identified as being in an identified EJ community. Four (4) of the 7 relocations are minorities and all 7 relocations are considered low income. Alternative 3 does not have any minority or low-income residential relocations but the EA states that there will be potentially 3 residential relocations associated with the STIP Project I-3311E. This other transportation project is expected to be in a minority/low-income neighborhood along Dean Street.

There is also a potential issue for alternatives 1 and 2 involving community impacts that are proposed to be offset by keeping the existing Oaklawn Avenue Bridge open while a new bridge is constructed. However, the EJ analysis does not include the potentially disproportionate impact from increased noise levels. Alternatives 1 and 2 have 679 and 695 impacted noise receptors, respectively. Alternative 3 has an estimated 504 impacted noise receptors. This represents approximately 27% less impacted receptors than the transportation agencies' Preferred Alternative 2. Based on residential relocations and other direct impacts, Alternative 3 has fewer EJ community impacts than the other alternatives.

EPA notes the comments provided on page 51 of the EA regarding Income Equity, Modal Equity and Equity in Participation. Regarding Income Equity, the EA does not specifically address the commuting benefit in travel time savings for areas south of I-85 where a majority of the low-income and minority populations live. Regarding potential mitigative measures for low-income persons needing transponders or the ability to pay in cash, the EA provides suggestions but makes no project commitments. Regarding Modal Equity, EPA concurs that the proposed project would not directly affect HOV lanes as currently proposed. Indirectly, public transit could be affected by encouraging more commuters to take personally owned vehicles instead of buses and carpool vans.

The transportation agencies have characterized the residential relocations (for Alternatives 1 and 2) to identified EJ communities as being '*disproportionately high, but minor*'. However, the EA did not include in this analysis the other potential direct impacts such as noise and potential increased air toxics. The EA does not fully document the public involvement and

14  
cont

outreach with affected EJ communities. Without additional information and specific project commitments, EPA does not concur with the statement on page 52 of the EA regarding tolling and the expectation that the project will not have a disproportionately high and adverse effect on minority and low-income populations.

### Children's Health

15

The EA does not address impacts to children pursuant to Executive Order 13045 on Children's Health and Safety which directs each Federal agency, to the extent permitted by law and appropriate, to make it a high priority to identify and assess environmental health and safety risks that may disproportionately affect children, and to ensure that its policies, programs, and activities, and standards address these risks. Analysis and disclosure of these potential effects under NEPA is necessary because some physiological and behavioral traits of children render them more susceptible and vulnerable to environmental health and safety risks. Children may have higher exposure levels to contaminants because they generally have higher inhalation rates, eat more food, and drink more water, and relative to their body size. In addition, a child's neurological, immunological, digestive, and other bodily systems are also potentially more susceptible to exposure-related health effects. It is well documented that children are more susceptible to many environmental factors that are commonly encountered in the NEPA process, including exposure to mobile source air pollution, diesel emissions, particulate matter, and lead and other heavy metals. Based on current EPA policy and guidance, an analysis of impacts to children should be included in a NEPA analysis if there is a possibility of disproportionate impacts on children related to the proposed action. The EA should identify schools, daycares, and hospitals located near the proposed project area and clearly describe the potential direct, indirect, and cumulative impacts to children's health (See also Air Quality and Mobile Source Air Toxics section).

### Economic Effects

16

Economic effects of the proposed action are included in Table 3-4 under the Comparison of Build Alternative Impacts. All three Build alternatives have the same economic effects. As cited in the table: "*Long-term benefits to the local and regional transportation network from enhanced mobility, reliable travel times, and reduced fuel costs.*" This information appears to potentially conflict with Section 5.5 of the EA regarding Build Alternative 3.

### Historic Resources

17

The comments concerning the eligible Oaklawn Park Historic District and STIP Project I-3311E is noted in Section 5.1.6. The anticipated re-evaluation of the June 2011 CE for this proposed project needs to be further explained in the context of its relationship to the I-3311C/I-5405/I-4750CC project. There are potentially 3 residential relocations along Dean Street in the Oaklawn Park neighborhood associated with the 'No-Build Alternative' for the I-3311C/I-5405/I-4750CC project. Future environmental documents should clearly state the independent utility of the I-3311E and I-3311C/I-5405/I-4750CC projects.

Air Quality and Mobile Source Air Toxics (MSATs)

18

It is noted that Air Quality impacts are addressed in the physical environment Section 5.2 of the EA and not in Section 5.4 on the Natural Environment. The transportation agencies' distinction between the physical environment and the natural environment is not clear. The proposed project is located in the Metrolina non-attainment area for ozone (O3). The Charlotte area was re-designated as a maintenance area for Carbon monoxide in 1995. EPA acknowledges the information on transportation conformity on page 31 of the EA.

19

It should be noted that faster travel times will not necessarily benefit air quality. Raising speeds with HOT/HOV lanes may increase or decrease emissions depending upon the pollutant and the speeds. For example, Nitrogen oxides (NOx) emissions rise at speeds above 30-35 miles per hour which may contribute to additional ozone formation.

20

EPA notes the discussions on page 31, 32, 60, 61 and 62 regarding MSATs. The transportation agencies did not perform the preliminary identification steps for any potential near-roadway sensitive receptors such as nursing homes, daycares, hospitals and schools. The transportation agencies did not conduct a project specific MSAT analysis (qualitative or quantitative) that identifies potential near-roadway sensitive receptors, prevailing wind conditions, and topography, or other factors relating to a preliminary health impact analysis (e.g., Synergist effects of sensitive populations living in an area that are also exposed to unhealthy air quality from other air pollutants). EPA does not concur with the MSAT assessment and conclusions as provided in the EA.

Page A-4



600 East Fourth Street  
Charlotte, NC 28202  
704-336-2205  
www.mumpo.org

August 9, 2013

Eric Midkiff, PE  
NCDOT  
Project Development & Environmental Analysis Branch  
1548 Mail Service Center  
Raleigh, NC, 27699-1548

Subject: MUMPO TCC Comments on Environmental Assessment for Consolidated TIP  
Projects: I-3311C, I-5405, and I-4750AA

Dear Mr. Midkiff:

The Mecklenburg-Union Technical Coordinating Committee (TCC) provided comments on the Subject projects on February 8, 2013 in response to a Request for Comments solicitation dated January 8, 2013. Those comments, along with responses, were included in the draft Environmental Assessment (EA). Listed below are the TCC's original comments, with follow up comments based upon the responses provided in the draft EA document.

February 8, 2013 Comment	August 9, 2013 Follow Up Comment
<p>1. The proposed public/private partnership (P3) project represents a partial investment in the overall transportation needs in the corridor between Charlotte and Statesville. Without a strategic framework for addressing the transportation needs in a holistic fashion, it is not possible to completely judge the benefits and impacts of this proposal.</p> <p>2. The only strategic vision in the corridor, the 2001 <u>I-77 Sub-Area Study</u>, discussed in our October 4, 2012 memo, covers the corridor between Charlotte and Mooresville but does not extend to Statesville. That study calls for</p>	<p>The TCC believes that a comprehensive, multi-modal strategy is critical to addressing the complex mobility issues in the Charlotte to Statesville corridor. The development of such a strategy should be part of Table PC-1: Special Project Commitments. Implementation should begin within 12 months of the signing of this document.</p>

1



substantially more improvements in the corridor than proposed in the current project. How does the proposed project and procurement process help to achieve this vision?		
3. The 2017 analysis year for the environmental document does not offer the ability to judge the performance, impacts, and transportation value return on investment over the potential 50 year concession period of the current procurement proposal. The need for additional investments in the corridor and the impact of the proposed project on the ability to deliver these investments should be evaluated.	The TCC continues to believe that a 2017 analysis year is inadequate for assessing the impacts of a project intended for a 50 year concession period. A commitment to conducting an assessment of the project employing an appropriate design year should be made part of Table PC-1: Special Project Commitments. Implementation should begin within 12 months of the signing of this document.	2
4. This evaluation should not be limited to the physical ability to construct additional improvements parallel to or crossing this project. The innovative P3 process and the private sector control for a potential 50 year period with the inherent focus on fiscal return on investment should be thoroughly compared to public control of the investment with the potential return on investment having a greater focus on public purpose.	The response to this comment provided in the draft EA is inadequate. Reference is made on page E-96, item 4, to an internal analysis of the pros and cons of private vs. public delivery. We have not reviewed this analysis and cannot speak to its validity.	
8. The TCC firmly believes that managed lanes are an integral tool in the implementation and management of the capacity and reliability purposes of the freeways and highest order expressways in our system. The manner in which this specific project is governed must be integrated into an overall strategy for managing similar projects within the MPO's purview for the functional lives of the projects, especially during any private participation. The MPO must be an integral part of this management structure.	The TCC requests that a management team be formed to address issues associated with, but not limited to, project development, design and governance, and that the MPO be an equal partner in the team's decision-making process. A commitment to forming a management team should be made part of Table PC-1: Special Project Commitments.	4

9. e & f. The TCC is concerned about integration of this project with other planned projects in the corridor.	The response listed on page E-97 to item 9 e. & f. of the TCC's February 8, 2013 comments (and in other locations) indicates a need for a project to be funded and committed with a NEPA document to require consideration. The response on page E-111 item 3 indicates that the state may make "...any improvement contained in an adopted plan as an exclusion to the definition of an Unplanned Revenue Impacting Facility." We have been told that this second response is the accurate portrayal. For example, it is important to be assured by the concessionaire that there will be room in the median to accommodate bridge supports and their construction where called for in an adopted long range plan that spans a time frame greater than the TIP or LRTP since the concessionaire has a 50 year contract.	5
---	--	---

In addition to the above matters, the following additional comments are offered.

- 6 [ 1. Page 1, Paragraph 4: First sentence notes that I-77 is six lanes between I-85 and I-277 (Brookshire Freeway). I-77 is eight lanes in this section.
- 7 [ 2. Page 6, Table 2-1: Project # R-3833 is noted as being under construction. It is complete. David Keilson mentioned a remaining section to be constructed.
- 8 [ 3. Page 6, Table 2-1: Project # R- 2632 is noted as being under construction. It was only under construction from US 21 to NC 115, and that segment is complete.
- 9 [ 4. Page 18, 1<sup>st</sup> indention under Widened Bridges: One of the bridge notations states "over abandoned rail corridor." This is the Lynx Blue Line Extension light rail corridor.
- 10 [ 5. Will there be any residential relocations along Dean St.? From the March 4 meeting with Dean St. residents, there was an understanding that there would be no relocations as the I-77 centerline would be moved to the east.
- 11 [ 6. Staff has expressed concern (p. E-97, item 9 d) that traffic coming into the center city from the southbound I-77 HOT lanes will have a difficult time accessing their preferred route of Church Street. Exit point 3A from the Brookshire Freeway to Brevard/Davidson already queues back to the mainline during AM peak hours and additional traffic trying to use that exit will exacerbate the situation. Has a weave analysis been conducted that takes into consideration the traffic coming from the

11  
cont

HOT lanes exit (between I-77 and the Brookshire Freeway) to the I-277 ramps to Graham St., Church St. and the Brevard/Davidson/McDowell streets off ramps and the Caldwell St., Church St. and Graham St. on ramps? We believe the concessionaires should be guided by the RFP to examine an "outside" landing from the HOT lanes to either the Brookshire or directly to Exit 3B, 11<sup>th</sup> Street as an alternative technical concept (ATC.) If this option proves beneficial then additional noise analysis will need to occur.

12

7. No action should be taken by NCDOT or any other party to discourage informal (i.e. non-prearranged) carpooling or inhibit carpooling in any way under the long term project management structure.

13

8. The Griffith St. (exit 30) interchange is proposed to be reconstructed as a part of this project, however there are no plans for the ramps to be improved or lengthened. The ramp lengths (especially the acceleration ramps) are inadequate under I-77's current cross-section (and have been the cause of numerous crashes), and the problem will be exacerbated by widening the roadway. The TCC strongly recommends that NCDOT reconsider its position on this issue.

14

9. HOT lane entrance and exit points should be placed at locations that enhance CATS bus operations. Particular consideration should be given to how the access points will affect CATS's ability to gain access to existing and planned park and ride locations along the I-77 corridor.

15

10. All efforts should be expended to maintain and enhance the level of service for multi-occupancy vehicles during the construction period. Not only does this serve as a congestion mitigation during construction, it fosters on-going multi occupancy of vehicles which is an important local focus for this project.

16

11. Finally, NCDOT has received multiple citizen requests to stop the current project and instead implement general purpose lanes in select locations. The document's responses seem to focus on the lack of public funds to support general purpose lanes. The TCC strongly feels that the HOT lane element of this project brings a new paradigm to transportation investment in North Carolina. It emphasizes long term return on investment in that the management tool of HOT lanes ensures the long term functionality of the investment, its role in fostering multi-occupant use of the investment, and builds in the maintenance and operational components in the financial structure. As early as April 2009, the MUMPO indicated its preference for any additional lanes along I-77 North to be managed lanes. The TCC believes that this issue should receive primacy in responding to requests for general purpose lanes.

Sincerely:



Robert W. Cook, AICP  
MUMPO Secretary

cc: Mecklenburg-Union Metropolitan Planning Organization  
MUMPO Technical Coordinating Committee  
Rodger Rochelle, PE, Transportation Program Management Unit  
Theresa Ellerby, PDEA  
Virginia Mabry, Priority Projects Office  
Louis Mitchell, PE, Division 10  
Mike Holder, PE, Division 12  
Carl Gibilaro, PE, Atkins  
Bill Thunberg, Executive Director, Lake Norman Transportation Commission



A3

Mayor

LYNETTE D. RINKER

Mayor Pro Tem

CHUCK TRAVIS

Councilmembers

JOHN BRADFORD, III

DAVID GILROY

JEFF HARE

BRUCE J. TRIMBUR

Town Manager

ANTHONY ROBERTS

August 8, 2013

Mr. Eric Midkiff, P.E.  
Project Development Section Head, Central Region  
Via e-mail: [emidkiff@ncdot.gov](mailto:emidkiff@ncdot.gov)

Subject: Requests for Comments  
I-77 HOT  
Environmental Assessment (EA) I-3311C, I-5405, I-4750AA

Dear Mr. Midkiff:

The Town of Cornelius appreciates the opportunity to submit comments on the combined EA for the above-referenced projects.

1. Bridge Reconstruction – The Westmoreland Road bridge has been identified to be reconstructed as part of this project.

- 1
- The proposed Westmoreland Road Bridge Typical Section identified in Figure 7 is not compatible and is inadequate for the future widening of Westmoreland Rd. (as identified in MUMPO's CTP and LRTP) and the future Westmoreland Interchange/Exit 27 (as identified in MUMPO's CTP and LRTP). The Town requests that the Westmoreland Bridge be reconstructed to accommodate the future widening of Westmoreland Road, and for the future Westmoreland Interchange. The bridge reconstruction should allow for future additional travel lanes along Westmoreland Road, institute appropriate widths of sidewalks and multi-purpose paths across the bridge to match the future sidewalk/multi-purpose path widths leading up to the bridge (as identified by the 2012 Town of Cornelius Pedestrian Master Plan) and accommodating a future general purpose interchange. The Town recommends that coordination for the preceding occurs between itself and NCDOT.

- 2
- Future Interchange at Westmoreland (or in the Westmoreland Road vicinity) should not be an HOT-only interchange. The land use plans for Cornelius do not support an HOT-only interchange, and vice versa. The Town of Cornelius explicitly does not support an HOT-only interchange. However, a standard interchange (with standard access) is supported by Cornelius, and supported by Cornelius' land use plans.

## 2. HOT Lanes Access Points

- 3
- The Draft EA identifies an access point to the HOT lanes at an area just north of Exit 28; however, it appears that this is at the transition from one to two HOT lanes, and does not provide an access point for Cornelius-originating drivers who enter I-77 southbound (heading south to Charlotte) from Exit 28. Therefore, the Town requests an additional general purpose lane to managed lane access point along the I-77 travel lanes in the area between Exit 28 and Exit 25.

- 4
- The Town is opposed to converting the future Westmoreland Interchange into an HOT-only interchange; however it supports its conversion into a standard interchange (with standard access). The Town's land use plans would be significantly harmed by the construction of an HOT-only interchange.

- 5
- The Town would like to also make the general comment that several more additional access points along the project corridor are needed than what is currently identified in the draft EA.

- 6
- 3. Existing NC DOT Right-of-Way Landscaping – There is an abundance of mowed grass areas in addition to mature trees and bushes within I-77's median and along its roadsides. It is understood that it will be unavoidable to retain all of this existing landscaping; however, there must be a vigilant effort to replace all vegetation removed to areas that are at least adjacent to the removal areas (if not possible to be replanted in the removal areas themselves). Simply replacing vegetation as necessary for slope stabilization (as identified in the draft EA, Page E-94) is inadequate. The corridor's vegetation provides enormous environmental benefits and aesthetic qualities.

- 7
- 4. DDI (Diverging Diamond Interchange) Aesthetic Improvements – In 2013, Project I-4733 will be let to reconstruct the Exit 28 interchange into a DDI. The Town is partnering with NCDOT to construct aesthetic improvements as part of the roadway project. The aesthetic improvements will be integrated into the roadway structures, in addition to being stand-alone structures not directly associated with the roadway functions (for example, stand-alone masonry abutments at the interstate level, adjacent to the I-77 travel lanes).

- 7
- The aforementioned masonry abutments will be adjacent to Exit 28's bridge piers and the future locations of the I-77 travel lanes (the Town has previously coordinated with NCDOT's Roadway Design branch to determine the optimum locations). The Town requests that the future widening of I-77 under and near the Exit 28 bridge does not impact the aesthetic improvements, and that NCDOT coordinates with the Town to construct

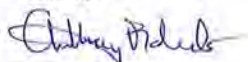
cont

A3

- 7 cont [ facilities and structures (e.g., concrete barriers and guard rail) that are compatible with the pending aesthetic elements. The Town requests the ability to provide betterments for these future NCDOT structures to allow for maximum compatibility with the aesthetic improvements.
- 8 [ • The Town is funding the burial of utilities as part of the I-4733 project. Some burial will occur underneath and across I-77 in the vicinity of Exit 28. The Town requests that these utility burials are not impacted by the I-77 project.
- 9 [ 5. Proposed Concrete Barriers – The Town requests that coordination takes place between itself and NCDOT for the proposed concrete barriers along and within the Town's jurisdiction. The Town requests the opportunity to influence (either through selection or betterment) the type of barriers constructed, as there may be slight aesthetic variances in the NCDOT specifications that will allow for higher compatibility with the pending DDI aesthetic improvements at Exit 28.
- 10 [ 6. Proposed Noise Walls – The Town requests further details on the proposed noise walls to be located in its jurisdiction. Specifically, dimensions and the exact location of the walls (surveyed). The Town requests the opportunity to landscape along both sides of these noise walls, and to influence the location of the walls to allow for adequate room for landscaping. The Town also requests the opportunity to pay for a betterment at the walls, such as constructing masonry-level walls.
- 11 [ 7. In 2012, the Town adopted the Comprehensive Pedestrian Plan. This document was not identified in the draft EA, and should be referenced to ensure compatibility. For example, a future pedestrian/bikeway crossing of I-77 is identified both in the Comprehensive Pedestrian Plan and MUMPO's CTP.

Again, thank you for the opportunity to provide comments and if we can provide any clarification or be of any assistance with regard to the EA for these projects, please do not hesitate to contact me at 704-892-6031 or [aroberts@cornelius.org](mailto:aroberts@cornelius.org).

Sincerely,



Anthony Roberts  
Town Manager



**Town of Mooresville**  
**Development Services Department**  
Post Office Box 878  
Mooresville, North Carolina 28115  
(704) 663-3800

July 30, 2013

Robert W. Cook, AICP  
Secretary  
Mecklenburg-Union Metropolitan Planning Organization  
600 E. Fourth Street, Eighth Floor  
Charlotte, NC 28202

**RE: I-77 HOT Lanes Project – Environmental Assessment Review**

Dear Mr. Cook,

On behalf of the Town of Mooresville, I have reviewed the Environmental Assessment for the I-77 HOT Lanes Project, and I would like the following comments to be considered by the MUMPO for submittal to NCDOT:

- 1 [ 1. Page 7: Reference that the Mooresville CTP Amendments were adopted by the BOT on April 4, 2013.
- 2 [ 2. Page 19: Why does Alternative 2 have the lowest travel speeds for I-77 Northbound/I-277 outer section? While the numbers may not be significantly different, I would assume that Alternative 2 would foster the highest travel speeds with the inclusion of two HOT lanes as opposed to the other alternatives that only have one HOT lane and higher average speeds.
- 3 [ 3. Appendix A (Page A-50). Reference the location of the new Langtree Charter Academy School located west of Alcove Road between Edgeway and Templeton Roads. The school will open on August 26, 2013.

In addition, I have reviewed and am in agreement with Mr. Bjorn Hansen's comments from the Centralina Council of Governments. Mr. Hansen's comments on the Environmental Assessment document are as follows:

- 1 [ 1. "Page 6 (Table 2-1): I know this table references the STIP from two years ago, but several of those projects are complete.
- 2 [ 2. Page 12 (Table 2-4): It has the average speeds of the existing HOV lanes decreasing quite a bit between 2012 and 2017. I do not see how volumes are going to increase that much in the next four years to reduce travel speeds by 15-25% in the AM.
- 3 [ 3. Page 24 (Table 4-1): Why don't they use the adopted 2020 and 2030 SE projections from the Metrolina Model?
- 4 [ 4. Page 75 (6.1): Do you consider the LNTC an agency?"

Please let us know if you have any questions.

Sincerely,



Neil Burke, AICP, PTP  
Transportation Planner

Cc: Bjorn Hansen, AICP, CTP, Principal Planner – Transportation, Centralina Council of Governments



A6

August 9, 2013

Mr. Eric Midkiff, PE  
North Carolina Department of Transportation  
Project Development & Environmental Analysis Branch  
1548 Mail Service Center  
Raleigh, NC, 27699-1548

**Subject: MUMPO TCC Comments on Environmental Assessment for Consolidated TIP  
Projects: I-3311C, I-5405**

Dear Mr. Midkiff:

Previous comments about the I-77 project were included in the following letters:

March 2, 2012	from Bill Cox to Eric Midkiff
July 19, 2012	from Bill Cox to Rodger Rochelle
August 13, 2012	from Bill Cox to Rodger Rochelle
August 16, 2012	from Danny Pleasant to Theresa Ellerby
October 4, 2012	from Bill Cox to Theresa Ellerby and Eric Midkiff
February 8, 2013	from Bill Cox to Eric Midkiff
February 11, 2013	from Danny Pleasant to Eric Midkiff

Within Charlotte, we are concerned about relocations, acquisitions, noise impacts and aesthetic effects from what will be a twelve-lane highway (six lanes per direction) adjacent to neighborhoods between I-277 and I-85. Most of the proposed project's impacts will fall within this area of the City of Charlotte.

The original I-77 construction and subsequent widening projects negatively impacted the neighborhoods bordering I-77 between I-85 and I-277. As a result, homes are located in close proximity to the highway so that noise abatement may be necessary for any additional widening. As the project proceeds, we want neighborhood and business dislocations and disruptions to be done only when absolutely necessary to resolve existing problems or establish long-term remedies.

We understand that the ballots to vote for/against noise walls have been sent out, and are to be returned by August 30, 2013. Following receipt of the ballots, please let us know your plans for proceeding with planning and construction of noise walls. We understand that you will be providing additional information regarding the wall treatments, colors, etc.

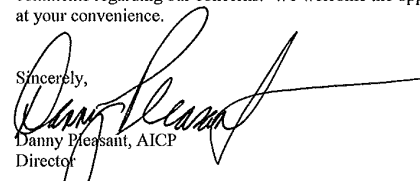
DEPARTMENT OF TRANSPORTATION

600 East Fourth Street  
Charlotte, NC 28202-2858  
PH: 704/336-4119  
FAX: 704/336-4400

August 9, 2013  
Eric Midkiff, PE  
North Carolina Department of Transportation  
Page 2

Please contact Tim Gibbs of my staff at [tgibbs@charlottenc.gov](mailto:tgibbs@charlottenc.gov) or 704.336.3917 if you have questions or comments regarding our concerns. We welcome the opportunity to discuss this project with you further at your convenience.

Sincerely,

  
Danny Pleasant, AICP  
Director

c: Ruffin Hall, Assistant City Manager  
Bill Cox, Town of Huntersville  
Tim Gibbs, AICP, Charlotte Department of Transportation  
David McDonald, PE, Charlotte Area Transit System  
Robert Cook, AICP, Mecklenburg-Union Metropolitan Planning Organization  
Stuart Basham, Mecklenburg-Union Metropolitan Planning Organization  
Louis Mitchell, PE, NCDOT, Division 10 Engineer

Page A-9

A6



A7

North Carolina  
Department of Administration

Pat McCrory, Governor

Bill Daughtridge, Jr., Secretary

August 16, 2013

Mr. Eric Midkiff  
North Carolina Department of Transportation  
Program Dev. & Environment Analysis  
1598 Mail Service Center  
Raleigh, North Carolina 27699-1598

**Re: SCH File # 14-E-4220-0012; EA; Proposed project to construct High Occupancy Toll Lanes and convert existing High Occupancy Vehicle Lanes to High Occupancy Toll Lanes along I-77 corridor -TIP Project No. I-5405, I-3311C, I-4750**

Dear Mr. Midkiff:

The above referenced environmental impact information has been submitted to the State Clearinghouse under the provisions of the National Environmental Policy Act. According to G.S. 113A-10, when a state agency is required to prepare an environmental document under the provisions of federal law, the environmental document meets the provisions of the State Environmental Policy Act. Attached to this letter for your consideration are the comments made by agencies in the course of this review.

If any further environmental review documents are prepared for this project, they should be forwarded to this office for intergovernmental review.

Should you have any questions, please do not hesitate to call.

Sincerely,

Crystal Best  
State Environmental Review Clearinghouse

Attachments

cc: Region F

Mailing Address:  
1301 Mail Service Center  
Raleigh, NC 27699-1301

Telephone: (919)807-2425  
Fax (919)733-9571  
State Courier #51-01-00  
e-mail [state.clearinghouse@doa.nc.gov](mailto:state.clearinghouse@doa.nc.gov)

An Equal Opportunity/Affirmative Action Employer

Location Address:  
116 West Jones Street  
Raleigh, North Carolina



A7

North Carolina Department of Environment and Natural Resources

Pat McCrory  
GovernorJohn E. Skvarla, III  
Secretary

## MEMORANDUM

To: Crystal Best  
State Clearinghouse

From: Lyn Hardison *Lyn*  
Division of Environmental Assistance and Customer Service  
Environmental Assistance and Project Review Coordinator

RE: 14-0012  
Environmental Assessment  
Proposed project to construct High Occupancy Toll Lanes and convert existing High Occupancy Vehicle Lanes to High Occupancy Toll Lanes along I-77 corridor Iredell and Mecklenburg Counties

Date: August 15, 2013

The Department of Environment and Natural Resources has completed its review of the proposal for the referenced project. Based on the information provided, our agencies have identified permits that may be required and provided some guidance. These comments are attached for the applicant's consideration.

The Department agencies will continue to be available to assist the applicant through the environmental review and permitting processes.

Thank you for the opportunity to respond.

Attachments

1601 Mail Service Center, Raleigh, North Carolina 27699-1601  
Phone: 919-707-8600 \ Internet: [www.ncdenr.gov](http://www.ncdenr.gov)

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A7

Department of Environment and Natural Resources  
Project Review Form

Project Number: 14-0012 County: Iredell and Mecklenburg Date Received: 07/16/2013

**Due Date: 8/12/2013**

**Project Description:** Environmental Assessment - Proposed project to construct High Occupancy Toll Lanes and convert existing High Occupancy Vehicle Lanes to High Occupancy Toll Lanes along I-77 corridor -TIP Project No. I-5405, I-3311C, I-4750

Please refer to 12-0173 & 13-0274

This Project is being reviewed as indicated below:

Regional Office	Regional Office Area	In-House Review
Asheville	<input checked="" type="checkbox"/> Air 8/9/2013	<input type="checkbox"/> Air Quality
Fayetteville	<input checked="" type="checkbox"/> Water	<input type="checkbox"/> Marine Fisheries
<input checked="" type="checkbox"/> Mooresville	<input checked="" type="checkbox"/> Aquifer Protection 8/13	<input checked="" type="checkbox"/> Parks & Recreation
Raleigh	<input checked="" type="checkbox"/> Land Quality Engineer 8/13	<input checked="" type="checkbox"/> Waste Mgmt
Washington	<input checked="" type="checkbox"/> UST 8/13	<input type="checkbox"/> Water Resources Mgmt
Wilmington		<input checked="" type="checkbox"/> Water Supply Section
Winston-Salem		<input checked="" type="checkbox"/> Wildlife - DOT M. Chambers

**RECEIVED**

JUL 22 2013

NC DEPT OF ENVIRONMENT  
AND NATURAL RESOURCES  
MOORESVILLE REGIONAL OFFICE  
In-House Review Agency

Manager Sign-Off/Region:

*Angel W. Edwards*

Date:

8/12/13

Response (check all applicable)

☐ No objection to project as proposed.

☐ No Comment

☐ Insufficient information to complete review

☒ Other (specify or attach comments)

JUL 28 2013

If you have any questions, please contact:

Lyn Hardison at [lyn.hardison@ncdenr.gov](mailto:lyn.hardison@ncdenr.gov) or (252) 948-3842.

A7

State of North Carolina  
Department of Environment and Natural Resources

Reviewing Office: MOORESVILLE

INTERGOVERNMENTAL REVIEW - PROJECT COMMENTS

Project Number: 14-0012 Due Date: 8/12/2013

After review of this project it has been determined that the ENR permit(s) and/or approvals indicated may need to be obtained in order for this project to comply with North Carolina Law. Questions regarding these permits should be addressed to the Regional Office indicated on the reverse of the form. All applications, information and guidelines relative to these plans and permits are available from the same Regional Office.

PERMITS	SPECIAL APPLICATION PROCEDURES or REQUIREMENTS	Normal Process Time (statutory time limit)
<input type="checkbox"/> Permit to construct & operate wastewater treatment facilities, sewer system extensions & sewer systems not discharging into state surface waters.	Application 90 days before begin construction or award of construction contracts. On-site inspection. Post-application technical conference usual.	30 days (90 days)
<input type="checkbox"/> NPDES - permit to discharge into surface water and/or permit to operate and construct wastewater facilities discharging into state surface waters.	Application 180 days before begin activity. On-site inspection. Pre-application conference usual. Additionally, obtain permit to construct wastewater treatment facility-granted after NPDES. Reply time, 30 days after receipt of plans or issue of NPDES permit-whichever is later.	90-120 days (N/A)
<input type="checkbox"/> Water Use Permit	Pre-application technical conference usually necessary	30 days (N/A)
<input type="checkbox"/> Well Construction Permit	Complete application must be received and permit issued prior to the installation of a well.	7 days (15 days)
<input type="checkbox"/> Dredge and Fill Permit	Application copy must be served on each adjacent riparian property owner. On-site inspection. Pre-application conference usual. Filing may require easement to Fill from N.C. Department of Administration and Federal Dredge and Fill Permit.	55 days (90 days)
<input type="checkbox"/> Permit to construct & operate Air Pollution Abatement facilities and/or Emission Sources as per 15 A NCAC (2Q.0100 thru 2Q.0300)	Application must be submitted and permit received prior to construction and operation of the source. If a permit is required in an area without local zoning, then there are additional requirements and timelines (2Q.0113).	90 days
<input type="checkbox"/> Permit to construct & operate Transportation Facility as per 15 A NCAC (2D.0800, 2Q.0601)	Application must be submitted at least 90 days prior to construction or modification of the source.	90 days
<input checked="" type="checkbox"/> Any open burning associated with subject proposal must be in compliance with 15 A NCAC 2D.1900	N/A	60 days (90 days)
<input type="checkbox"/> Demolition or renovations of structures containing asbestos material must be in compliance with 15 A NCAC 2D.1110 (a) (1) which requires notification and removal prior to demolition. Contact Asbestos Control Group 919-707-5950.		
<input type="checkbox"/> Complex Source Permit required under 15 A NCAC 2D.0800		
<input type="checkbox"/> The Sedimentation Pollution Control Act of 1973 must be properly addressed for any land disturbing activity. An erosion & sedimentation control plan will be required if one or more acres to be disturbed. Plan filed with proper Regional Office (Land Quality Section) At least 30 days before beginning activity. A fee of \$65 for the first acre or any part of an acre. An express review option is available with additional fees.		20 days (30 days)
<input checked="" type="checkbox"/> Sedimentation and erosion control must be addressed in accordance with NCDOT's approved program. Particular attention should be given to design and installation of appropriate perimeter sediment trapping devices as well as stable stormwater conveyances and outlets.		(30 days)
<input type="checkbox"/> Mining Permit	On-site inspection usual. Surety bond filed with ENR Bond amount varies with type mine and number of acres of affected land. Any acre mined greater than one acre must be permitted. The appropriate bond must be received before the permit can be issued.	30 days (60 days)
<input type="checkbox"/> North Carolina Burning permit	On-site inspection by N.C. Division Forest Resources if permit exceeds 4 days	1 day (N/A)
<input type="checkbox"/> Special Ground Clearance Burning Permit - 22 counties in coastal N.C. with organic soils	On-site inspection by N.C. Division Forest Resources required "If more than five acres of ground clearing activities are involved. Inspections should be requested at least ten days before actual burn is planned."	1 day (N/A)
<input type="checkbox"/> Oil Refining Facilities	N/A	90-120 days (N/A)
<input type="checkbox"/> Dam Safety Permit	If permit required, application 60 days before begin construction. Applicant must hire N.C. qualified engineer to prepare plans, inspect construction, certify construction is according to ENR approved plans. May also require permit under mosquito control program. And a 404 permit from Corps of Engineers. An inspection of site is necessary to verify Hazard Classification. A minimum fee of \$200.00 must accompany the application. An additional processing fee based on a percentage of the total project cost will be required upon completion.	30 days (60 days)

A7

1-3

1-4

1-5

1-6

Page A-12

1-7

PERMITS	SPECIAL APPLICATION PROCEDURES or REQUIREMENTS	Normal Process Time (statutory time limit)
<input type="checkbox"/> Permit to drill exploratory oil or gas well	File surety bond of \$5,000 with ENR, running to State of NC conditional that any well opened by drill operator shall, upon abandonment, be plugged according to ENR rules and regulations.	10 days N/A
<input type="checkbox"/> Geophysical Exploration Permit	Application filed with ENR at least 10 days prior to issue of permit. Application by letter. No standard application form.	10 days N/A
<input type="checkbox"/> State Lakes Construction Permit	Application fees based on structure size is charged. Must include descriptions & drawings of structure & proof of ownership of riparian property.	15-30 days N/A
<input checked="" type="checkbox"/> 401 Water Quality Certification	N/A	60 days (130 days)
<input type="checkbox"/> CAMA Permit for MAJOR development	\$250.00 fee must accompany application	55 days (150 days)
<input type="checkbox"/> CAMA Permit for MINOR development	\$30.00 fee must accompany application	22 days (25 days)
<input type="checkbox"/> Several geodetic monuments are located in or near the project area. If any monument needs to be moved or destroyed, please notify: N.C. Geodetic Survey, Box 27687 Raleigh, NC 27611		
<input checked="" type="checkbox"/> Abandonment of any wells, if required must be in accordance with Title 15A, Subchapter 2C.0100.		
<input checked="" type="checkbox"/> Notification of the proper regional office is requested if "orphan" underground storage tanks (USTs) are discovered during any excavation operation.		
<input type="checkbox"/> Compliance with 15A NCAC 2H 1000 (Coastal Stormwater Rules) is required.		45 days (N/A)
<input type="checkbox"/> Tar Pannico or Neuse Riparian Buffer Rules required.		
* Other comments (attach additional pages as necessary, being certain to cite comment authority)		
<p><i>Catawba buffer may be an issue</i>  <i>No additional comments. Attn B-10-13</i>  <i>UST - see attached comments RTR 8/8/13</i>  <i>DAQ - As stated in the application - the air quality conformity determination was approved May 22, 2013.</i>  <i>There are no comments for Stock 8/9/2013</i>  <i>LA - Ed's Check Point required if NCDOT is not found. Regularly</i>  <i>8/9/14</i></p>		

## REGIONAL OFFICES

Questions regarding these permits should be addressed to the Regional Office marked below.

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> <b>Asheville Regional Office</b><br>2090 US Highway 70<br>Swannanoa, NC 28778<br>(828) 296-4500                           | <input checked="" type="checkbox"/> <b>X Mooresville Regional Office</b><br>610 East Center Avenue, Suite 301<br>Mooresville, NC 28115<br>(704) 663-1699 | <input type="checkbox"/> <b>Wilmington Regional Office</b><br>127 Cardinal Drive Extension<br>Wilmington, NC 28405<br>(910) 796-7215 |
| <input type="checkbox"/> <b>Fayetteville Regional Office</b><br>225 North Green Street, Suite 714<br>Fayetteville, NC 28301-5043<br>(910) 433-3300 | <input type="checkbox"/> <b>Raleigh Regional Office</b><br>3800 Barrett Drive, Suite 101<br>Raleigh, NC 27609<br>(919) 791-4200                          | <input type="checkbox"/> <b>Winston-Salem Regional Office</b><br>585 Woughtown Street<br>Winston-Salem, NC 27107<br>(336) 771-5000   |
|  | <input type="checkbox"/> <b>Washington Regional Office</b><br>943 Washington Square Mall<br>Washington, NC 27889<br>(252) 946-6481                       |  |

A7



North Carolina Department of Environment and Natural Resources  
Division of Waste Management

Pat McCrory  
Governor

Dexter R. Matthews  
Director

John E. Skvarla, III  
Secretary

TO: Lyn Hardison, Environmental Coordinator

FROM: Ron Taraban, Regional UST Supervisor

DATE: August 8, 2013

RE: Project Review Form: 14-0012

The following comments are pertinent to my review:

2-1

1. The Mooresville Regional Office (MRO) UST Section recommends removal of any abandoned or out-of-use petroleum USTs or petroleum above ground storage tanks (ASTs) within the project area. The UST Section should be contacted regarding use of any proposed or on-site petroleum USTs or ASTs. We may be reached at 704-663-1699.

2-2

2. Any petroleum spills must be contained and the area of impact must be properly restored. Petroleum spills of significant quantity must be reported to the North Carolina Department of Environment & Natural Resources - Division of Waste Management Underground Storage Tank Section in the Mooresville Regional Office at 704-663-1699.

2-3

3. Any soils excavated during demolition or construction that show evidence of petroleum contamination, such as stained soil, odors, or free product must be reported immediately to the local Fire Marshall to determine whether explosion or inhalation hazards exist. Also, notify the UST Section of the Mooresville Regional Office at 704-663-1699. Petroleum contaminated soils must be handled in accordance with all applicable regulations.

If you have any questions or need additional information, please contact me at [Ron.Taraban@ncdenr.gov](mailto:Ron.Taraban@ncdenr.gov) or by phone at 704-235-2167.



A7

Hardison, Lyn

From: Roddy, Jackie  
 Sent: Wednesday, July 24, 2013 8:02 AM  
 To: Hardison, Lyn  
 Cc: Kaufman, Tammy  
 Subject: DENR Project No. 14-0012

Ms. Hardison,

Thank you for providing the Division of Water Resources (DWR) - Public Water Supply (PWS) Section an opportunity to provide comments environmental assessment for a proposed project to construct High Occupancy Toll Lanes and convert existing High Occupancy Vehicle Lanes to High Occupancy Toll Lanes along I-77 corridor - TIP Project No. 5405, I-3311C, I-4750 in Iredell and Mecklenburg County, DENR Project No. 14-0012.

At this time, DWR-PWS has no objection to the project, but offers the following comments from Britt Setzer of the Mooresville Regional Office:

1. If existing water lines will be relocated during the construction, plans for the water line relocation must be submitted to the Division of Water Resources, Public Water Supply Section, Technical Services Branch, 1634 Mail Service Center, Raleigh, North Carolina 27699-1634, (919) 707-9100. Existing water line relocations in Mecklenburg County must be submitted to the Charlotte Mecklenburg Utilities Department for approval. CMUD has delegated approval authority. If existing water lines in Iredell County will be relocated during the construction, plans for the water line relocation must be submitted to the Town of Mooresville for approval. They also have delegated approval.

Let me know if you have any questions.

Jackie Roddy, P.E.  
 Environmental Engineer  
 Division of Water Resources  
 Public Water Supply Section  
 Raleigh, NC 27699-1634  
 Phone: (919) 707-9059  
 Fax: (919) 715-4374

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

NORTH CAROLINA STATE CLEARINGHOUSE  
 DEPARTMENT OF ADMINISTRATION  
 INTERGOVERNMENTAL REVIEW

COUNTY: MECKLENBURG  
 IREDELL

F02: HIGHWAYS AND ROADS

STATE NUMBER: 14-E-4220-0012  
 DATE RECEIVED: 07/16/2013  
 AGENCY RESPONSE: 08/12/2013  
 REVIEW CLOSED: 08/15/2013

MS RENEE GLEDHILL-EARLEY  
 CLEARINGHOUSE COORDINATOR  
 DEPT OF CULTURAL RESOURCES  
 STATE HISTORIC PRESERVATION OFFICE  
 MSC 4617 - ARCHIVES BUILDING  
 RALEIGH NC

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 DENR LEGISLATIVE AFFAIRS  
 DEPT OF AGRICULTURE  
 DEPT OF CULTURAL RESOURCES  
 DEPT OF TRANSPORTATION

## PROJECT INFORMATION

APPLICANT: N.C. Dept. of Transportation  
 TYPE: National Environmental Policy Act  
 Environmental Assessment

DESC: Proposed project to construct High Occupancy Toll Lanes and convert existing High Occupancy Vehicle Lanes to High Occupancy Toll Lanes along I-77 corridor -TIP Project No. I-5405, I-3311C, I-4750

CROSS-REFERENCE NUMBER: 12-E-4220-0173 13-E-4220-0274

The attached project has been submitted to the N. C. State Clearinghouse for intergovernmental review. Please review and submit your response by the above indicated date to 1301 Mail Service Center, Raleigh NC 27699-1301.

If additional review time is needed, please contact this office at (919)807-2425.

AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED: ☒ NO COMMENT ☐ COMMENTS ATTACHED

SIGNED BY:

*Renee Gledhill-Earley*

DATE:

*7-31-13*



NORTH CAROLINA STATE CLEARINGHOUSE  
DEPARTMENT OF ADMINISTRATION  
INTERGOVERNMENTAL REVIEW

A7

COUNTY: MECKLENBURG  
IREDELL

F02: HIGHWAYS AND ROADS

STATE NUMBER: 14-E-4220-0012  
DATE RECEIVED: 07/16/2013  
AGENCY RESPONSE: 08/12/2013  
REVIEW CLOSED: 08/15/2013

MS ELIZABETH HEATH  
CLEARINGHOUSE COORDINATOR  
DEPT OF AGRICULTURE  
1001 MSC - AGRICULTURE BLDG  
RALEIGH NC

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DEPT OF CULTURAL RESOURCES  
DEPT OF TRANSPORTATION

## PROJECT INFORMATION

APPLICANT: N.C. Dept. of Transportation  
TYPE: National Environmental Policy Act  
Environmental Assessment

DESC: Proposed project to construct High Occupancy Toll Lanes and convert existing High Occupancy Vehicle Lanes to High Occupancy Toll Lanes along I-77 corridor -TIP  
Project No. I-5405, I-3311C, I-4750

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If additional review time is needed, please contact this office at (919)807-2425.

AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED: ☒ NO COMMENT ☐ COMMENTS ATTACHED

SIGNED BY:

Elizabeth G. Heath

DATE:

7/26/13



NORTH CAROLINA STATE CLEARINGHOUSE  
DEPARTMENT OF ADMINISTRATION  
INTERGOVERNMENTAL REVIEW

A7

COUNTY: MECKLENBURG  
IREDELL

F02: HIGHWAYS AND ROADS

STATE NUMBER: 14-E-4220-0012  
DATE RECEIVED: 07/16/2013  
AGENCY RESPONSE: 08/12/2013  
REVIEW CLOSED: 08/15/2013

MS CAROLYN PENNY  
CLEARINGHOUSE COORDINATOR  
CC&PS - DIV OF EMERGENCY MANAGEMENT  
FLOODPLAIN MANAGEMENT PROGRAM  
MSC # 4719  
RALEIGH NC

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DEPT OF CULTURAL RESOURCES  
DEPT OF TRANSPORTATION

## PROJECT INFORMATION

APPLICANT: N.C. Dept. of Transportation  
TYPE: National Environmental Policy Act  
Environmental Assessment

DESC: Proposed project to construct High Occupancy Toll Lanes and convert existing High Occupancy Vehicle Lanes to High Occupancy Toll Lanes along I-77 corridor -TIP  
Project No. I-5405, I-3311C, I-4750

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If additional review time is needed, please contact this office at (919)807-2425.

AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED: ☒ NO COMMENT ☐ COMMENTS ATTACHED

SIGNED BY:

John D. Bullock

DATE:

23 July 2013

MOA Addressed w/ Project Commitments.



JUL 16 2013

NORTH CAROLINA STATE CLEARINGHOUSE  
DEPARTMENT OF ADMINISTRATION  
INTERGOVERNMENTAL REVIEW

*Anil Panicker*  
A7

COUNTY: MECKLENBURG  
IREDELL

F02: HIGHWAYS AND ROADS

STATE NUMBER: 14-E-4220-0012  
DATE RECEIVED: 07/16/2013  
AGENCY RESPONSE: 08/12/2013  
REVIEW CLOSED: 08/15/2013

MS CARRIE ATKINSON  
CLEARINGHOUSE COORDINATOR  
DEPT OF TRANSPORTATION  
STATEWIDE PLANNING - MSC #1554  
RALEIGH NC

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DEPT OF CULTURAL RESOURCES  
DEPT OF TRANSPORTATION

PROJECT INFORMATION

APPLICANT: N.C. Dept. of Transportation  
TYPE: National Environmental Policy Act  
Environmental Assessment

DESC: Proposed project to construct High Occupancy Toll Lanes and convert existing High Occupancy Vehicle Lanes to High Occupancy Toll Lanes along I-77 corridor -TIP Project No. I-5405, I-3311C, I-4750

CROSS-REFERENCE NUMBER: 12-E-4220-0173 13-E-4220-0274

The attached project has been submitted to the N. C. State Clearinghouse for intergovernmental review. Please review and submit your response by the above indicated date to 1301 Mail Service Center, Raleigh NC 27699-1301.

If additional review time is needed, please contact this office at (919)807-2425.

AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED: ☐ NO COMMENT ☒ COMMENTS ATTACHED

SIGNED BY:

*Anil Panicker*

DATE: 07/24/2013



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

1554 MAIL SERVICE CENTER, RALEIGH, N.C. 27699-1554

PAT MCCRORY  
GOVERNOR

ANTHONY J. TATA  
SECRETARY

July 24, 2013

MEMORANDUM

**Subject:** Clearinghouse Number 14-E-4220-0012  
Proposed project to construct High Occupancy Toll Lanes and convert existing High Occupancy Vehicle Lanes to High Occupancy Toll Lanes along the I-77 corridor - TIP Project No. I-5405, I-3311C, I-4750.

**From:** Anil Panicker, Transportation Engineer *ATP*  
Transportation Planning Branch

The adopted 2035 Long Range Transportation plan for the Mecklenburg - Union Metropolitan Planning Organization (MUMPO), the Statewide Transportation Improvement Program and Local Transportation and Land Use Plans identifies several projects in the vicinity of the project described above. These are described in detail in Sections 2.5 and 2.6 of the Environmental Assessment.

The planning, design, and construction of this project should be coordinated with the following agencies and local governments to ensure that there are no potential conflicts with any other NCDOT projects in the general area of the subject project.

- NCDOT Division 10
- Mecklenburg County and Iredell County
- City of Charlotte
- Towns of Cornelius, Davidson, Huntersville and Mooresville
- Charlotte Area Transit System

I can be reached at (704) 336-5738 and would be happy to discuss any related concerns you may have about the project.

cc: Jeff Littlefield, PE, Division 10 District Engineer

MAILING ADDRESS:  
NC DEPARTMENT OF TRANSPORTATION  
TRANSPORTATION PLANNING BRANCH  
1554 MAIL SERVICE CENTER  
RALEIGH NC 27699-1554

**NCDOT** **TIP**  
TRANSPORTATION PLANNING BRANCH  
<http://ncdot.org/doh/preconstruct/tip/>

LOCATION:  
TRANSPORTATION BUILDING  
1 SOUTH WILMINGTON STREET  
RALEIGH, NC 27601  
Phone: 919-707-0900  
Fax: 919-733-9794



A7

## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A1	EPA	1	Design Year	<p>The transportation agencies are proposing a design year of 2017 that corresponds with the completion of the construction for the increased lane capacity for I-77. The decision to only assess indirect and cumulative impacts of the proposed action for less than 5 years is inconsistent with other FHWA/NCDOT EA level projects. Most major Federal transportation projects evaluate the impact on a 20 to 30-year design year. The EA does not provide a rationale for the extremely shortened design year. EPA believes that there are potential indirect and cumulative impacts to water quality and air quality resulting from the proposed project that will extend beyond the 2017 design year.</p>	<p>The purpose of the project is to provide immediate travel time reliability within the study area. The purpose for the I-77 HOT lanes project is consistent with the financial objective identified in MUMPO's 2035 LRTP which states to "Make investment decisions for transportation modes that make the most efficient use of limited public resources". This includes actively exploring new sources of revenue and to foster innovative financing and partnership opportunities for project development and implementation.</p> <p>To meet the stated purpose, managed lanes or HOT lanes were evaluated. An added benefit of managed lanes is long term travel time reliability within the study area. The project complies with 23 CFR 450.320. MUMPO's 2035 LRTP and 2012-2018 TIP were amended on May 22, 2013 to include the Project. On May 31, 2013, USDOT made a determination that the amended LRTP and TIP conform to the Clean Air Act.</p> <p>Per FHWA <i>Interim Guidance on the Application of Travel and Land Use Forecasting in NEPA</i> (March 2010) a project may not have to rely on future performance to meet purpose and need, and its "design year" may be shorter to manage current congestion. In addition to the Purpose and Need, the traffic operational analysis utilized a 2017 design year to address the project purpose of providing immediate travel time reliability. The 2017 Design Year only applies to the project's Purpose and Need and traffic operational analysis. Other environmental analyses such as indirect and cumulative effects and air quality consider impacts through 2035.</p>

## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A1	EPA	2	Alternatives Analysis	EPA believes that there may be other alternatives to additional lane capacity as currently proposed that were not studied in detail in the EA and may address the underlying problem of congestion along I-77. Widening existing roadways to address congestion has not been found by FHWA to provide any long-term benefit to ease congestion.	<p>The I-77 HOT lanes project is being developed to provide long term travel time reliability within the study area. The purpose and need for the project is consistent with MUMPO's 2035 LRTP. While the project incorporates HOT lane concepts, it also expands and improves the facility for greater use of transit and high occupancy vehicles. Incorporation of these travel demand management strategies along with the statutory performance requirements in 23 U.S.C. 166 will not result in significant environmental impacts. While the commenter notes and lists several Environmental Assessments for widening projects across the United States and notes such projects included design years further into the future, the commenter has provided additional evidence that similar projects do not have a significant environmental impact.</p> <p>This project, which incorporates Transportation System Management (TSM) and Transportation Demand Management (TDM) strategies, will not result in significant impacts.</p>
A1	EPA	3	Alternatives Analysis	The information provided in Section 5.5 is very confusing regarding the indirect and cumulative effects of the proposed project and the STIP project I-3311E along I-77 from I-277 to I-85. This proposed project was processed as a CE in June 2011 and <i>"would have a cumulative effect under the No Build Alternative and Build Alternative 3"</i> . Project I-3311E would widen I-77 southbound travel lanes to 12-foot lanes, widen the inside shoulder to 10 feet, and widen the outside shoulder to 12 feet. The relationship of the I-3311C/I-5405 and I-4750AA project needs to be better defined in the context of the independent utility of the I-3311E project and the indirect and cumulative effects referenced in this section of the EA.	Sections 5.5 and 3.2 of the EA describe the relationship between I-3311E and I-3311C/I-5405/I-4750AA. Build Alternatives 1 and 2 happen to have project limits that overlap Project I-3311E, so a separate Project I-3311E would not be needed under these two build alternatives since the proposed designs of Build Alternatives 1 and 2 would also fulfill the objectives of I-3311E. If the No Build Alternative or Build Alternative 3 is selected for I-3311C/I-5405/I-4750AA, these alternatives would not make any improvements in the I-3311E area, so I-3311E would then be implemented. Project I-3311E is not dependent on I-3311C/I-5405/I-4750AA.

## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A1	EPA	4	Wetlands and streams	It would appear from the information in Table 3-4 that Alternatives 1 and 2 are not potentially the Least Environmentally Damaging Practicable Alternative (LEDPA) under Clean Water Act Section 404(b)(1) Guidelines.	Alternative 2 is identified as the Selected Alternative in this FONSI because it best fulfills the project's purpose and need to provide additional travel time reliability. As a result of early coordination with USACE and NCDWQ, and as is customary, the LEDPA will be confirmed during the permitting process.
A1	EPA	5	Wetlands and streams	It is noted that estimated impacts to wetlands and streams were based upon 20-foot preliminary design construction limit buffers and not 25-foot buffers as is typical for most NCDOT projects. The EA states: <i>"Impacts were calculated from preliminary design construction limits plus 20 feet, in accordance with NCDOT standard procedures"</i> . Please provide the specific procedural reference in a subsequent NEPA document.	NCDOT standard procedures for wetland and stream impact calculations for preliminary design typically utilize a 25-foot buffer. The level of available mapping and confidence level in the project design limits resulted in a 20-foot buffer identified as appropriate for this widening project. A statement clarifying this procedure has been added to <b>Section 5.10</b> of the FONSI.
A1	EPA	6	Wetlands and streams	The EA identifies that if Alternative 3 is selected and STIP Project I-3311E is implemented, the actual impact to jurisdictional streams is 48 linear feet due to culvert extensions. This needs to be more fully explained in Table 3-4 in a subsequent NEPA document as Project I-3311E is a 'reasonably foreseeable action' as currently approved by the transportation agencies.	See response to Document A1, Comment #3.

## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A1	EPA	7	Wetlands and streams	The statement that regarding no impact to the Catawba River Riparian Buffer on page 68 is confusing with respect to the information in Table 3-4 concerning encroachment and impacts from the alternatives.	<p>The potential impacts to the Catawba River Riparian Buffer identified in Table 3-4 are the result of widening within the existing roadway right of way. Total estimated impact from encroachment into Zone 1 is 47,916 square feet. Total estimated impact from all encroachment into Zone 2 is 135,036 square feet (3.1 acres).</p> <p>The statement on Page 68 of the EA clarifies that the project would not involve construction activities <u>outside</u> of the existing right of way that would impact the Catawba River Riparian Buffer.</p> <p>Impact to the Catawba River Riparian Buffer cannot be avoided by the Selected Alternative because the current alignment of I-77 already crosses Lake Norman, which is subject to the buffer rule. The majority of this encroachment into the buffer area is the result of resurfacing the existing travel lanes and shoulders on the causeway.</p> <p>Implementation of the Selected Alternative would be designated as a use that is allowable with mitigation because the impact is more than one-third acre of buffer. A determination of “no practical alternative” is required from the NCDWQ, and approval of mitigation (15A NCAC 02B.0244).</p>
A1	EPA	8	Wetlands and streams	The statement concerning mitigation on page 69 of the EA is inaccurate. Avoidance and minimization is not a general type of mitigation. The transportation agencies should identify those efforts that were made to avoid and minimize impacts to jurisdictional streams and wetlands. These avoidance and minimization efforts should be clearly identified with the permitting agencies. After on-site mitigation opportunities are investigated, the transportation agencies propose to utilize the N.C. Ecosystem Enhancement Program (EEP) for compensatory mitigation needs.	<p>The statement has been corrected in the FONSI. Avoidance and minimization methods were incorporated by widening into existing median to the maximum extent possible.</p> <p>Avoidance and minimization efforts are further described in <b>Table 7</b> of the FONSI and will continue through the final design of the project.</p>

## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A1	EPA	9	Wetlands and streams	The EA identifies that hazardous spill catch basins may be required by the North Carolina Division of Water Quality (NCDWQ). EPA requests that any proposed hazardous spill catch basins be designed, located and constructed such that they do not directly impact jurisdictional wetlands and streams.	Hazardous spill basins will be designed, located, and constructed such that they do not directly impact jurisdictional wetlands and streams.
A1	EPA	10	Environmental Justice	...the EJ analysis does not include the potentially disproportionate impact from increased noise levels. Alternatives 1 and 2 have 679 and 695 impacted noise receptors, respectively. Alternative 3 has an estimated 504 impacted noise receptors. This represents approximately 27% less impacted receptors than the transportation agencies' Preferred Alternative 2. Based on residential relocations and other direct impacts, Alternative 3 has fewer EJ community impacts than the other alternatives.	<p>As identified in the EA on Page 55, footnote 3 of Table 5-2, "The design limits for Alternative 3 do not include improvements along I-277, therefore, the number of existing noise impacts along I-277 are not included in the Alternative 3 impacts." These noise impacts along I-277 still exist, however, so there is no actual difference in numbers of existing impacted receptors.</p> <p>Since publication of the EA, a refinement to the noise analysis along I-277 in Noise Study Area 277NSA2 was conducted, as documented in the memorandum Addendum to I-3311C Final Design Noise Report (Atkins, August 30, 2013). The results of this Addendum are included in Table 6 of the FONSI.</p> <p>As listed in Table 6, the proposed noise barriers for Alternatives 1 and 2 would benefit more noise sensitive receptors (955 and 959 receptors, respectively) than the proposed noise barriers for Alternative 3 (763 receptors) because there are more noise barriers benefitting more neighborhoods under Alternatives 1 and 2.</p> <p>There is no disproportionate impact under Title VI of the Civil Rights Act from increased noise levels to EJ communities from any of the Build Alternatives.</p>
A1	EPA	11	Environmental Justice	Regarding Income Equity, the EA does not specifically address the commuting benefit in travel time savings for areas south of I-85 where a majority of the low-income and minority populations live.	The EA does not specifically identify individual travel time savings for the EJ population south of I-85 because all travelers of the I-77 corridor would benefit from the travel time savings of the proposed HOT lanes project.



**Appendix A Agency Comments & Responses**

<b>Document No.</b>	<b>Agency</b>	<b>Comment No.</b>	<b>Topic</b>	<b>Comment</b>	<b>Response</b>
A1	EPA	12	Environmental Justice	Regarding potential mitigative measures for low-income persons needing transponders or the ability to pay in cash, the EA provides suggestions but makes no project commitments.	Per the NCTA business rules, NCTA customers wishing to maintain a pre-paid account (transponder) may purchase a transponder and place a toll balance on that account using cash. Also, customers maintaining a post-paid account (Video/Bill by Mail) can pay their bills using cash. All cash payments must be made in person at a NCTA Customer Service Center.
A1	EPA	13	Environmental Justice	Regarding Modal Equity, EPA concurs that the proposed project would not directly affect HOV lanes as currently proposed. Indirectly, public transit could be affected by encouraging more commuters to take personally owned vehicles instead of buses and carpool vans.	Comment noted.
A1	EPA	14	Environmental Justice	The transportation agencies have characterized the residential relocations (for Alternatives 1 and 2) to identified EJ communities as being “disproportionately high, but minor”. However, the EA did not include in this analysis the other potential direct impacts such as noise and potential increased air toxics. The EA does not fully document the public involvement and outreach with affected EJ communities. Without additional information and specific project commitments, EPA does not concur with the statement on page 52 of the EA regarding tolling and the expectation that the project will not have a disproportionately high and adverse effect on minority and low-income populations.	Impacts identified in the noise and air quality analyses conducted for the Environmental Assessment are borne by the entire population within the study area. Also, see response to Document A1, Comment #10.  Impacts to EJ communities are not disproportionately high and adverse under Title VI of the Civil Rights Act, as clarified in <b>Section 5.9</b> of this FONSI.  Public involvement activities are identified in Chapter 6, Agency Coordination and Public Involvement. Clarification has been included in the FONSI that all of the Oaklawn Park Neighborhood Meetings identified in Section 6.2.3 of the Environmental Assessment involved public involvement and outreach to potentially affected environmental justice communities.

## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A1	EPA	15	Children's Health	The EA does not address impacts to children pursuant to Executive Order 13045 on Children's Health and Safety which directs each Federal Agency, to the extent permitted by law and appropriate, to make it a high priority to identify and assess environmental health and safety risks that may disproportionately affect children, and to ensure that its policies, programs, and activities, and standards address these risks.	The proposed widening project is not anticipated to constitute an environmental health risk or safety risk that would disproportionately affect children.  <i>A Microscale Carbon Monoxide and Mobile Source Air Toxics Air Quality Analysis</i> (Kimley-Horn and Assoc., June 2013) was prepared for this project to assess potential air quality impacts associated with all alternatives under consideration. The analysis determined that this project would not result in significant adverse effects on air quality and the Project is in compliance with National Ambient Air Quality Standards. The results of the analyses are summarized in <b>Section 5.2.2</b> of the <i>Environmental Assessment</i> . The Quantitative MSAT analysis did consider sensitive receptors.
A1	EPA	16	Economic Effects	Economic effects of the proposed action are included in Table 3-4 under the Comparison of Build Alternative Impacts. All three Build alternatives have the same economic effects. As cited in the table: "Long-term benefits to the local and regional transportation network from enhanced mobility, reliable travel times, and reduced fuel costs." This information appears to potentially conflict with Section 5.5 of the EA regarding Build Alternative 3.	Section 5.1.7 of the EA addresses economic effects and is consistent with the summary in EA Table 3-4.  Based on the current design alternatives being developed for the project, which are largely confined to the existing right of way, implementation for the project would not contribute, in conjunction with past, present, or reasonably foreseeable future projects, to significant adverse cumulative effects on resources in the study area.
A1	EPA	17	Historic Resources	The comments concerning the eligible Oaklawn Park Historic District and STIP Project I-3311E is noted in Section 5.1.6. The anticipated re-evaluation of the June 2011 CE for this proposed project needs to be further explained in the context of its relationship to the I-3311C/I-5405/I-4750CC project. There are potentially 3 residential relocations along Dean Street in the Oaklawn Park neighborhood associated with the 'No-Build Alternative' for the I-3311C/I-5405/I-4750CC project. Future environmental documents should clearly state the independent utility of the I-3311E and I-3311C/I-5405/I-4750CC projects.	See response to Document A1, Comment #3.

**Appendix A Agency Comments & Responses**

<b>Document No.</b>	<b>Agency</b>	<b>Comment No.</b>	<b>Topic</b>	<b>Comment</b>	<b>Response</b>
A1	EPA	18	Air Quality	It is noted that Air Quality impacts are addressed in the physical environment Section 5.2 of the EA and not in Section 5.4 on the Natural Environment. The transportation agencies' distinction between the physical environment and the natural environment is not clear.	The existing environment and environmental consequences sections of the EA are organized under Human Environment, Physical Environment, Cultural Environment, and Natural Environment as a matter of organizational clarity and convenience, and is typical of NCDOT EAs and EISs. The placement of air quality under any particular heading does not affect the content of the air quality discussion in any way.
A1	EPA	19	Air Quality	It should be noted that faster travel times will not necessarily benefit air quality. Raising speeds with HOT/HOV lanes may increase or decrease emissions depending upon the pollutant and the speeds. For example, Nitrogen oxides (NOx) emissions rise at speeds above 30-35 miles per hour which may contribute to additional ozone information.	Regarding National Ambient Air Quality Standards (NAAQS), the USDOT made a conformity determination on the MUMPO 2035 LRTP Amendment/FY 2012-2018 TIP Amendment on May 31, 2013. The current air quality conformity determination for the region includes Build Alternative 2 and is consistent with the final conformity rule found in 40 CFR Parts 51 and 93.  Regarding mobile source air toxics (MSATs), the analysis year modeled was 2017. Based upon FHWA analysis using the US EPA's MOVES2010b air quality modeling software, future years would likely show a decrease in MSAT emissions due to improved emission controls on vehicles and additional MSAT analysis is not necessary. Therefore, 2017 is a worse case than any future years regarding MSAT levels.

## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A1	EPA	20	Air Quality	EPA notes the discussions on page 31, 32, 60, 61, and 62 regarding MSATs. The transportation agencies did not perform the preliminary identification steps for any potential near-roadway sensitive receptors such as nursing homes, day cares, hospitals and schools. The transportation agencies did not conduct a project specific MSAT analysis (qualitative or quantitative) that identifies potential near-roadway sensitive receptors, prevailing wind conditions, and topography, or other factors relating to a preliminary health impact analysis (e.g. Synergist effects of sensitive populations living in an area that are also exposed to unhealthy air quality from other air pollutants). EPA does not concur with the MSAT assessment and conclusions as provided in the EA.	<p>The Environmental Assessment incorporates by reference the findings of the quantitative <i>Microscale Carbon Monoxide and Mobile Source Air Toxics Air Quality Analysis</i> (Kimley-Horn and Associates, May 2013). The Quantitative MSAT analysis did consider sensitive receptors.</p> <p>The quantitative microscale carbon monoxide analysis identified no locations where 1-hour or 8-hour carbon monoxide concentrations would exceed NAAQS under any of the modeled scenarios (2010 and 2017 no-build, and 2017 Build Alternatives 1, 2, and 3).</p> <p>Based on the results of the quantitative MSAT analysis prepared for the project, the MSAT levels for the modeled area are anticipated to decrease by 47 percent between the 2010 base year and the 2017 worst-case build condition. All seven MSATs modeled experience significant decreases in emissions during this period. When comparing these decreases to the vehicle miles traveled, it is evident that despite increases in the VMT, MSAT emissions will continue to decrease over time.</p>
A2	MUMPO TCC	1	Transportation planning	The TCC believes that a comprehensive, multi-modal strategy is critical to addressing the complex mobility issues in the Charlotte to Statesville corridor. The development of such a strategy should be part of Table PC-1: Special Project Commitments. Implementation should begin within 12 months of the signing of this document.	NCDOT will participate in the development of a MUMPO-led comprehensive, multi-modal strategy to address the complex mobility issues in the Charlotte to Statesville corridor. This is included as a project commitment in the FONSI.
A2	MUMPO TCC	2	Design year	The TCC continues to believe that a 2017 analysis year is inadequate for assessing the impacts of a project intended for a 50 year concession period. A commitment to conducting an assessment of the project employing an appropriate design year should be made part of Table PC-1: Special Project Commitments. Implementation should begin within 12 months of the signing of this document.	<p>See response to Document A1, Comment #1.</p> <p>Model / data is not available that would allow a reliable analysis for impacts 50 years into the future. However, as MUMPO continues with the MTP process, coordination during the metropolitan planning process will continue.</p>

## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A2	MUMPO TCC	3	P3 contract	<p>This evaluation should not be limited to the physical ability to construct additional improvements parallel to or crossing this project. The innovative P3 process and the private sector control for a potential 50 year period with the inherent focus on fiscal return on investment should be thoroughly compared to public control of the investment with the potential return on investment having a greater focus on public purpose.</p> <p>The response to this comment provided in the draft EA is inadequate. Reference is made on page E-96, item 4, to an internal analysis of the pros and cons of private vs. public delivery. We have not reviewed this analysis and cannot speak to its validity.</p>	<p>A P3 delivery approach not only allows the project to be delivered in the near term when it is needed due to current and projected congestion issues, but it also provides many other long-term benefits when compared to a traditional public delivery approach.</p> <p>One of the primary benefits of a P3 approach is the coordinated maintenance of the road over the term of the contract and the specified condition of the road at the end of the contract. The private developer will have a vested interest in maintaining the road for both the HOT lanes and GP lanes in the corridor based on pre-defined operations and maintenance requirements and hand-back conditions outlined in the agreement. As the corridor continues to face challenges keeping pace with adequate near and long term maintenance due to the population growth in the region, transferring these responsibilities including rehabilitation and renewal activities will incentivize the private developer to optimize lifecycle costs by balancing initial capital expenditures with long-term needs. This will also enable NCDOT to focus its efforts and allocate limited resources to other critical projects in the region.</p> <p>Because a private developer will assume traffic demand risk for the project, it will be motivated to utilize innovative project delivery methods to reduce costs and use state of the art technologies to provide the best value to the citizens of North Carolina. Additionally by being able to accelerate the delivery of the project, the region will realize beneficial long-term economic impacts including growth in employment and the production of goods that otherwise may be hindered with a traditional approach given funding constraints and timing delays.</p>

**Appendix A    Agency Comments & Responses**

<b>Document No.</b>	<b>Agency</b>	<b>Comment No.</b>	<b>Topic</b>	<b>Comment</b>	<b>Response</b>
A2	MUMPO TCC	4	P3 contract	The TCC requests that a management team be formed to address issues associated with, but not limited to, project development, design and governance, and that the MPO be an equal partner in the team's decision-making process. A commitment to forming a management team should be made part of Table PC-1: Special Project Commitments.	The NCDOT will participate in a group as designated jointly by MUMPO and the NCDOT to address future operational and contractual concerns and questions during the term of the contract.

## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A2	MUMPO TCC	5	P3 contract	<p>The response listed on page E-97 to item 9 e. &amp; f. of the TCC's February 8, 2013 comments (and in other locations) indicates a need for a project to be funded and committed with a NEPA document to require consideration. The response on page E-111 item 3 indicates that the state may make "...any improvement contained in an adopted plan as an exclusion to the definition of an Unplanned Revenue Impacting Facility." We have been told that this second response is the accurate portrayal. For example, it is important to be assured by the concessionaire that there will be room in the median to accommodate bridge supports and their construction where called for in an adopted long range plan that spans a time frame greater than the TIP or LRTP since the concessionaire has a 50 year contract.</p>	<p>The response referred to on Page E-111 is accurate in regards to projects included in an adopted plan.</p> <p>The draft comprehensive agreement states as an exclusion to the definition of an Unplanned Revenue Impacting Facility, among others, the following:</p> <p>"All transportation projects (whether funded or unfunded) included in the approved Long-Range Transportation Plan, State of North Carolina Transportation Improvement Plan, and any other capital improvement plan (including amendments) or similar document that has been adopted by any Governmental Entity in the State as of the Proposal Due Date.</p> <p>It should be noted that nothing in the draft comprehensive agreement prohibits NCDOT or the State from building any transportation improvement along the I-77 corridor. Under certain limited circumstances, the developer may have a right to seek compensation if there is an adverse impact on toll revenues as a result of an 'Unplanned Revenue Impacting Facility'.</p> <p>For those improvements made in the future that are not covered by an adopted plan as of the Proposal Due date, a further exclusion applies as follows:</p> <p>"Any work and improvements undertaken ... through reconstructing existing lanes including localized operational improvements that add lanes, through new or improved frontage roads, crossing streets or crossing street by-pass lanes, through intersection grade separations, or localized operational improvements through the restriping of traffic lanes, medians and Shoulders, including restriping that adds lanes ..."</p>

**Appendix A Agency Comments & Responses**

<b>Document No.</b>	<b>Agency</b>	<b>Comment No.</b>	<b>Topic</b>	<b>Comment</b>	<b>Response</b>
A2	MUMPO TCC	6	Roadway network	Page 1, Paragraph 4: First sentence notes that I-77 is six lanes between I-85 and I-277 (Brookshire Freeway). I-77 is eight lanes in this section.	This FONSI includes a statement clarifying the number of lanes in this roadway segment. The traffic analysis included eight general purpose lanes in this roadway section and therefore does not change the finding reported in the Environmental Assessment.
A2	MUMPO TCC	7	Other projects	Page 6, Table 2-1: Project # R-3833 is noted as being under construction. It is complete. David Keilson mentioned a remaining section to be constructed.	This FONSI includes a statement to recognize that construction of this project is complete.
A2	MUMPO TCC	8	Other projects	Page 6, Table 2-1: Project # R- 2632 is noted as being under construction. It was only under construction from US 21 to NC 115, and that segment is complete.	This FONSI includes a statement to recognize that construction of this project is complete.
A2	MUMPO TCC	9	Rail corridors	Page 18, 1st indention under Widened Bridges: One of the bridge notations states “over abandoned rail corridor.” This is the Lynx Blue Line Extension light rail corridor.	This FONSI includes a statement to recognize the correct use of this rail corridor.
A2	MUMPO TCC	10	Relocations	Will there be any residential relocations along Dean St.? From the March 4 meeting with Dean St. residents, there was an understanding that there would be no relocations as the I-77 centerline would be moved to the east.	No residential relocations would occur along Dean Street from the proposed project. All residential relocations associated with the proposed project are the result of the replacement of the Oaklawn Avenue bridge.



## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A2	MUMPO TCC	11	Traffic operations	Staff has expressed concern (p. E-97, item 9 d) that traffic coming into the center city from the southbound I-77 HOT lanes will have a difficult time accessing their preferred route of Church Street. Exit point 3A from the Brookshire Freeway to Brevard/Davidson already queues back to the mainline during AM peak hours and additional traffic trying to use that exit will exacerbate the situation. Has a weave analysis been conducted that takes into consideration the traffic coming from the HOT lanes exit (between I-77 and the Brookshire Freeway) to the I-277 ramps to Graham St., Church St. and the Brevard/Davidson/McDowell streets off ramps and the Caldwell St., Church St. and Graham St. on ramps? We believe the concessionaires should be guided by the RFP to examine an "outside" landing from the HOT lanes to either the Brookshire or directly to Exit 3B, 11th Street as an alternative technical concept (ATC.) If this option proves beneficial then additional noise analysis will need to occur.	<p>The mapping on display at the Public Hearing inadvertently showed the HOT lanes terminating on I-277 just east of Graham Street. Analyses of the HOT lanes assumed that they will actually begin and end between N. Church Street and N. Tryon Street for safety purposes. The HOT lane access points are preliminary and subject to change. It is anticipated that this project will be designed and constructed using a design-build process and minor revisions to these plans could occur during final design. .</p> <p>Access locations identified in the <i>Environmental Assessment</i> are shown for illustrative purposes and the minimum requirements for ingress and egress locations are detailed in the draft comprehensive agreement.</p> <p>The weaving movements between the I-77/ I-277 direct connect HOT ramps and the I-277 on-/off-ramps on the north side of Uptown were included in the traffic operations analysis conducted using the computer model VISSIM. Despite short weaving lengths, the analysis showed that the average speeds will remain approximately the same on I-277.</p> <p>Alternative Technical Concepts will be considered in the bidding process. Final designs are required to demonstrate the ability to provide acceptable operational analyses.</p>
A2	MUMPO TCC	12	P3 contract	No action should be taken by NCDOT or any other party to discourage informal (i.e. non-prearranged) carpooling or inhibit carpooling in any way under the long term project management structure.	Comment noted.

## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A2	MUMPO TCC	13	Roadway design	The Griffith St. (exit 30) interchange is proposed to be reconstructed as a part of this project, however there are no plans for the ramps to be improved or lengthened. The ramp lengths (especially the acceleration ramps) are inadequate under I-77's current cross-section (and have been the cause of numerous crashes), and the problem will be exacerbated by widening the roadway. The TCC strongly recommends that NCDOT reconsider its position on this issue.	Ramp lengths are being reviewed to identify areas where improvements are feasible within right of way constraints.
A2	MUMPO TCC	14	Traffic operations	HOT lane entrance and exit points should be placed at locations that enhance CATS bus operations. Particular consideration should be given to how the access points will affect CATS's ability to gain access to existing and planned park and ride locations along the I-77 corridor.	Access locations identified in the <i>Environmental Assessment</i> are shown for illustrative purposes and the minimum requirements for ingress and egress locations are detailed in the draft comprehensive agreement. NCDOT will coordinate with CATS during final design and construction regarding CATS bus operations.
A2	MUMPO TCC	15	Traffic operations	All efforts should be expended to maintain and enhance the level of service for multi-occupancy vehicles during the construction period. Not only does this serve as congestion mitigation during construction, it fosters on-going multi occupancy of vehicles which is an important local focus for this project.	In order to maintain traffic service through the corridor during construction, the HOV lanes may need to be temporarily closed. NCDOT will coordinate with FHWA and MUMPO regarding the potential closures of the HOV lanes.

**Appendix A    Agency Comments & Responses**

<b>Document No.</b>	<b>Agency</b>	<b>Comment No.</b>	<b>Topic</b>	<b>Comment</b>	<b>Response</b>
A2	MUMPO TCC	16	Alternatives	Finally, NCDOT has received multiple citizen requests to stop the current project and instead implement general purpose lanes in select locations. The document's responses seem to focus on the lack of public funds to support general purpose lanes. The TCC strongly feels that the HOT lane element of this project brings a new paradigm to transportation investment in North Carolina. It emphasizes long term return on investment in that the management tool of HOT lanes ensures the long term functionality of the investment, its role in fostering multi-occupant use of the investment, and builds in the maintenance and operational components in the financial structure. As early as April 2009, the MUMPO indicated its preference for any additional lanes along I-77 North to be managed lanes. The TCC believes that this issue should receive primacy in responding to requests for general purpose lanes.	Comment noted.

## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A3	Town of Cornelius	1	Bridge Reconstruction	The proposed Westmoreland Road Bridge Typical Section identified in Figure 7 is not compatible and is inadequate for the future widening of Westmoreland Rd. (as identified in MUMPO's CTP and LRTP) and the future Westmoreland Interchange/Exit 27 (as identified in MUMPO's CTP and LRTP). The Town requests that the Westmoreland Bridge is reconstructed to accommodate the future widening of Westmoreland Road, and for the future Westmoreland Interchange. The bridge reconstruction should allow for future additional travel lanes along Westmoreland Road, institute appropriate widths of sidewalks and multi-purpose paths across the bridge to match the future sidewalk/multi-purpose path widths leading up to the bridge (as identified by the 2012 Town of Cornelius Pedestrian Master Plan) and accommodating a future general purpose interchange. The Town recommends that coordination for the preceding occurs between itself and NCDOT.	The project scope, and as a result federal funding, will not support the widening of the Westmoreland Road bridge beyond the current number of travel lanes. The project however will provide bicycle and pedestrian facilities. NCDOT will coordinate with the Town of Cornelius regarding the future typical section for the Westmoreland Road bridge at such time as a project is identified to widen the roadway approaches and modify the bridge. Interchange additions are beyond the scope of this project and the inclusion of an interchange at this location was not included as part of this environmental study. This project will not preclude the addition of any future interchanges which are identified as part of the local planning process.
A3	Town of Cornelius	2	Bridge Reconstruction	Future Interchange at Westmoreland (or in the Westmoreland Road vicinity) should not be an HOT-only interchange. The land use plans for Cornelius do not support an HOT-only interchange, and vice-versa. The Town of Cornelius explicitly does not support an HOT-only interchange. However, a standard interchange (with standard access) is supported by Cornelius, and supported by Cornelius' land use plans.	The Westmoreland Road bridge is slated to be replaced as part of this project to allow adequate horizontal clearance along the widened I-77. The draft comprehensive agreement has added the minimum requirement of "a southbound ingress and a northbound egress between Exit 25 (Sam Furr Road) and Westmoreland Road at a location sufficiently south to account for a future interchange at Westmoreland Road" See also response to Document A3, Comment #1.

## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A3	Town of Cornelius	3	HOT Lanes Access Points	The Draft EA identifies an access point to the HOT lanes at an area just north of Exit 28; however, it appears that this is at the transition from one to two HOT lanes, and does not provide an access point for Cornelius-originating drivers who enter I-77 southbound (heading south to Charlotte) from Exit 28. Therefore, the Town requests an additional general purpose lane to managed lane access point along the I-77 travel lanes in the area between Exit 28 and Exit 25.	Access locations identified in the <i>Environmental Assessment</i> are shown for illustrative purposes and the minimum requirements for ingress and egress locations are detailed in the draft comprehensive agreement. The draft comprehensive agreement has added the minimum requirement of “a southbound ingress and a northbound egress between Exit 25 (Sam Furr Road) and Westmoreland Road at a location sufficiently south to account for a future interchange at Westmoreland Road...”
A3	Town of Cornelius	4	HOT Lanes Access Points	The Town is opposed to converting the future Westmoreland Interchange into an HOT-only interchange; however it supports its conversion into a standard interchange (with standard access). The Town’s land use plans would be significantly harmed by the construction of an HOT-only interchange.	See response to Document A3, Comments #1 and #2.
A3	Town of Cornelius	5	HOT Lanes Access Points	The Town would like to also make the general comment that several more additional access points along the project corridor are needed than what is currently identified in the draft EA.	See response to Document A3, Comment #3.
A3	Town of Cornelius	6	Existing NC DOT Right-of-Way Landscaping	There is an abundance of mowed grass areas in addition to mature trees and bushes within I-77’s median and along its roadsides. It is understood that it will be unavoidable to retain all of this existing landscaping; however, there must be a vigilant effort to replace all vegetation removed to areas that are at least adjacent to the removal areas (if not possible to be replanted in the removal areas themselves). Simply replacing vegetation as necessary for slope stabilization (as identified in the draft EA, Page E-94) is inadequate. The corridor’s vegetation provides enormous environmental benefits and aesthetic qualities.	Any additional landscaping will be identified during final design. Additionally, the P3 contract will require the Developer to develop a Corridor Landscaping and Aesthetics Plan (CLAP) that establishes an overall vision for the corridor. The CLAP will also include details regarding future landscaping and future aesthetic hardscape elements that will ultimately result in a uniform, corridor-wide landscape. Further, the P3 contract provides for an allowance available for expenditure during construction to initiate the implementation of the CLAP.

**Appendix A Agency Comments & Responses**

<b>Document No.</b>	<b>Agency</b>	<b>Comment No.</b>	<b>Topic</b>	<b>Comment</b>	<b>Response</b>
A3	Town of Cornelius	7	DDI (Diverging Diamond Interchange), Aesthetic Improvements	In 2013, Project I-4733 will be let to reconstruct the Exit 28 interchange into a DDI. The Town is partnering with NCDOT to construct aesthetic improvements as part of the roadway project....  The Town requests that the future widening of I-77 under and near the Exit 28 bridge does not impact the aesthetic improvements, and that NCDOT coordinates with the Town to construct facilities and structures (e.g. concrete barriers and guard rail) that are compatible with the pending aesthetic elements. The Town requests the ability to provide betterments for these future NCDOT structures to allow for maximum compatibility with the aesthetic improvements.	See response to Document A3, Comment #6.
A3	Town of Cornelius	8	DDI (Diverging Diamond Interchange) Aesthetic Improvements	The Town is funding the burial of utilities as part of the I-4733 project. Some burial will occur underneath and across I-77 in the vicinity of Exit 28. The Town requests that these utility burials are not impacted by the I-77 project.	NCDOT will coordinate with utility providers and the Town to minimize impacts on utilities.
A3	Town of Cornelius	9	Proposed Concrete Barriers	The Town requests that coordination takes place between itself and NCDOT for the proposed concrete barriers along and within the Town's jurisdiction. The Town requests the opportunity to influence (either through selection or betterment) the type of barriers constructed, as there may be slight aesthetic variances in the NCDOT specifications that will allow for higher compatibility with the pending DDI aesthetic improvements at Exit 28.	Noise barrier locations are shown in the Design Noise Reports prepared for this project. Correspondence was sent to municipalities seeking input on aesthetic treatments for the proposed noise walls in their respective jurisdictions. This correspondence also included plan sheets that indicate the proposed noise wall locations.

## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A3	Town of Cornelius	10	Proposed Noise Walls	The Town requests further details on the proposed noise walls to be located in its jurisdiction. Specifically, dimensions and the exact location of the walls (surveyed). The Town requests the opportunity to landscape along both sides of these noise walls, and to influence the location of the walls to allow for adequate room for landscaping. The Town also requests the opportunity to pay for a betterment at the walls, such as constructing masonry-level walls.	See Response to Document A3, Comments #6 and #9.
A3	Town of Cornelius	11	Comprehensive Pedestrian Plan	In 2012, the Town adopted the Comprehensive Pedestrian Plan. This document was not identified in the draft EA, and should be referenced to ensure compatibility. For example, a future pedestrian/bikeway crossing of I-77 is identified both in the Comprehensive Pedestrian Plan and MUMPO's CTP.	Reference to this plan has been added to the FONSI. This proposed future pedestrian crossing, as identified in the Comprehensive Pedestrian Plan and MUMPOs CTP, would not be precluded by the construction of the proposed project.
A4	Town of Mooresville	1	CTP Amendments	Page 7: Reference that the Mooresville CTP Amendments were adopted by the BOT on April 4, 2013.	A statement has been added in the FONSI to clarify that the Mooresville CTP was amended on April 4, 2013.
A4	Town of Mooresville	2	Traffic operations	Page 19: Why does Alternative 2 have the lowest travel speeds for I-77 Northbound/I-277 outer section? While the numbers may not be significantly different, I would assume that Alternative 2 would foster the highest travel speeds with the inclusion of two HOT lanes as opposed to the other alternatives that only have one HOT lane and higher average speeds.	Additional review of the traffic operations identified further reduction in travel delay for Build Alternatives 1 and 2. An error in the coding of the Lasalle Street acceleration lane resulted in this error. <b>Section 5.5</b> of this FONSI presents the updated traffic operations analysis results.
A4	Town of Mooresville	3	Community facilities	Appendix A (Page A-50). Reference the location of the new Langtree Charter Academy School located west of Alcove Road between Edgeway and Templeton Roads. The school will open on August 26, 2013.	A statement has been added in the FONSI to clarify the location of this school in Appendix A of the Environmental Assessment.

**Appendix A Agency Comments & Responses**

<b>Document No.</b>	<b>Agency</b>	<b>Comment No.</b>	<b>Topic</b>	<b>Comment</b>	<b>Response</b>
A5	Centralina Council of Governments	1	Other projects	Page 6 (Table 2-1): I know this table references the STIP from two years ago, but several of those projects are complete.	Comment noted. Please see responses to Comments 7 and 8 in the letter from the MUMPO TCC (Document A2).
A5	Centralina Council of Governments	2	Traffic operations	Page 12 (Table 2-4): It has average speeds of the existing HOV lanes decreasing quite a bit between 2012 and 2017. I do not see how volumes are going to increase that much in the next four years to reduce travel speeds by 15-25% in the AM.	HOV volumes are not going to increase enough by the year 2017 to cause the lower average speeds in the study corridor. The average speeds shown in Table 2-4 represent the average speed on the I-77 mainline from north of NC 150 (Exit 77) to south of I-277 (Brookshire Freeway, Exit 11), I-277 mainline from Brevard Street to I-77, and the ramps to/from I-77 to the north and I-277 to the east. HOV lanes represent only a small portion of the overall study corridor. The HOV average speed is a representation of how fast a vehicle can travel within the limits of the study corridor using HOV lanes when available. Where HOV lanes do not exist, the general purpose speeds were used in determining the average speed. This same methodology was applied to the Build Alternatives where there are no HOT lanes.
A5	Centralina Council of Governments	3	Travel demand modeling	Page 24 (Table 4-1): Why don't they use the adopted 2020 and 2030 SE projections from the Metrolina Model?	Future population estimates for the project area were prepared utilizing data provided by NC Office of Management and Budget in accordance with NCDOT Human Environment Section guidelines for the Indirect and Cumulative Effects analyses.
A5	Centralina Council of Governments	4	Coordination	Page 75 (6.1): Do you consider the LNTC an agency?	The Lake Norman Transportation Commission is considered an agency for outreach purposes.



**Appendix A Agency Comments & Responses**

<b>Document No.</b>	<b>Agency</b>	<b>Comment No.</b>	<b>Topic</b>	<b>Comment</b>	<b>Response</b>
A6	City of Charlotte	1	Previous comments	<p>Previous comments about the I-77 project were included in the following letters:</p> <ul style="list-style-type: none"> <li>• March 2, 2012 - from Bill Coxe to Eric Midkiff</li> <li>• July 19, 2012 - from Bill Coxe to Rodger Rochelle</li> <li>• August 13, 2012 - from Bill Coxe to Rodger Rochelle</li> <li>• August 16, 2012 - from Danny Pleasant to Theresa Ellerby</li> <li>• October 4, 2012 - from Bill Coxe to Theresa Ellerby and Eric Midkiff</li> <li>• February 8, 2013 - from Bill Coxe to Eric Midkiff</li> <li>• February 11, 2013 - from Danny Pleasant to Eric Midkiff</li> </ul>	All of these comment letters, with responses, are included in the Environmental Assessment, Appendix E – Agency Scoping Comments and Responses.
A6	City of Charlotte	2	Environmental impacts	<p>...we are concerned about relocations, acquisitions, noise impacts and aesthetic effects from what will be a twelve-lane highway (six lanes per direction) adjacent to neighborhoods between I-277 and I-85. Most of the proposed project's impacts will fall within this area of the City of Charlotte.</p>	<p>The EA addresses relocations, right of way acquisition, noise, and aesthetics in Chapter 5.</p> <p>See also response to Document A3, Comment #6.</p>

## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A6	City of Charlotte	3	Environmental Justice	The original I-77 construction and subsequent widening projects negatively impacted the neighborhoods bordering I-77 between I-85 and I-277. As a result, homes are located in close proximity to the highway so that noise abatement may be necessary for any additional widening. As the project proceeds, we want neighborhood and business dislocations and disruptions to be done only when absolutely necessary to resolve existing problems or establish long-term remedies.	A noise barrier evaluation was conducted for this project which recommends noise abatement measures. These noise abatement measures are proposed in 22 locations for the Preferred Alternative, including 7 locations between I-277 and I-85. Additional information can be found in Section 5.2.1 of the Environmental Assessment. As final designs are completed for the selected alternative, ways to avoid identified relocations in the Environmental Assessment will be investigated. On August 1 and 20, NCDOT met with representatives of several of the neighborhoods south of I-85 to explain the NCDOT Noise Policy and answer questions regarding the Noise Wall Balloting process. The aesthetics of the walls were a primary concern at both meetings and NCDOT committed to provide visualizations to assist the residents in better understanding what the walls would look like.
A6	City of Charlotte	4	Noise	We understand that the ballots to vote for/against noise walls have been sent out, and are to be returned by August 30, 2013. Following receipt of the ballots, please let us know your plans for proceeding with planning and construction of noise walls. We understand that you will be providing additional information regarding the wall treatments, colors, etc.	NCDOT is coordinating with local jurisdictions where noise abatement is proposed for the project. NCDOT will follow their Traffic Noise Abatement Policy for providing noise abatement. The Policy is available at: <a href="https://connect.ncdot.gov/resources/Environmental/">https://connect.ncdot.gov/resources/Environmental/</a> As a result of coordination with neighborhoods and requests for additional information, the ballot deadline was extended.
A7	NC Department of Environment and Natural Resources (NCDENR) – Mooresville Office	1-1	Permits	The Department of Environment and Natural Resources has completed its review of the proposal for the referenced project. Based on the information provided, our agencies have identified permits that may be required and provided some guidance. <ul style="list-style-type: none"> <li>Any open burning associated with subject proposal must be in compliance with 15 A NCAC 2D.1900</li> </ul>	All the required permits will be obtained prior to construction of each project section.

## Appendix A Agency Comments &amp; Responses

Document No.	Agency	Comment No.	Topic	Comment	Response
A7				Sedimentation and erosion control must be addressed in accordance with NCDOT's approved program. Particular attention should be given to design and installation of appropriate perimeter sediment trapping devices as well as stable stormwater conveyances and outlets.	NCDOT and FHWA will implement sediment and erosion control Best Management Practices in accordance with <i>Best Management Practices for the Protection of Surface Waters</i> . In project areas that drain to Lake Norman and Byers Creek, the BMPs will be implemented in accordance with <i>Design Standards in Sensitive Watersheds</i> .
				401 Water Quality Certification	Comment noted.
				Abandonment of any wells, if required must be in accordance with Title 15A, Subchapter 2C.0100.	Comment noted.
				Notification of the proper regional office is requested if "orphan" underground storage tanks (USTs) are discovered during any excavation operation.	Comment noted.
				Catawba Buffer may be an issue	Comment noted.
				LQ – Erosion and Sedimentation Control Permit required if NCDOT is not [handwriting not legible].	All the required permits will be obtained prior to construction of each project section..
A7	NCDENR– Division of Waste Management	2-1	USTs	The Mooresville Regional Office (MRO) UST Section recommends removal of any abandoned or out-of-use petroleum USTs or petroleum above ground storage tanks (ASTs) within the project area. The UST Section should be contacted regarding use of any proposed or on-site petroleum USTs or ASTs.	Comment noted.

**Appendix A Agency Comments & Responses**

<b>Document No.</b>	<b>Agency</b>	<b>Comment No.</b>	<b>Topic</b>	<b>Comment</b>	<b>Response</b>
A7	NCDENR– Division of Waste Management	2-2	USTs	Any petroleum spills must be contained and the area of impact must be properly restored. Petroleum spills of significant quantity must be reported to the North Carolina Department of Environment & Natural Resources – Division of Waste Management Underground Storage Tank Section in the Mooresville Regional Office.	Comment noted.
A7	NCDENR– Division of Waste Management	2-3	USTs	Any soils excavated during demolition or construction that show evidence of petroleum contamination, such as stained soil, odors, or free product must be reported immediately to the local Fire Marshall to determine whether explosion or inhalation hazards exist. Also, notify the UST Section of the Mooresville Regional Office at 704-663-1699. Petroleum contaminated soils must be handled in accordance with all applicable regulations.	Comment noted.
A7	NCDENR - Division of Water Resources (DWR) – Public Water Supply (PWS)	3-1	Utilities	<p>...DWR-PWS has no objection to the project, but offers the following comments...</p> <ol style="list-style-type: none"> <li>1. If existing water lines will be relocated during the construction, plans for the water line relocation must be submitted to the Division of Water Resources...Existing water line relocations in Mecklenburg County must be submitted to the Charlotte Utilities Department for approval. CMUD has delegated approval authority. If existing water lines in Iredell County will be relocated during the construction, plans for the water line relocation must be submitted to the Town of Mooresville for approval. They also have delegated approval.</li> </ol>	Effects to utilities will be minimized or avoided through close coordination with municipalities and utility companies during final design and construction.

## **Appendix B**

### **Public Comments and Responses**

- B1: July 17<sup>th</sup>, 2013 Public Hearing Transcripts
- B2: July 18<sup>th</sup>, 2013 Public Hearing Transcripts
- B3: Public Hearing Comment Forms
- B4: Southern Environmental Law Center



## **Appendix B1**

### **July 17<sup>th</sup>, 2013 Public Hearing Transcripts**

<b>Speaker Number</b>	<b>Comment Found on Page</b>	<b>Response Found On Page</b>
1	B1-4	B1-18
2	B1-5	B1-20
3	B1-6	B1-22
4	B1-8	B1-23
5	B1-8	B1-23
6	B1-10	B1-24
7	B1-11	B1-26
8	B1-11	B1-26
9	B1-12, B1-17	B1-26, B1-30
10	B1-13	B1-27
11	B1-14	B1-28
12	B1-15	B1-28
13	B1-15	B1-28
14	B1-16	B1-29
15	B1-16	B1-30





1 **OFFICIAL PUBLIC HEARING TRANSCRIPT**

2 **I-77 High Occupancy/Toll (HOT) Lanes**  
 3 **From I-277 (Brookshire Freeway – Exit 11) to NC 150 (Exit 36)**

4 **STIP Project NOs. I-3311C, I-5405, & I-4750AA**  
 5 **WBS Number 34181.1.1, 45454.1.1, & 40099.1.1**

6 **Wednesday, July 17, 2013**

7 Good evening ladies and gentlemen, let's go ahead and get started. I think everyone can  
 8 hear me now. I'm sorry for the delay. I'd like to welcome you all the North Carolina  
 9 Department of Transportation's public hearing on the proposed I-77 High Occupancy  
 10 Toll Lane Project or HOT Lane Project, which runs from I-277, which is the Brookshire  
 11 Freeway in Mecklenburg County to NC 150 in Iredell County.

12 My name is Jamille Robbins and I'm a Public Involvement Officer with the Department  
 13 of Transportation and I'll be your moderator for tonight's public hearing. Now, just  
 14 before we get started, I want to cover some housekeeping and some ground rules. We are  
 15 recording these proceedings tonight, so, if your cell phone is on, please turn it to silent.  
 16 And just to let you know, the restrooms are just outside the door to the right down the  
 17 hallway.

18 And as far as ground rules go, I only have one rule and that is the "golden rule". And that  
 19 is you treat others as you would like to be treated. In a public forum like this, you know a  
 20 lot times people have different opinions. Some people may be for the project or against  
 21 the project or for a certain aspect of the project. So, I ask that if someone gets up here to  
 22 speak that you afford them the same respect that you would like if you got up here to  
 23 speak. So, if we follow that rule, we'll have a nice, orderly, and civil meeting.

24 Now, I would also like to take the time to introduce other staff here tonight, all of which  
 25 play a role in the development of this project. We have our Division 10 Engineer, Mr.  
 26 Mike Holder here. From Division 10, we have Jen Thompson, PIO; Public Information  
 27 Officer. From our Traffic/Noise Group, a lot of you we had a table setup in the pre-  
 28 hearing open house; we have Mr. Greg Smith, Teak Kim, and Mr. Aaron Heustess.

29 From our Transportation Program Management Unit, we have Mr. Rodger Rochelle,  
 30 Virginia Mabry, and Christy Huff. From our Project Development and Environmental  
 31 Analysis Branch, we have Mr. Eric Midkiff and Teresa Ellerby. And from our Division  
 32 12 Right-of-Way...and I introduced Mike Holder wrong...Division 12 Engineer. It's  
 33 written down wrong. But from our Division 12 Right-of-Way Office, we have Mr. David  
 34 Angel, William Setzer, and Mr. Anthony Smith. We had a right-of-way table and a lot  
 35 you may had a chance to talk with them already. We have others here tonight. But I'm  
 36 not going to prolong in order to introduce the rest of the group.

46 So, let's go ahead and get started. Did everyone get a handout? If not, raise your hand and  
 47 we'll make sure that you get a copy. I'm going to start out by reviewing the handout with  
 48 you. Then I'll review the maps with you. And then we'll open it up to those that signed  
 49 up to speak. If you didn't sign up to speak, you still will get a chance to speak once we've  
 50 exhausted that list.

51 Alright, while they're doing that, let's go ahead and get started with the *purpose of*  
 52 *tonight's public hearing*. Simply, tonight's public hearing is to make you, the public, a  
 53 part of the project development process. Specifically, we want to get your input on the  
 54 location and the design of the project.

55 There were environmental studies done on the project and catalogued in the  
 56 environmental document known as an Environmental Assessment or EA as we refer to it.  
 57 An EA also looks at the purpose and need of the project, which we'll talk about in a few  
 58 minutes and the different alternatives that were considered to meet the purpose and need  
 59 of the project. And again, we'll talk about that in just a second.

60 The maps that you've seen here tonight along with the EA have been available at the  
 61 MUMPO Office and at the Town of Huntersville's Transportation Department. And the  
 62 maps are online, the EA is online too on our Public Meetings Webpage.

63 Now, *public participation* is critical to the success of any of our projects. Public  
 64 involvement is a very important part of the project development process. So, again, this is  
 65 a public hearing. We've come out to hear what you have to say. So, we want you to make  
 66 your voices heard. And you do that having them recorded tonight during these formal  
 67 proceedings or by submitting written comments.

68 I have provided you a *comment sheet*. It is actually the last page in the handout. So, you  
 69 can fill this comment sheet out. You can turn it in tonight. You can mail it in. We are  
 70 accepting comments through August 1<sup>st</sup>. But you don't have to fill out the comments on  
 71 this particular sheet of paper. You can fill it out on your own. It could be notebook paper.  
 72 It could be your own stationery, what have you. But whatever you do, please take the  
 73 time to send in your comments on the project.

74 Again, you can email me your comments. My contact information is on the bottom of  
 75 that comment sheet. You can email me your comments; fax them to me, however. But  
 76 whatever you do, please take the time to send in those comments to us.

77 So, what are we going to do with the comments we receive? Well, shortly after the  
 78 comment period has ended we will hold an internal meeting on the proposed hearing  
 79 meeting. We will discuss each and every comment that has been received. And staff from  
 80 various branches of DOT, all of which play a role in the development of this project, will  
 81 convene to go through each of those comments.

82 And we will *incorporate those comments* into the final design plans of the project, where  
 83 feasible. But let's be clear, the Department cannot just take public comment into

consideration in making decisions. We have to balance that against good, sound engineering criteria. We have to look at cost, safety, traffic service. We have to look at impacts to the natural and human environment. Again, it's a balancing act. But we have to do that to make sure that we put the best product we can on the ground for the traveling public.

Minutes of this meeting will be prepared and made available to the public. So, if you desire a copy, when you send in your comment, just put a note that you would like to receive a copy of the post-hearing meeting minutes once they are prepared. And also let me know how you would like to receive them. We could email them to you or we can mail them to you. So, just let us know your preference.

Now, again following the post-hearing meeting we will try to incorporate as many of the comments as we can into the final design plans of the project. But there's still some work that has to be done since the EA was signed. So, work is going to be on-going from this point forward and the results of this public hearing process will be catalogued in the Final Environmental Document for this project, which we anticipate it being a Finding of No Significant Impact or a FONSI. We expect to have that signed in August, 2013.

And the **current schedule** shows construction beginning in the fall of 2014, with lanes opening up to traffic in late 2017. But keep in mind schedules are subject to change. There are a variety of factors that can affect the schedule.

Now, this is a Federal-Aid Highway Project and will be constructed under the State-Federal-Aid Highway Program. Now, financing for this project will include multiple sources. Everybody knows North Carolina is a great place to live. This place is growing rapidly. And it's growing so fast that, you know, all the people moving here are putting a strain on our transportation infrastructure. And the growth is out pacing our traditional funding.

So, we as a Department have to look at innovative ways to augment our traditional funding. And for this project we're looking at the P3 as a way, and the P3 Process is the Public-Private Partnership. So, we would go into an agreement with a private entity to construct this project.

Now, the federal and state will contribute a maximum of \$170M for the project. The P3 Team that is selected will secure the remaining 2/3 of the project cost. And the P3 Team will be selected to design, build, and operate the HOT Lanes.

Now, let's talk about the "why" of the project. Why are we building this project? In transportation terms that's **purpose and need**; the purpose of this project is to provide immediate travel time reliability along I-77 from Uptown Charlotte to the Lake Norman area.

I-77 is a critical north-south route. It connects Charlotte to Columbia, South Carolina to the south, Virginia, West Virginia, and Ohio to the north. And currently, this stretch of I-

77 is seeing significant congestion and traffic delays. And the predicted growth in this area will only further exacerbate that problem.

Now, this project is actually comprised of three Transportation Improvement Program Projects, TIP Projects. Its I-3311C, I-5405, and I-4750AA. Just to show you a breakdown real quick, I-3311C is basically from I-85 to I-277. I-5405 is from I-85 up here to West Catawba Avenue and from here to the end of the project is I-4750AA.

Again, we are proposing to improve 26-miles of I-77 from I-277 to NC 150 by introducing HOT Lanes. So, what are HOT Lanes? HOT Lanes are basically HOV Lanes or high occupancy vehicle lanes in which we allow non HOV vehicles or vehicles that don't meet the occupancy requirement to use those lanes by paying a toll. And the toll varies based on the congestion and the traffic flow. Under this project, there will be no loss of general purpose lanes. We will be adding the HOT Lanes to the median.

Now, under the project development process, we look at several alternatives. We considered the No-build Alternative, which is the Do Nothing Alternative. We have three Build Alternatives. The difference between the three Build Alternatives is the number of HOT Lanes that are provided along I-77. Now, we usually use the Do Nothing Alternative or the No-build Alternative as a baseline to compare against the Build Alternatives.

The difference between Build Alternatives 1, 2, and 3 are basically around the Charlotte area between I-277 and I-85. Build Alternative 1, proposes adding one additional HOT Lane in each direction between I-277 to I-85. Build Alternative 2 proposes to add 2 HOT Lanes in each direction between I-277 to I-85. And Build Alternative 3 proposes to convert the existing HOV Lane, the southbound HOV Lane to a HOT Lane but without introducing a northbound HOT Lane.

And our preferred alternative is Alternative 2; because it adds additional HOT Lane capacity with minimal impacts. Again, Build Alternatives 1 and 2 have similar impacts, but we feel that Alternative 2 for the amount of impacts are minimal and for the additional impacts gives us really, I guess, the best term to use is "more bang for your buck".

And this is the typical section for one HOT Lane. Again, you'll see the HOT Lanes added to the median. Here is a typical section for 2 HOT Lanes.

Alright, **project impacts** for Build Alternatives 1 and 2, we're looking at 10 relocations, again all this is down in between I-85 and I-277. We're looking at 7 residences, 3 businesses. With Build Alternative 3, there are no relocations. And it's just a conversion of the existing southbound HOV Lane to a HOT Lane.

**Project cost**, Build Alternative 1 is roughly \$375.8M; Build Alternative 2, \$393.4M; but Build Alternative 3 is \$239.3M.

184 Audience Member: Can I ask a question?

185

186 Moderator: Yes, once I go through the maps it will be the question and answer  
187 session. (*Presentation continues*)

188

189 Now, anytime the Department undertakes a new highway project or a widening we have  
190 to evaluate the impact the additional lanes or new roadway on the surrounding area and  
191 the additional noise it will bring. So, the Department looks at ways to reduce the noise  
192 impact to the community. And the most common way to mitigate for that is to build noise  
193 walls.

194

195 Our *noise policy* states that the Department of Transportation or really the federal and  
196 state governments are no longer responsible for providing noise abatement measures for  
197 new development that takes place within the noise impact area of a proposed highway  
198 project after the "Date of Public Knowledge".

199

200 And the "Date of Public Knowledge" is the approval date of the Final Environmental  
201 Document. In this case, we anticipate that being the FONSI, which we expect to be  
202 approved in August, 2013.

203

204 Now, once decisions are made regarding the final location, final design of the noise walls  
205 we will send out ballots to all property owners and tenants that are expected to receive at  
206 least a 5 decibel reduction from that noise wall. They will be allowed to vote their  
207 preference for or against the noise wall. And on this project, there were 21 identified  
208 noise study areas that meet the preliminary justification for a noise wall. So, I think the  
209 ballot process has already started on this project. So, we will build the wall unless we  
210 receive a simple majority vote of "no".

211

212 And as far as *right-of-way process*, once decisions are made regarding final design, limits  
213 of the project will be staked into the ground. If you are an affected property owner, then  
214 our Right-of-Way Agent will contact you and arrange a meeting to explain the plans to  
215 you, how the project affects you, and your rights as a property owner.

216

217 If permanent right-of-way is required, then your property will be appraised. And what  
218 will be offered will be the current market value of that property at its highest and best  
219 use, as monetary compensation. And during the process The Department of  
220 Transportation must:

- 221 • Treat all owners and tenants equally.
- 222 • We must fully explain owner's rights.
- 223 • We must pay fair market value for property.
- 224 • And we must provide relocation advisory assistance.

225

226 If your property, your home, or business has to be acquired to build the project, then  
227 additional assistance in the form of advice or monetary compensation is available; but if  
228 you have any detail right-of-way questions, I suggest you speak to our experts up here.  
229 Mr. Angel and his staff can answer those questions.

230

231 Alright again, I already talked about Comment Sheet but there's another sheet in there  
232 which is the *Title IV Form* and it's a completely voluntary form. We do ask that you fill  
233 that out. It's an anonymous form, but it gives us some information that we hope we can  
234 use to better serve you in the future. And again, we are taking comments through August  
235 1<sup>st</sup>.

236

237 Alright, let's take a look at the maps. We're going to start with Build Alternative 1.  
238 We're not going to go through all Build Alternatives, the maps for Build Alternative 2,  
239 because it is identical to Build Alternative 1; except for there's an additional HOT Lane.  
240 But here we start; this is along I-277. Let me back up. Let me go over the colors on the  
241 map and what they mean.

242

243 Anywhere on those maps that you see brown that will represent buildings or homes.  
244 Anywhere you see dark green represents an existing right-of-way, we already own.  
245 Anywhere you see dark green with the hatching will represent easement of some sort,  
246 existing easements. Light green represents proposed right-of-way - the right-of-way we  
247 need to purchase to construct the project. Light green with the hatching will represent  
248 easement of some sort, drainage, utility, or a construction easement.

249

250 The light grey represents existing pavement or roadway. The light grey hatching will  
251 represent existing pavement to be removed as a part of the project. Orange will represent  
252 the existing roadway to be resurfaced. Yellow will represent new roadway or new  
253 pavement. Here you see red that represents concrete structures of some sort, bridges,  
254 culverts, medians, etc.

255

256 Anywhere you see the white and red candy cane striping that will represent existing  
257 structures to remain as part of the project. Where you see the black and red that will  
258 represent existing concrete structures that will be removed. The light blue will represent  
259 FEMA properties. The dark blue will represent bodies of water. The pink color will  
260 represent railroad right-of-way. The lighter pink will represent exiting utility easement.  
261 And the pink with the hatching will represent cemeteries.

262

263 And the historic property districts have a...are kind of covered in yellow. And the HOT  
264 Lanes on the project will be light blue. And so they stand out against the other pavement  
265 colors. And also noise study areas, and as I go through the maps, I'll point out the 21  
266 different areas that meet the preliminary justification for a noise wall.

267

268 Alright, we start back here on I-277, the Brookshire Freeway. These are noise study areas  
269 on both sides. We start improvements back here. We will cross Graham Street and we  
270 pick up one HOT Lane in each direction. Along I-277, you see some additional pavement  
271 here, alright.

272

273 And this is the beginning of a flyover. This will be constructed under Build Alternative 1  
274 and 2. That will provide a direct connection from I-277 to I-77 with the HOT Lanes. This  
275 is the continuation. This is the flyover. This is the interchange with I-77 and I-277. Here

PH1

276 we head northbound this way. And you'll see along existing I-77 the HOT Lanes pick up  
 277 here, alright.  
 278  
 279 Under Build Alternative 1, one HOT Lane all the way up to I-85; and then you see there  
 280 the large noise study areas on both sides of I-77. Here we come to Lasalle Street. We will  
 281 be improving this interchange. We will be reconstructing a bridge there and modifying  
 282 the ramps a little. And again, you have noise study areas on both sides.  
 283  
 284 Again, we pick up the HOT Lanes heading north. We have the noise study areas on both  
 285 sides. Then from here north all the Build Alternatives are the same. So, from I-85 north to  
 286 Catawba Avenue, we're proposing 2 HOT Lanes in each direction.  
 287  
 288 So, again we'll go through it. And then we just continue on with 2 HOT Lanes in each  
 289 direction. Then the noise study area here. We cross Lakeview Road. And here we cross  
 290 W. T. Harris heading northbound, 2 lanes heading northbound. Here's a new bridge that  
 291 will have to be constructed, West Moreland Road, the new bridge over I-77. Here's  
 292 another noise study area here.  
 293  
 294 Two lanes on up, again we reach Catawba Avenue. Here we will transition to one HOT  
 295 Lane in each direction. Here's another noise study area on both sides. Here's actually  
 296 where we transition from the two to the one HOT Lane. Then we cross Lake Norman.  
 297 Again, a new bridge being constructed on Griffith Street; carry it over I-77, one HOT  
 298 Lane.  
 299  
 300 Continue to the north. Here's another noise study area, one HOT Lane. Then we cross  
 301 Langtree Road. Alright, we continue to the north. Here we cross Williamson Road. The  
 302 noise study areas are all on the left side. We're almost to the end.  
 303  
 304 Here's Brawley School Road. And this is where the HOT Lanes actually end. But the  
 305 improvements are carried out up to River Highway, NC 150. And we transition back, the  
 306 project ends actually right there, just north of NC 150.  
 307  
 308 Alright, it's kind of difficult to show those maps. They are so large and getting them up  
 309 in this room would have been very difficult. So, anyway, I tried to show it to you  
 310 electronically. But hopefully, most of you had chance to review those during the pre-  
 311 hearing open house.  
 312  
 313 Moderator: So, now we're going to open it up to those that signed up to speak.  
 314 Keep in mind that written comments carry the same weight as verbal. I would ask that  
 315 you please keep your comments to 3 minutes or less, just to give everyone a chance to  
 316 speak. If you have more to say, I will give you a chance to come back up and complete  
 317 your thoughts. Alright, when you come up, please state your name and address. First, we  
 318 have Mr. T. D. Scott.  
 319  
 320 Tim Scott: Are comments separate from questions. Do you have to come up  
 321 there if you have a question? And did you have to sign up if you have a question?

PH1

322  
 323 Moderator: No, you can come up if you want your question made part of the  
 324 record. You can come up and speak.  
 325  
 326 Tim Scott: Can I speak right here?  
 327  
 328 Moderator: Yes.  
 329  
 330 Tim Scott: Hi, I'm Tim Scott and I live in Cornelius. And I have a few  
 331 comments that I would like to share with the audience. Is most recently, McCrory passed  
 332 the Highway Funding Bill and I'd like to know why we can't go ahead and reallocate or  
 333 reprioritize the P3 Process here for I-77 with the new criteria. I think that we should be  
 334 able to use objective criteria instead of the political criteria that we used to push this one  
 335 through and get it approved.  
 336  
 337 So, I'd like to say "let's stop", put it on hold. I think that McCrory's new plan has been  
 338 approved so we can go ahead and roll that out early next year and reprioritize this,  
 339 number 1.  
 340  
 341 Number 2; when you went through the plan you never really even had a general purpose  
 342 lane in the alternatives. There was no consideration at all for a general purpose lane. I  
 343 kind of find that appalling and as stewards of our state, I think that you at least owe it to  
 344 the citizens to at least consider and explore that as an opportunity. I think it's criminal  
 345 that you failed to do so. Absolutely criminal and people should be held accountable for  
 346 that.  
 347  
 348 And lastly, one of the things that I've been trying to ask is how much is it going to cost  
 349 per mile to drive on this road. You apparently have some really, really smart people at the  
 350 NCDOT or at least I thought that have the data and you know the financial pro forma.  
 351 You know what it's going to cost. You know the traffic studies. And no one can tell me  
 352 what's it's going to cost per mile during heavy congestion or light congestion. I think part  
 353 of the problem is there's no limit to the amount that we can charge a potential driver on  
 354 this lane.  
 355  
 356 So, I find it criminal again that no one that I spoke to at the open house could come up  
 357 and say this is what it's going to cost to drive on the road. You know, you've got all these  
 358 studies being done, but no one can actually tell you. And I think that this is a criminal  
 359 situation, people need to be held accountable for. They haven't done the study, let's push  
 360 it back, use McCrory's plan, and let me know what it's going to cost.  
 361  
 362 Moderator: Thank you sir. Next we have Karl Schwalb.  
 363  
 364 Karl Schwalb: My name is Karl Schwalb. I'm from Mooresville. Some of the  
 365 questions I had is should the HOT Program go through and the P3 Partner find that it's  
 366 not being supported, what are the consequences to the citizens of the State of North  
 367 Carolina? Assuming that they and their projections are figuring "x" number of people are

2-1 368 going to use the road, it was going to generate “y” amount of dollars and that’s going to  
 369 cover the cost.  
 370

371 If the road does not cover that, what other provisions in the contract that do not hold the  
 372 citizens of North Carolina liable for increased costs, penalties, etc.? It should be at least a  
 373 win/lose proposition for the P3 Partner. The way I understand the contract written now,  
 374 they can’t lose. The only thing the State of North Carolina is doing under the current  
 375 contract is getting \$340M of which we will pay either nothing or we could pay in far  
 376 excess of that \$340M should the usage be less than what’s anticipated. And I think a lot  
 377 of people here are anticipating that this is not going to be a financially viable operation.  
 378

2-2 379 Another auxiliary question and it wasn’t listed too clearly, what is the access/egress from  
 380 the HOV Lane? In other words, it is going to be a Jersey barrier lane where we all can  
 381 only get on at certain points and off at certain points? Or can you get on and then get off  
 382 at any time at any place?  
 383

384 Moderator: No, there are specific access points along the way. We have them.  
 385 They are shown on the hearing maps too.  
 386

387 Karl Schwalb: Okay. And how will the toll for the road at whatever rate be  
 388 determined; by transponder, by a toll booth?  
 389

390 Moderator: We’ll have electronic gantries. They will all be electronic and  
 391 video enforcement.  
 392

393 Karl Schwalb: Okay, so and who’s paying for that? Is that part of the P3 Partner’s  
 394 cost to put it in? If it does show to be an unsustainable project, does the state take it over?  
 395 Can the state run it as a toll road? Does the state run it as a GP Road?  
 396

397 Moderator: I’m going to ask Rodger just to answer this question for you. I  
 398 don’t really want to get...that is really not the purpose of this hearing. The purpose of this  
 399 hearing is to get your input on the location and the design of the project.  
 400

401 Karl Schwalb: This is the design of the project.  
 402

403 Moderator: No, what you’re talking about is the funding of the project. So, we  
 404 really don’t want anyone to...  
 405

406 Karl Schwalb: If a project is the entirety of the location, one lane, two lanes, three  
 407 lanes, four lanes, the location, okay, is it going to be this way or this way and then the...  
 408

409 Moderator: And you’re right, the purpose of this hearing again is...  
 410

2-3 411 Karl Schwalb: Okay, let’s get to the question, should the company who is the  
 412 partner in building it not be able to sustain the revenue necessary to make a profit, what  
 413 of the citizens of North Carolina’s liability? A level liability, in other words, they put in

2-3 414 \$340M or “x” amount the citizens have to pay back “x” amount or is it going to be  
 cont 415 surcharges, penalties, additional fees that will go beyond that?  
 416

417 Rodger Rochelle: Good evening. A little bit of background with Public-  
 418 Private Partnerships, there’s...  
 419

420 Audience Members: Speak up. I can’t hear you.  
 421

422 Rodger Rochelle: I’m sorry. Is that better?  
 423

424 Audience Members: Yes, thank you.  
 425

426 Rodger Rochelle: In general, with Public-Private Partnerships, there’s two  
 427 fundamental ways that you can go. One is called an “availability payment”. One is called  
 428 a “full concession”. We have opted to go with a “full concession”. The difference is who  
 429 takes that revenue risk. In other words, you build it and they don’t come, whose risk is  
 430 that?  
 431

432 With an availability payment deal, that the DOT’s risk, the taxpayers risk. With a full  
 433 concession, it’s the Private Partners risk. That’s a little bit of background. We decided  
 434 early on we did not want that risk. That’s something we’re going to share through our  
 435 Private Partner. So, if we build it and traffic does not come, then that is essentially their  
 436 issue.  
 437

438 Let’s go a little bit to an extreme. They default on the contract, either because the revenue  
 439 is not there or they’re not performing to the very strict standards we’ve got in the  
 440 contract. They default on the contract. What happens then is when the split this financing  
 441 of the project into three parts, I know that Jamille said that 1/3 was federal and state  
 442 typical funding sources and the other 2/3 is brought by the Private Partner.  
 443

444 Let’s break that down a little bit further. Of that 2/3, roughly 1/3 of it is private equity  
 445 investors. Generally, these are pension funds that are held by policemen organizations,  
 446 employee organizations, things of that nature, but they’re private investors. Another 1/3  
 447 would be debt that the Private Partner takes on, okay, this could be in the forms of TIFIA  
 448 Loans, private activity bonds, or other mechanisms, and then the third is the \$170M that  
 449 was alluded to from typical federal and state funds. So, that’s the breakdown of  
 450 financing.  
 451

452 In the event of a contract default, and they leave and it’s failed, then the private equity  
 453 investors, they have no recourse against the state whatsoever. So, that 1/3 of the cost is a  
 454 freebie, a 1/3 of the project to the DOT. The other 1/3 to protect lenders and in order to  
 455 get certain lending ratings that are required for the project, the DOT takes on 80% of that  
 456 debt. Let me make sure I’m clear. It’s 80% of the debt that’s outstanding at the time for  
 457 1/3 of the financing. It’s not 80% of the \$550M.  
 458

PH1

459 So, we've invested \$170M, let's say, and that's a maximum right now. They're going to  
 460 be bidding this so we're hoping to drive that cost down. So we invest that portion to  
 461 private equity investors lose their money with no recourse to us and then the debt we take  
 462 on a burden of eighty cents on a dollar of that debt portion. Worse comes to worse, we  
 463 end up getting a \$500M facility for essentially pennies on a dollar, ½ price, something to  
 464 that affect.

465  
 466 Rodger Rochelle: Yes. *(Audience member is attempting to ask a question).*

467  
 468 Moderator: We are recording so we ask that...

469  
 470 Rodger Rochelle: If I could just mention, I know in respect to what you need  
 471 to do here, I will say that I will be around to the last person leaves tonight. So, if there are  
 472 other questions and we don't have time for that relate to P3 and contract mechanisms, I  
 473 will be around for those.

474  
 475 Moderator: Thanks Rodger. Next we have Mr. Doug King.

476  
 477 Doug King: Good evening, my name is Doug King. I live in north Charlotte.  
 478 I've lived in northern Mecklenburg County ever since I moved here in 1995 and I have  
 479 use I-77 frequently and have seen what's happened over the years.

480  
 481 One quick comment as I was reading the presentation, one of the justification for this  
 482 project and using the HOT Lanes is to emphasize the word "immediate" implying that  
 483 this was all of sudden NCDOT figured out that we've got a problem here. I can tell you  
 484 that there's been a problem for 20...15 years probably. This is not an "immediate". It  
 485 may be just on the radar screen of NCDOT. It is not an immediate need. It's been a need  
 486 for a very long time.

487  
 488 I have some questions, but I also got one thing that I would like get entered into the  
 489 record. I would like have a little survey of the people here, but I want entered into the  
 490 record. How do we do that? In other words, you said this was an official record. I want a  
 491 raise of hands and I want a count and I want that put in the minutes.

492  
 493 Moderator: Okay, but we are recording.

494  
 495 Doug King: Okay, but it needs to be in the minutes. In other words, I don't  
 496 want to just say hands are raised. I want somebody to enter or say what the count is. This  
 497 is my question. How many people attending here tonight are residents of Mecklenburg or  
 498 Iredell County who travel on I-77 on a regular basis? How many people here use I-77 on  
 499 a regular basis?

500  
 501 If somebody from NCDOT would make a rough count here, I don't think it's up to me to  
 502 do that. I'd appreciate it if you would.

503  
 504 Audience Member: 90%.

PH1

505  
 506 Team Member: About 37.

507  
 508 Doug King: Okay, of those I would like to have a raise of hands how many are  
 509 in favor of this project and how many are opposed to it. How many are in favor of this  
 510 project the way it is *(inaudible)*? Do I see a hand? Not one. Not mine either. How many  
 511 are opposed? I would like that put in the record. Even if it's not a number, it was  
 512 unanimous that everyone that attended here is opposed to this project.

513  
 514 Press Member: I object to that. I would like to abstain from voting.

515  
 516 Moderator: Yeah.

517  
 518 Doug King: Pardon?

519  
 520 Press Member: I object to that. I would like to abstain from voting. I'm a  
 521 member of the press and I would not like you to count me in opposition or support of this  
 522 project.

523  
 524 Doug King: Well, I ask for those people that use it on a regular basis.

525  
 526 Moderator: Yeah, well everyone didn't vote.

527  
 528 Doug King: Well, leave his vote out.

529  
 530 Moderator: Yeah, we have a good number of people that voted.

531  
 532 Doug King: Right. I don't know why you would object to that sir.

533  
 534 Press Member: I abstained.

3-1

535  
 536 Doug King: Thank you. You didn't have to vote actually. Now I have a  
 537 question. What happens...I understand that I believe there are four bidders or four  
 538 prequalified bidders; I'm not sure the terminology. What happens if only one of those  
 539 bidders ends up presenting a qualified bid? What happens? Do they automatically get it?

540  
 541 Moderator: I don't know the answer to that. Again, that's an answer for  
 542 Rodger.

543  
 544 Doug King: Okay, so not prepared to answer.

545  
 546 Moderator: It is part of the record and we will get an answer back to you,  
 547 because it is part of the public record.

548  
 549 Doug King: Okay, good. Thank you. I appreciate it.

550

PH1

551 Audience Member: Since this is part of a public forum, can he go ahead and  
 552 answer that, Rodger, because we're all here to ask questions and hear answers.  
 553  
 554 Moderator: Yes, but again this is still not the forum...we're not here to talk  
 555 about the funding. Again, the purpose of this meeting is to get your input on the actual  
 556 design and the location of the project. When we talk about location, we're talking about  
 557 the different Build Alternatives south of I-85. Outside of that, it's all the same location.  
 558 Let us know if you like Build Alternative 1, 2, or 3. Those are things that we're here to  
 559 get from you tonight.  
 560  
 561 And Rodger is here. We had a room setup for questions about the P3 funding. So, if you  
 562 do have those questions...  
 563  
 564 Audience Member: Will there be another hearing?  
 565  
 566 Audience Member: Excuse me, but you talked about funding.  
 567  
 568 Moderator: There may not be another hearing, but if you request those post-  
 569 hearing meeting minutes, we'll make sure that we get an answer back to you. So, any  
 570 questions that are asked tonight, we'll get an answer back to you.  
 571  
 572 Audience Member: Will you send those to everybody here?  
 573  
 574 Moderator: Yes, if you request a copy...  
 575  
 576 Audience Member: No, are you going to answer his question to everybody  
 577 who's in attendance; because, I would like to know.  
 578  
 579 Moderator: Yes, we'll answer this, but we're not going to keep going down  
 580 this road answering P3 questions.  
 581  
 582 Audience Member: But this is important... (*inaudible*). As taxpayers we need  
 583 answers.  
 584  
 585 Doug King: Obviously, we're a little...I've a couple of questions, but I'm  
 586 confused about how we get answers to our questions.  
 587  
 588 Moderator: We will get answers to you. Again, but we're going to sit down...  
 589  
 590 Doug King: In the minutes?  
 591  
 592 Moderator: Yes. We will go through each and every comment that has been  
 593 received and there will be a response made for each comment.  
 594  
 595 Rodger Rochelle: Essentially, we have a very comprehensive (*inaudible*)  
 596 estimate. This is a reasonable list checked. It is required by state and federal regulations.

PH1

597 So, we have to do our own due diligence and determine what is the construction cost and  
 598 it's a very detailed process. In matter of fact, we're about to go through a five day cost  
 599 review process with Federal Highway to make sure that our numbers are good.  
 600  
 601 And so, if we have one bidder, then we look at that estimate. And if it's within reason of  
 602 our estimate, then we can proceed. If not, we cannot. It's really that simple. If someone  
 603 comes in double our estimate, this is not a deal we want. So, those are the protections that  
 604 are in place.  
 605  
 606 Doug King: So, potentially, if they all, the bidders are outside the scope, then  
 607 you start over I guess. In other words, if they're all too expensive...  
 608  
 609 Rodger Rochelle: Essentially, that's right. However, we have had a very  
 610 interactive process with them.  
 611  
 612 Doug King: You know.  
 613  
 614 Rodger Rochelle: We have had nine one-on-one meetings with each of these  
 615 bidders; talking about contract language and responsibility and their scope of the work.  
 616 So, we don't anticipate surprises along those lines.  
 617  
 618 Doug King: Okay. If you bear with me, I have some quick questions to at least  
 619 get these on the record. I've talked to someone in the room over next door. It seems to be  
 620 that the toll pricing is complex using a complex formula. And it's going to be all  
 621 electronic. So, how does a user of the HOT Lanes know when they get a bill that it's  
 622 accurate? There is no paper trail audit.  
 623  
 624 There was a comment made by someone over there that they think maybe as you get on  
 625 the HOT Lane that there will be a flash or something that tells you this is your rate for the  
 626 time that you're on there. Because that person behind you could have a different rate is  
 627 the way I understand; because if the congestion is built up, then 10 minutes later  
 628 somebody is going to pay a higher rate.  
 629  
 630 Well, my question is how do you know that you're being charged correctly? What  
 631 facilities are there to make sure that the vendor who operates this is charging fairly? Are  
 632 there audits so forth? I'm hoping that you will have that in the answers, okay.  
 633  
 634 And then finally, I understand there are very few completed HOT Projects in the United  
 635 States, maybe if any. Exact, I would like to know how many exactly have been done in  
 636 the United States, this type of project with a Public-Private Partnership. How many in the  
 637 United States? And then what about other countries maybe where this idea originated,  
 638 what is the history there? Do you have...the idea is in my phrase, "are we buying a pig in  
 639 a poke"? Are we agreeing to a really massive project and really don't know what we're  
 640 getting. And that's my concern.  
 641  
 642 Moderator: Well, they're HOT Lanes in operation in the United States now.

643  
 644 Doug King: Yeah, and my question was how many exactly, put that in the  
 645 answer. How many exactly are there completed? I'm not talking about maybe under  
 646 construction. How many are completed and then maybe like I said worldwide. I'm just  
 647 curious to know how much of a history is there of this project, this type of project. Thank  
 648 you.  
 649  
 650 Moderator: Thank you sir. Next we have Mrs. Pattie Marshall. The answer to  
 651 that question is 18 projects.  
 652  
 653 Doug King: In the US?  
 654  
 655 Moderator: Yes.  
 656  
 657 Doug King: Thank you.  
 658  
 659 Audience Member: How many are profitable? Excuse me sir, how many are  
 660 profitable?  
 661  
 662 Moderator: Sir, this is an orderly meeting. If you want to speak, you will get  
 663 your chance to come up and speak. Mrs. Marshall.  
 664  
 665 Pattie Marshall: My name is Pattie Marshall. I live in Mooresville. I wanted  
 666 to read and make a comment. This is from the McCrory website about the Strategic  
 667 Mobility Formula.  
 668  
 669 It is a data and fact driven to ensure that we are investing in areas with the most pressing  
 670 needs to reduce travel time, reduce congestion, attract business, enhance safety, and  
 671 improve the quality of life for all North Carolinians. At the state level, project selection  
 672 will be 100% data driven. The data include benefit cost analysis.  
 673  
 674 Does it reduce travel time and how much does it cost? Does it reduce existing  
 675 congestion? Does it increase economic competitiveness? Will it increase the value of  
 676 economic competitiveness within the criteria? Does that mode carry freight or it multi-  
 677 modal? That's right from the website.  
 678  
 679 So, my understanding is that the Strategic Mobility Formula has been approved by  
 680 McCrory. I'm not sure exactly...it's going to be put in place. So, this is a 10-year  
 681 transportation plan, the Strategic Mobility Formula. So, I'm asking will you put the  
 682 widening of I-77 to this formula. I'd like to hear your comments on why you will or you  
 683 will not allow this project to be put to this mobility formula.  
 684  
 685 If not, why not? And if you did, where do you think it would rank? Or let's find out and  
 686 see where we rank. That's my question. I don't know if that could be answered tonight,  
 687 but I would kind of like an answer.  
 688

689 Moderator: The new formula basically impacts projects that are not to be LET  
 690 before July, 2015.  
 691  
 692 Pattie Marshall: Okay.  
 693  
 694 Moderator: So, this project was actually scheduled to go ahead of...  
 695  
 696 Pattie Marshall: So, what you're saying is this has already been approved.  
 697  
 698 Audience Member: Yelp.  
 699  
 700  
 701 Moderator: Well, the current schedule is prior to July, 2015. That's my  
 702 understanding.  
 703  
 704 Pattie Marshall: I thought the legislature had to make final approvals on  
 705 this P3 Project.  
 706  
 707 Moderator: As far as I know, it's scheduled to move forward.  
 708  
 709 Pattie Marshall: It's scheduled to move forward. It's a done deal.  
 710  
 711 Moderator: Exactly.  
 712  
 713 Pattie Marshall: I'm just wondering.  
 714  
 715 Rodger Rochelle: I'll try to be quick. I said this before in another public  
 716 forum. It's not a done deal until the contract is signed. And it sounds like a very brief  
 717 response. But that is very true and you are accurate ma'am that there are reporting  
 718 requirements to certain committees of the General Assembly that are required for this  
 719 project as part of House Bill 817, which indeed has passed.  
 720  
 721 Moderator: Next we have Mark Neroni.  
 722  
 723 Mark Neroni: Hello, my name is Mark Neroni. I'm from Cornelius. My first  
 724 question and what really struck me is when you presented the downtown to I want to say  
 725 I-85 section; when you described the downtown to the I-85 section. In Alternative 3, only  
 726 converting a HOV Lane to a HOT Lane at a cost of \$240M, which is almost half the  
 727 budget.  
 728  
 729 So, explain to me and this kind of broadens out to the whole project, what is the  
 730 difference in cost of a HOT Lane Project versus just dropping 2 more general purpose  
 731 lanes; basically the same thing without the HOT Lane piece in there, without all of the  
 732 flyovers, without all that. What is that cost differential? How much are we paying just so  
 733 we can have a Private Partner involved in it to have a funding mechanism that's unique?  
 734



735 You know, I drove through Greensboro on the way to Richmond a few weeks ago, four  
 736 lanes each way for 30-miles. I suspect the traffic counts on I-40 at that point are nowhere  
 737 close to I-77, so. I guess the first question; I don't want to get off into a statement. But,  
 738 the first question is what is that cost differential?  
 739  
 740 Moderator: I don't actually have the cost for the general purpose widening.  
 741  
 742 Mark Neroni: Maybe I could rephrase the question. How much of the cost is to  
 743 support the infrastructure whether it's flyovers...  
 744  
 745 Moderator: I believe what you're asking is for the construction of a HOT Lane  
 746 versus the general purpose lane.  
 747  
 748 Mark Neroni: And all the things that go with the HOT Lane.  
 749  
 750 Moderator: It is a little less than 10%.  
 751  
 752 Mark Neroni: Then how come an existing HOV Lane that exists converting to a  
 753 HOT Lane cost \$240M.  
 754  
 755 Moderator: Because you have to put the gantries up and *(electronics)*  
 756  
 757 Mark Neroni: Okay, so \$240M for the HOT Lane Infrastructure.  
 758  
 759 Doug King: Instead of 10%, now you're saying it's \$240M. That's not 10% of  
 760 \$500M. That's 50%.  
 761  
 762 Carl Gibilaro: Alternative 3 includes all of the HOT Lanes from I-85 north.  
 763  
 764 Moderator: Yes, it does. The difference between Build Alternative 3 and  
 765 Alternative 1 and 2 is just that there are no improvements, no HOT Lanes added to I-277  
 766 and the only thing south of I-85 is the conversion of the existing HOV Lane into a HOT  
 767 Lane. North of I-85, all the alternatives are the same.  
 768  
 769 Mark Neroni: I'd still like to know the exact numbers on the cost. That would be  
 770 a question I'd like followed up on and answered. If you guys could, what's the difference  
 771 in cost?  
 772  
 773 Moderator: The difference in cost versus a general purpose lane...  
 774  
 775 Mark Neroni: Versus the HOT Lane Alternative. Because I understand there's  
 776 flyovers and a whole bunch of infrastructure that you to finance, including a berm to keep  
 777 people from getting in at different points, etc. That would be one, my first question.  
 778  
 779 Team Member: I can give you a quick rough estimate that we have, but we  
 780 have to look at those numbers. What I'm understanding is a very prudent here, a very

5-2

781 simple question. You're basically building the same things. What's the difference  
 782 between putting in the tolling equipment and whatever extra width you need to make it a  
 783 high occupancy toll lane; and that number is right about \$50M or roughly 10% of the  
 784 capital expenditure.  
 785  
 786 Mark Neroni: Okay, my next question is really the impact on general purpose  
 787 lanes, because I think as DOT experts I think everybody is aware that whenever you have  
 788 people merging into a lane causes that lane to slow down. Right now, we currently have  
 789 merging from just the right side and with the new HOT Lanes we're going to have people  
 790 merging in not only from the right side but now from the left side.  
 791  
 792 So, the general purpose lanes are now going to get more clogged. So, how does your  
 793 approach, how does these designs address the general purpose lanes and their congestion?  
 794 Or is the idea just to force everybody to pay? If you look at what happened in Virginia  
 795 with their newest HOT Lane, it's \$5 to \$6 each way round trip or each way, so, \$10 to  
 796 \$12 for a commute. So, my math isn't that good, but that's \$24 if you commute every  
 797 day. It's \$2,400 to \$2,800 a year. Not a lot of people can afford that. So, I'm sorry, but  
 798 please answer the merge question and the congestion as far as the general purpose lanes.  
 799  
 800 Moderator: Well, I think a lot of studies show that the general purpose lanes  
 801 don't receive the benefit from those highways.  
 802  
 803 Mark Neroni: I lived in California and I can attest that that's not true. I've used  
 804 the lanes and boy I loved getting into the HOT Lanes. It's sometimes very difficult to get  
 805 there and I feel bad for the poor suckers in the general purpose lanes. So, I lived there. I  
 806 know. I've experienced it. So...  
 807  
 808 Audience Member: Can you show us the data from that study? You're referring  
 809 to a study. Can you show us the data from that study that you are referring to?  
 810  
 811 Moderator: Carl, do you have...  
 812  
 813 Carl Gibilaro: Part of the traffic operational study that was done and we put a  
 814 copy of that on the website.  
 815  
 816 Mark Neroni: Yeah, I can review it on the website. I have personal experience.  
 817 You know, maybe in the very beginning when you add a couple of lanes and you get  
 818 some traffic, but as the population increases those general purpose lanes are a parking lot.  
 819 And I feel that you guys are giving us an alternative.  
 820  
 821 Audience Member: Can you get by the mic?  
 822  
 823 Mark Neroni: I feel that you guys are giving us an alternative. You can have a  
 824 hot poker in the right eye or a hot poker in the left eye. And so I can either sit in a parking  
 825 lot for an extra hour a day or I can pay \$2,400 to \$2,800 a year to get to work. That  
 826 doesn't seem like a very friendly solution. To me this is a monument to government

5-3

6-1

Page B1-10

827 failure. I'm not pointing to the DOT. I'm pointing to our government. And we're  
828 institutionalizing it and we're doing it for 50 years.

829  
830 And I have one last comment because I know other people want to speak. One of the  
831 parts of the cost that the people in the great State of North Carolina are contributing,  
832 we're contributing that precious right-of-way to this project and we're tying it to a  
833 Public-Private Partnership in what we donate; then we get the people that can afford to  
834 pay the \$2,500 a year, getting to use those lanes, getting to use that right-of-way. To me,  
835 that just doesn't seem right. Thank you very much for your time.

836  
837 Moderator: Well, I would encourage carpooling. I don't know if I mentioned  
838 it, buses, transit riders, will get to ride free, and motorcyclists. Next we have Mr. Mark  
839 Gibbons.

840  
841 Mark Gibbons: My name is Mark Gibbons. I live in Huntersville, North  
842 Carolina. And I do have 2 questions and then a couple of comments. One of my questions  
843 is it was mentioned here that there's been face-to-face meetings with the possible  
844 companies that could get the contract and I assume in good business practices back and  
845 forth that has guided what the RFP might look like or does look like. But my question is  
846 was there an independent review done of the RFP and by who or entity or company did  
847 that?

848  
849 Team Member: You are accurate. Those interactions with the potential  
850 bidders are very important. A lot of times they'll come to us and say do you realize the  
851 way you phrased it's going to cost you an extra \$10M. Thank you, we didn't mean that.  
852 So, there are a lot of contractual clarifications that occur during that interaction.

853  
854 We had a team that's worked on this RFP sometimes it seems day and night. We have  
855 technical experts from Parsons Brinckerhoff. We have financial/commercial experts from  
856 a firm called KPMG. We have our Attorney General Office involved as well as outside  
857 legal counsel from Nossaman, who specializes in these deals. We also have probably  
858 about 15 different business units and I would venture to say 50 to 70 people at DOT that  
859 are looking at various parts of this RFP and putting this together as a team.

860  
861 So, to say have we hired someone else to come and do an independent review, no. We  
862 feel that as a team we've come together and done this. I will say that Federal Highway is  
863 our partner in this and they've also been reviewing the RFP and engaging their offices as  
864 well, thank you.

865  
866 Mark Gibbons: And I don't know if this question will touch you also sir,  
867 but it is said up there in August, 2013 the FONSI findings should be made public or  
868 should come back. Who makes that finding? I assume it goes off the Environmental  
869 Impact Statement and then it's reviewed. But who actually makes the finding that it's  
870 good; there's no significant impact?

871  
872 Moderator: FHWA has to sign off on that.

6-2

6-3

6-4

873  
874 Mark Gibbons: FHWA, okay. A couple of comments on this, we've all and  
875 several of the speakers that talked tonight, talked about worrying about the cost to the  
876 taxpayer and obviously that should be our...everyone's mind, including the DOT, the  
877 legislature that is approving this. What concerns me is that we are a very low population  
878 density area, urban area compared to a lot of other places that these other 18 HOT Lane  
879 Projects are.

880  
881 If I've read correctly, I'm not an expert on this, but I've done a lot of research on it in the  
882 last few months. If I'm not mistaken, we need to take in about \$20M+ a year in revenue  
883 from this project to be feasible, viable. And one project I know off the top of my head  
884 that's roughly the same size population as we are is Salt Lake City. They're only bringing  
885 in about \$600K a year of revenue off of their HOT Lane Project.

886  
887 I don't know if we're comparing apples and oranges but it kind of scares me that that  
888 amount of money has to be generated and it could fall on the backs of taxpayers not only  
889 here, but in all of North Carolina. So, that's one comment.

890  
891 Mr. Robbins, you mentioned that we want to support or to encourage carpooling. For  
892 those of us and we raised our hands, almost everybody here drive up and down I-77 on a  
893 daily basis. And when we look over in that HOV Lane that exists there now, my wife and  
894 I sense this project has been on the books and we've been interested in looking at it. We  
895 count every time we come from Charlotte up or here down and the numbers many times  
896 are between 3 to 5 cars we'll see in the HOV Lanes between Charlotte and Huntersville  
897 where I live.

898  
899 We see the bus once in a while go by with very few people on it. And now the number  
900 that you can get into that lane to drive free goes up by one person. We're an independent  
901 people in states like North Carolina. That's why a lot of people move here and you'll hear  
902 some accents that are not from here and that's why they come here. People aren't  
903 stopping. We don't have slug lanes like they do in Washington, DC, which I've lived in  
904 for a lot of years in my military and I saw the HOT Lanes up there. And personally, I  
905 didn't think they work very well either, but I have no numbers to support that either way.

906  
907 The last thing, the other gentleman was asking are these 3 projects; 3311, 5405, and 4750  
908 all priced separately or are they all priced together? Is that broken out what each of them  
909 cost or are they one project?

910  
911 Moderator: They're one project. I don't know if we've broken it out. I know  
912 it's one project.

913  
914 Mark Gibbons: Because, you know that's another comment. Those of us  
915 here tonight obviously because of the location of the meeting and I know tomorrow  
916 tonight you'll have a meeting in Charlotte for the folks that are affected by this in  
917 Charlotte. But every morning the traffic stays between Exit 30 and Exit 19. And when

6-4  
cont

7-1

Page B1-11

918 you get pass Exit 19 going south, it's a drag race to Charlotte; 70 to 75 miles per hour, no  
919 problem.  
920

921 In the afternoon, you come out of Charlotte, 70 to 75 miles per hour. And when you come  
922 around that long, sloping curve and see the new Exit 19 and that's when you start to see  
923 taillights. And you go I should have got off there. But anyway the problem is there and I  
924 realize we make strategic plans and build for the future, but we're spending \$550M in  
925 dollars that was project at and I don't know where they will end up at. We all know  
926 projects go over.  
927

928 But, the problems between Exit 30 and Exit 19 with one general purpose lane on each  
929 side would fix the problem for probably (*inaudible*). And that's my humble opinion as a  
930 taxpayer and a driver. But, it looks like that would solve the problem to me. Thank you  
931 for your time tonight and the information.  
932

933 Moderator: Thank you Mr. Gibbons. Next we have Kerry Miller.  
934

935 Kerry Miller: I'm Kerry Miller from Mooresville. I just have one question. Out  
936 of 18 projects, how many are profitable? Thank you.  
937

938 Team Member: It depends on how you define profitable. Seriously, by the  
939 governance of those 18 operational projects, 17 are collecting revenue above operations  
940 and maintenance. The other is right about at that line, depending on which month you're  
941 looking at it. It's either above or below. Of those 18 projects, only one is Public-Private  
942 Partnership. And that just opened in November.  
943

944 Audience Member: So, they're not covering the cost to build them. They're just  
945 covering current operations?  
946

947 Team Member: The majority of the facilities that are open were converted  
948 HOV Lanes. And those HOV Lanes were operational for many, many years prior to the  
949 HOT Lanes operations. As a result, the number of the capital costs of those HOV Lanes  
950 was associated with payment from the revenue from the tolls that are collected from the  
951 HOT Lanes.  
952

953 However, there are some limited capital expenditures that were made for converting  
954 those facilities to HOT Lanes. And in those situations then revenue that's collected from  
955 the HOT Lanes have gone to pay back those capital expenditures. Most have not been  
956 operational yet for 10 years, so, there are only 2 that have been operational for more than  
957 10 years. So, as a result, we still don't know overall to what extent those would be over  
958 and beyond (*inaudible*).  
959

960 Audience Member: But this would be one of the first that is going to pay for  
961 itself, supposedly?  
962

963 Team Member: Well, they all have been paying for themselves.

964

Audience Member: No, I mean all of the costs for building it that are lumped  
into it.  
966

967

968 Team Member: In terms of an answer, in terms of this project, and I'll look  
969 back to Rodger on this one, to my knowledge, and Mike help me with this one as well,  
970 there aren't any Public-Private Partnership Projects that don't include a subsidy and/or  
971 contribution from the public sector towards that project. So, the revenue that's collected  
972 for example on comparable projects in Washington, DC, the 405 Beltway, which is the  
973 one that opened in November, that only has somewhere in the vicinity of around 25 or  
974 30% of the total cost of that project being paid for from the revenue from the toll project.  
975

976 Audience Member: And how much is the percentage of this one?  
977

978 Team Member: That one I would have to refer to Rodger.  
979

980 Audience Member: Can I ask a quick question? Of the 17, how many are in the  
981 same geographic for that size as Charlotte? Washington, DC is far greater population  
982 density than Charlotte. That's the point we're making.  
983

984 Team Member: Don't you want to recognize the gentleman after I  
985 address this question?  
986

987 Rodger Rochelle: As I understand it, you're asking how this project will pay  
988 for itself and I don't recall anyone presuming that the project will pay for itself. Hence,  
989 the \$170M public funds subsidy to subsidize initial construction. Now, it is intended that  
990 the deal will pay for continuing operation and maintenance of the project and a return on  
991 the investment for our Private Partner. Otherwise, they won't bid the project.  
992

993 Audience Member: The previous gentleman stated that there were 18...  
994

995 Moderator: Hold on sir. Wait one second. I kind of let a few questions be  
996 asked, but we have to maintain the order. Next we have Mr. Ron Berst and I'll give you a  
997 chance to come up and speak.  
998

999 Ron Berst: My name is Ron Berst. I live here in Mooresville and I've lived  
1000 here for 25 years. On your handout here, you state here that I-77 is a critical north-south  
1001 transportation corridor for the Charlotte-metro region. I think everybody can agree to  
1002 that.  
1003

1004 The question is being very similar to the young lady that was up here a very few minutes  
1005 ago. I read in the Charlotte paper where it's stated that if this project did not go through  
1006 that it might be 20 or 25 years for funding of traditional road construction. Is that correct?  
1007

1008 Moderator: That's correct.  
1009

8-1

8-2 1010 Ron Berst: Okay, my question is this, how or where can I find the list of the  
 1011 projects that are going to be ahead of this project? The 20 years of construction that are  
 1012 more important than this project, how can I find that list?  
 1013  
 1014 Moderator: You go to the Transportation Improvement Program. You can go  
 1015 on the website.  
 1016  
 8-2 cont 1017 Ron Berst: It's just hard for me to believe that there is 20 years' worth of  
 1018 projects that are going to be more important and more vital than this one right here.  
 1019 That's really hard to believe.  
 1020  
 1021 Moderator: Thank you. Kurt Naas.  
 1022  
 1023 Kurt Naas: My name is Kurt Naas. I live in Cornelius, North Carolina. Thank  
 1024 you gentlemen for the opportunity to have a few moments to comment, I really appreciate  
 1025 it. I do have a couple of comments and a question. Actually, I have a couple more  
 1026 comments based on what I've heard right now that I feel I need to address.  
 1027  
 1028 Audience Member: We can hardly hear you.  
 1029  
 1030 Kurt Naas: I'm sorry. Is that better? It seems like this mic is a little bit louder,  
 1031 okay. The first is someone asked how many HOT Lanes are profitable. I looked at the  
 1032 publication by the federal government called the "Managed Lanes Pricing Guide",  
 1033 because the detailed financials of 11 privately operated HOT Lanes, 7 of those HOT  
 1034 Lanes currently lose money. The 4 that make money are located in Houston, Miami,  
 1035 Washington, DC, and southern California. All of those have a population greater than  
 1036 5M. No HOT Lane with a population less than 2M makes money. That's the first point.  
 1037  
 9-1 1038 The second point is I feel compelled to address this notion that if we build the general  
 1039 purpose lane solution it's only going to be \$50M less than if we build the HOT Lane  
 1040 solution. The problem with the HOT Lane solution is that it requires the replacement or  
 1041 construction of 9 bridges. Five of those bridges are currently existing; none of those  
 1042 bridges are on NCDOT's structurally deficient list or functionally deficient list. So, we're  
 1043 going to spend tens of millions of dollars replacing structurally sound bridges.  
 1044  
 9-2 1045 Further, we're going to add several other million dollars adding lanes where they're  
 1046 already lanes in Charlotte. If you look at the 2009 Parsons Brinckerhoff study, they said  
 1047 if you just add general purpose lanes basically from Huntersville up to (*Inaudible*) the  
 1048 cost of that would be \$75M. Am I correct? That study is a little bit dated, but it seems to  
 1049 me that if you build the general purpose lanes where you need them, we're talking about  
 1050 1/5 of the cost that we are for the HOT Lane solution.  
 1051  
 1052 Now, to the comments that I was originally going to get to; this current proposal is as far  
 1053 as the capital goes one of the largest HOT Lane Proposals, the largest being the Capitol  
 1054 Beltway one that was \$2.1M that is being funded by a P3 type of arrangement. It is  
 1055 located in one of the smallest metropolitan areas; and as the one gentleman pointed out a

1056 comparable metropolitan area, Salt Lake City, that comparable grosses about \$600k a  
 1057 year. This HOT Lane needs to gross somewhere between \$15M, \$20M, I've heard  
 1058 estimates as high as \$30M a year.  
 1059  
 1060 So, it kinds of begs the question, I ask myself, who would fund this? Who would  
 1061 underwrite this and issue debt against this if you're costs are expected to be 20 times your  
 1062 revenue. It doesn't make sense. And I've asked that question before and the answer I got  
 1063 was well, there are professional that do this. There are banks would look at the actuaries  
 1064 and they will decide whether or not they're going to underwrite that. I really didn't care  
 1065 for that answer because it really didn't make a whole lot of sense.  
 1066  
 1067 So, I started looking at agreement. The agreement has 18 pages in it. It's called "terms for  
 1068 termination compensation". Basically, if the NCDOT terminates the contract, the  
 1069 developer gets compensated. If the NCDOT defaults on the contract, the developer gets  
 1070 compensated. If the developer terminates the contract, the developer gets compensated. If  
 1071 the developer defaults on the contract, the developer gets compensated.  
 1072  
 1073 Now, folks I've been in business for 25 years and I haven't defaulted on a contract and I  
 1074 sure as heck would never sign a contract where I have to pay somebody if they default.  
 1075 And so then I asked myself, well who made this contract? And we heard a little more  
 1076 detail and I appreciate some of the rigor that's gone behind this, but the word I had is it  
 1077 was primarily done by Nossaman, which is a California based law firm, by Parsons  
 1078 Brinckerhoff, which is a P3 consulting firm, and by KPMG, and which is a P3 consulting  
 1079 firm.  
 1080  
 1081 So, the bulk of the commercial aspect of it has been written by the toll industry, which  
 1082 would help explain why you have clauses in the contract that for instance allow this  
 1083 private company to collect your medical history, your legal history, and your credit  
 1084 history. I don't know about you, but I don't know why I need to give somebody my  
 1085 medical history in order to drive down the freeway. But not only are they allowed to do  
 1086 that, but they can also share that with other government entities and other collection  
 1087 agencies.  
 1088  
 9-3 1089 So, I guess I'm getting to the point where I have to ask who is really looking out for the  
 1090 taxpayer in this particular agreement. And my question is can we have an independent,  
 1091 somebody who does not have an vested interest, and I count the NCDOT as having a  
 1092 vested interest and I certainly count the PBs. and the KPMGs, and the law firms having a  
 1093 vested interest. Can we have an independent, objective, and critical review of this  
 1094 contract before we sign ourselves up to 50 years and \$550M? Thank you.  
 1095  
 1096 Moderator: Next we have Vallee Bubak.  
 1097  
 1098 Vallee Bubak: Thank you all for being here and for all of you showing up and  
 1099 supporting the opposition to this plan. And I appreciate you and I know this is probably  
 1100 not easy to face this group and our concerns and our displeasure of this plan.  
 1101

10-1  
Page B1-13

10-2

1102 I want to ask you what the duration would be at time of construction for you to do a  
1103 general purpose plan versus a HOT Lane plan. You don't know.  
1104  
1105 Moderator: I don't believe we would.  
1106  
1107 Vallee Bubak: Then what would be the time difference? Like is it 2 years to just  
1108 run, you know, 2 general purpose lanes in the areas that's congested versus like all the  
1109 way down to *(inaudible)*.  
1110  
1111 Moderator: Any construction of lanes I would assume takes 2 to 3 years.  
1112  
1113 Vallee Bubak: Two to three years for the HOT Lanes or 2 to 3 years for general  
1114 purpose lanes?  
1115  
1116 Moderator: Probably for both.  
1117  
1118 Vallee Bubak: So, what we asked for, the original plan that we saw from Bill Cox  
1119 from the Huntersville Transportation Commission was it was going to be \$75M to widen  
1120 I-77 where it was the most congested. That's a simple plan. Well, you showed us a very,  
1121 very complex plan that can take years and years to build.  
1122  
1123 No offense to Parson Brinckerhoff, but you hasn't had a great track record. You know,  
1124 there's the Boston big dig, sink hole in LA, cost overruns, and my concern is if we just  
1125 merely widen the road where we need it that would be a much simpler project.  
1126  
1127 What you have proposed is a massive road project, bridges, flyovers, and it can take  
1128 years, and years, and years. And you've talked a lot about the location. We have a  
1129 suggestion for a location. We suggest that you take it to Montana. The reason is Montana  
1130 doesn't have a nuclear power plant. We have one here. And I think it would be best for  
1131 free market policy versus Public-Private Partnership. We take our tax pain right away.  
1132 We take control of what we've been maintaining and paying with our taxpayer dollars.  
1133  
1134 And what you're doing is you're taking that and giving it to a corporation, investors,  
1135 Parsons has a political action committee, a PAC. KPMG, you donate. You donated to our  
1136 politicians. Parsons, you also donate to politicians. You're taking millions of dollars from  
1137 taxpayers and from the public and the public involved and my children and their children.  
1138 I ask you to think about that. What you're doing, that's tyranny.  
1139  
1140 Second thing I want to bring up, I want to know if we are even in compliance with  
1141 McGuire Nuclear Plant. And you've got us under 4 years or more, which Parsons, I know  
1142 you planned this and you're not doing the construction, but you're the planner. And if we  
1143 have this massive project and we've got people trying to evacuate because of an  
1144 emergency or terrorist attack, they will not be able to get out.  
1145

10-3

1146 But they have us on a radioactive road and I would like you to think about just widening  
1147 it from the simply, most efficient, cost effective way you can; that would be in the range  
1148 of \$80 to \$130M. We won't be under a contract for 50 or more years.  
1149  
1150 The third thing I want to mention is that when we heard about a study, I thought it was  
1151 going to be a group of engineers doing an objective study. I did not know that a company  
1152 hired the corporation, Parsons Brinckerhoff. A major part of their business is tolling. I  
1153 know you like a Public-Private Partnership and yes we do have a boon dock on here for  
1154 you. I don't think it's been objective at all. We, the public, were led to believe that you  
1155 have an independent study and a recommendation. And your business is tolling and that  
1156 is not honest and that's not forthright for the people.  
1157  
1158 I wanted to know too, how will we know that you will not be giving money to our  
1159 politicians? For instance, I know that Speaker Thom Tillis has been wanting to push this  
1160 project and he has made it very clear to the town leaders, our MPO, MUMPO that they  
1161 better vote for what he wants for this project. And he is running for US Senate and  
1162 Parsons Brinckerhoff PAC money would sure come in handy for that senate run. KPMG  
1163 also donates, so does Granite Construction, and Life Construction. I looked through that  
1164 list and boy it was so familiar because I've seen where they've donated money to other  
1165 campaigns.  
1166  
1167 How do I know that our leaders aren't going to be rewarded for this travesty that has  
1168 happened to us? So, I appreciate you sitting here. I know it's not fun, but I just want you  
1169 to understand what it's like for us as citizens. And we feel like we're being fleeced. And I  
1170 guess I have one last question. How much have you all made off of this? I mean, it is an  
1171 incredible presentation, but I mean we've got to have paid you millions of dollars for all  
1172 of this and all these studies over the years; money that could have been going to just  
1173 building general purpose lanes to begin with. And I just want to know. Can NCDOT  
1174 answer me that? Will that be revealed to us how much you pay KPMG, Nossaman,  
1175 Parsons Brinckerhoff, and Atkins for their Environmental Impact Study?  
1176  
1177 Audience Member: It's the Freedom of Information Act.  
1178  
1179 Vallee Bubak: It's the what?  
1180  
1181 Audience Member: They may not be able to give it to you, but you can look  
1182 that up.  
1183  
1184 Vallee Bubak: We will have to dig that up. I just want you to know that there are  
1185 a lot of angry people. There's a reason we're called the Tarheel State. We're going to  
1186 drag our heels through this one.  
1187  
1188 Moderator: Thank you ma'am. Last we have Chuck Sater.  
1189  
1190 Chuck Suter: Chuck Suter.  
1191

11-1

Page B1-14

1192 Moderator: Chuck Suter.  
 1193  
 1194 Chuck Suter: Alright, excuse my cough ladies and gentlemen. I actually really  
 1195 don't have any questions. I just really have a statement. Public-Private Partnerships are  
 1196 the beginning of fascism. That's why they became so unpopular in the State of Texas that  
 1197 they actually had to change the name of Public-Private Partnerships.  
 1198  
 1199 I'm a Republican and if you're not, what's wrong with you? But, hey you know if you're  
 1200 a Democrat this would work out really good for you. You know, if I'm a Democrat  
 1201 running for office, what I would say is well look guys since the invention of the  
 1202 automobile there hasn't been a single toll road, Public-Private Partnership here in the  
 1203 State of North Carolina.  
 1204  
 1205 You give Republicans control and what you'll get, the whole entire state taken over by  
 1206 Public-Private Partnerships. Excuse me...this is a part of Agenda 21, the United Nations  
 1207 Program. Are you familiar? You're not? Parsons isn't familiar with Agenda 21?  
 1208  
 1209 Moderator: I work for the DOT.  
 1210  
 1211 Chuck Suter: Oh, okay, so the DOT. I mean Parsons folks, anybody familiar  
 1212 with Agenda 21? Anybody in the audience familiar with Agenda 21? Show of hands,  
 1213 very good. Yeah, what Agenda 21 is if you want to create bottlenecks, so that people are  
 1214 forced to live in the City of Charlotte. So, it's multi-purpose. It's controlling the way  
 1215 humans are able to move around with their families, you know. They want to make  
 1216 smaller family sizes; all that stuff.  
 1217  
 1218 But, it's very interesting. Ted Cruz, who I think is an awesome politician. Any of you  
 1219 guys heard of Ted Cruz? Ted Cruz was down by 29% to David Dewhurst, who was the  
 1220 Lieutenant Governor in Texas, Rick Perry's errand boy, okay. He's down by 29% with a  
 1221 month to go in the election, 29%. He won by 9, because he came out against toll roads.  
 1222 That's how insanely, unpopular these things are.  
 1223  
 1224 And it's not just North Carolina. It'll start here but it's really part of what Rick Perry was  
 1225 pushing to (*inaudible*) Trans Texas Corridor. And then after super highway that was  
 1226 spread out across our entire country until everywhere you go just like in some places like  
 1227 Europe, you pay by the mile. Not only in gasoline tax, but you'll pay by the mile.  
 1228  
 1229 So, what you guys are doing and you know what the Republican majority are doing is  
 1230 they are enacting Agenda 21. I have a little bit of evidence to back this up. Governor Pat  
 1231 McCrory actually at a conference, I think it was out in Arizona a few years ago, he said,  
 1232 yeah, we've just got to figure out a way to package sustainability so that people around  
 1233 different states will be able to accept it and not see it as this, you know, this grand  
 1234 Agenda 21 United Nations Project. He actually called himself; people might know the  
 1235 word "sustainability", Agenda 21. Pat McCrory calls himself "Mr. Sustainability".  
 1236

1237 It's completely Agenda 21. There's no reason, I mean, anybody can drive up this road.  
 1238 I'm going to make a video actually where I drive up the road and just show how so easily  
 1239 you can just add one lane, you know, and then time lapse it; I thought that would be cool  
 1240 and for \$100M. What you guys want to spend, \$550M for what we need for \$100M road.  
 1241 And Parsons Brinckerhoff is going to have a 50 year contract.  
 1242  
 1243 Some people have wondered, you know, Howard Cosell, and everybody loves Howard  
 1244 Cosell, right. I mean he was a character, but you know, NBC probably would have gotten  
 1245 rid of him earlier. You know, try to get rid of him. The reason they couldn't get rid of  
 1246 Howard Cosell, anybody know why? He wrote his own contract just like Parsons  
 1247 Brinckerhoff is writing their own contract. Thank you very much.  
 1248  
 1249 Audience Member: Just one quick comment.  
 1250  
 1251 Audience Member: Speaking to the speaker.  
 1252  
 1253 Audience Members: Can you please speak up?  
 1254  
 1255 Team Member: Just one quick comment. (*Inaudible*). Parsons Brinckerhoff  
 1256 is prohibited from bidding on the contract.  
 1257  
 1258 Audience Members: We can't hear you.  
 1259  
 1260 Moderator: He's saying that Parsons Brinckerhoff will not bid on this contract.  
 1261 They were part of the team. They cannot bid on it. They cannot profit from this. They  
 1262 cannot be part of the P3.  
 1263  
 1264 Audience Member: They already have already profited.  
 1265  
 1266 Audience Member: Really.  
 1267  
 1268 Audience Member: That's all I'm going to say.  
 1269  
 1270 Moderator: Alright, next sir.  
 1271  
 1272 Team Member: Not only can they not participate in the procurement, the  
 1273 bidding process, but the bidders are permitted from contacting anyone at Parsons  
 1274 Brinckerhoff, KPMG, and Atkins, there are a list of firms in the RFP, excuse me in the  
 1275 contract on the website.  
 1276  
 1277 Howard Peabody: I'm Howard Peabody. I live off of Langtree Road. I'm a  
 1278 lifelong resident of North Carolina.  
 1279  
 1280 Audience Member: Speak into the microphone, please.  
 1281

PH1

1282 Howard Peabody: Sorry. I'm a lifelong resident of North Carolina, except for  
 1283 1 year. I moved here when I was a year old and I've driven I-77 since 1980. I started up  
 1284 in Elkin, North Carolina commuting to the Charlotte airport. So, I'm very, very familiar  
 1285 with every inch of that road, trust me. I still commute. I've moved down to Langtree  
 1286 Road so that I could get a little bit closer to where I was working.

1287  
 1288 And there's been a lot of mention of politics here tonight and most of you may know this  
 1289 from North Carolina know what I'm getting ready to say. If you're not, then hopefully  
 1290 I'm going to give you a little enlightenment. These gentlemen from DOT unfortunately  
 1291 have to listen to all of us tonight. It's not their fault what they do. They work for the State  
 1292 of North Carolina. So, for the most part they are affected by politics in this state.

1293  
 1294 For years, this state since I say reconstruction, the roads and the roads been built contrary  
 1295 to where, you know, we build airports where airplanes land; but we don't necessarily  
 1296 build roads where the traffic is, because the formulas involved all been setup. I don't  
 1297 have all the details, but this state has controlled how roads were built by the local DOT  
 1298 representatives that we're politically connected to the administration since the beginning  
 1299 of time. So, if it's your turn to get a road in your district, you got a road. The money is  
 1300 allocated. Not all of it, but a portion of the money is allocated that way.

1301  
 1302 So, that's why I-77 has ended up being what it has been since 1980. It's basically the  
 1303 same road as you all know except for parts of it where there's been bulges made in it  
 1304 along the way. It just makes it worse. So, again it's not DOT's fault. DOT is trying to fix  
 1305 the problem. But I agree with several of the statements in here. Mr. Scott, I believe said  
 1306 it; I would suggest to cool it off, slow down, let this new program start that the Governor  
 1307 is enacting. Allegedly it's going to be better distribution of the funds.

1308  
 1309 To me road should be built where the gas tax is collected and where the cars are. You got  
 1310 roads in eastern North Carolina, four-lane roads, traffic count hardly nothing to nowhere.  
 1311 Go to western North Carolina, somewhere. Again, that's the political cronyism that's  
 1312 going on for all these years in North Carolina.

1313  
 1314 Now, the ironic thing as this gentleman mentioned, here we are now for the first time  
 1315 since reconstruction we have republic, forget your politics, I'm talking about from a road  
 1316 standpoint. We've got a Republican Administration. I've had communication with, not  
 1317 the Governor, but with most of the other people in the legislature, I could name all the  
 1318 names and you would know if I called them, but for whatever reason they're like hands  
 1319 off this. They don't even want to talk about it. To me, it's strange.

1320  
 1321 And the last thing that I've got to say is if it's such a great idea in *(inaudible) Tennessee*,  
 1322 I'd love to know number one, why did they pick I-77? Why don't we do it all over the  
 1323 state?

1324 Team Member: We're going too.

1326

PH1

1327 Moderator: Actually, we do have other projects that are in the Raleigh area that  
 1328 are in the study.

1329  
 1330 Howard Peabody: Well, thank you. I appreciate your time.

1331  
 1332 Audience Member: But my short story is it's a political problem. You're going  
 1333 to have to solve it at politics. That's the only way you're going to solve it, long term.

1334  
 1335 Moderator: Remember state your name and address.

1336  
 1337 Marylou Richardson: Okay, Marylou Richardson. I'm from Illinois. I think it's  
 1338 kind of curious that...

1339  
 1340 Audience Member: We're from Illinois.

1341  
 1342 Marylou Richardson: Oh, I think it's kind of curious because I did not know that  
 1343 Parsons Brinckerhoff was going to be here today, let alone David. But your question  
 1344 number one, it says do you feel like adding the HOT Lanes will help reduce congestion.  
 1345 Well, I listened to David, I believe, it was the second week in February when you were  
 1346 up here. And you said "this is not to reduce congestion, but it will give those who are  
 1347 willing to pay a congested free experience". And I have quoted that. I have it written  
 1348 down. And one of my little guy's friends has that on tape.

13-1

1350 Second of all, the on and off ramps, this is a lake community. We go from 23 at the  
 1351 hospital. We go up to Birkdale. We go up to the lake area. Where are we going to get on  
 1352 and off? Well, I don't think we are. So, therefore, we're going to be congesting US 21  
 1353 and NC 115. NC 115 goes through Davidson, one of the most historic beautiful towns of  
 1354 our state. I cannot believe that they're not up in arms.

1355  
 1356 And the other thing is don't forget if we were doing bonds, state bonds, this would 3% of  
 1357 the money. But these guys have to make 12%. And whether it's a HOV, a HOT, we are  
 1358 paying the taxes the people are going to end up paying for it. Thank you.

1359  
 1360 Moderator: Thank you ma'am; to answer your question about the access points  
 1361 in this northern area.

1362  
 1363 Marylou Richardson: Yeah.

1364  
 1365 Moderator: In this northern area, there will be access points between Catawba  
 1366 Avenue and Griffith Street and Brawley School Road between Exit 35 and 36.

1367  
 1368 Marylou Richardson: So, how do you get off at the hospital on 23<sup>rd</sup>?

1369  
 1370 Moderator: Those are the only 2 proposed access points right now.

1371



1372 Marylou Richardson: So, we can't get off and we're going to be relegated to...I  
1373 mean that's fine, but tell us HOT how you're going to give the people in our 13 miles  
1374 more of a free lane. We can't even use the HOT Lanes, but you're going to congest our  
1375 area.

1376 Moderator: There is a future project that is proposing general purpose lanes,  
1377 but its a few years out.

1378 Audience Member: How many years?

1380 Audience Member: If you're on 28, you can't even get on the HOT Lanes.

1381 Moderator: It'll be sometime after 2020. The access point is between 28 and  
1382 30.

1383 Audience Member: So, if I got to go downtown, I'm stuck in the general  
1384 purpose lane.

1385 Moderator: Well, they'll be another access point for the south.

1386 (Audience Members talking simultaneously)

1387 Moderator: Go ahead sir.

1388 William Rakatansky: Yes, hello. I'm...

1389 Moderator: Please respect, please.

1390 William Rakatansky: I thank you all for being here tonight. My name is William  
1391 Rakatansky. I live in Cornelius. I've lived in Cornelius for 26 years. I drive Interstate 77  
1392 every day to south Charlotte where my office is. I also in 1993 to 1995, I was the  
1393 Cornelius Town Commissioner. So, I understand how politics work on a local level.

14-1

1400 But I have 4 questions. The first question I have is because this is a 50 year contract, with  
1401 a private concessionaire, okay. What studies and projections for travel count and  
1402 congestion analysis for the contract time of 50 years has been done? Because I can  
1403 envision that as 10, 20, 30, or 40 years go down the road and as more people move to this  
1404 area, it will continue to congest; not only the general purpose lanes, but also the HOT  
1405 Lanes if they are built, okay. So, what studies have been done for the projection time of  
1406 those increments up to 50 years, okay?

14-2

1407 The second question I have is a little more political in a way. But one of the things that  
1408 you presented on the slide, which was kind of enlightening is that the adjacent or nearby  
1409 property owners can vote for or against the noise walls that you want to build. Well, I  
1410 guess that's all well and good, but you know why we knock the citizens who are being

14-2  
cont

1417 affected by this toll lane proposal not given the opportunity to also vote for or against the  
1418 toll lanes?

14-3

1419 The third question I have is because I drive Interstate 77 every day, I've memorized how  
1420 many lanes there are at different mile markers. At or around mile marker 19 thereabouts,  
1421 heading northbound on I-77, the high occupancy vehicle lane changes. It stops. It ends  
1422 and it continues on as a free general purpose lane. Will that free general purpose lane be  
1423 converted to a HOT Lane? If it will, my understanding is that violates federal law.

14-4

1424 And my fourth question is for economic interest of this entire north Mecklenburg, south  
1425 Iredell, and even the Charlotte region. There's more and more semi-truck traffic  
1426 traversing Interstate 77 every day. I see it. It's gotten so much worse. Right now, the  
1427 proposal, the RFP, states that the semi-trucks must stay in the general purpose lanes.  
1428 They are going to be prohibited from using the HOT Lanes. If that's the case, that first of  
1429 all says to me that congestion in the general purpose lanes will at some point in the future  
1430 be untenable.

1431 Secondly, if the trucks were in the general purpose lanes and they're side by side, they  
1432 can pose a safety hazard to regular motorists and vehicles and cars. And I guess thirdly, I  
1433 think DOT and the private operator may be missing out a huge opportunity to reap lots of  
1434 money, huge amounts of money by not prohibiting the trucks from using the HOT Lanes.  
1435 Think about it. They're heavy vehicles. They're long vehicles and as a result the trucks  
1436 could theoretically really boost the profitability of the concessionaire because they are  
1437 such large vehicles and the concessionaire can charge more. Those are my questions.

1438 Audience Member: And it gets them off the GP.

1439 William Rakatansky: Thank you, appreciate it.

1440 Moderator: We have time for one more. Please keep in mind that written  
1441 comments carry the same weight as verbal. So, please send in your comments. We are  
1442 having a public hearing tomorrow night in Charlotte. So, please come there if you have  
1443 further comments that you would like make.

1444 Clay Furches: My name is Clay Furches. I'm a resident of Davidson. I have a  
1445 prepared statement. Our state is about to embark on a \$550M project with a contract life  
1446 of 50 years. More consortiums and largely foreign companies receive permission for  
1447 (inaudible) this project.

1448 As consultants have stated, the expenditures will ensure a timely airport commute for  
1449 anyone willing to pay toll, which is yet to be determined and will be paid to a private  
1450 corporation. Those not paying a toll are destined to enjoy continue congestion on I-77.

15-1

1451 The HOT Lane Proposal does not address or improve local transportation needs. Many  
1452 trips on I-77 are from one local exit to another, such as Exit 30 to Exit 25. The HOT Lane  
1453 concept adds marginal benefits to the majority of those citizens and local businesses.

15-1 cont 1463 Alternative routes such as NC 115 or US 21 will remain seriously adequate. Moreover,  
1464 this proposal fails to address any future widening for I-77 beyond Exit 36.  
1465  
1466 We currently have widening interstates or projected to approve widening interstates in the  
1467 Charlotte area, south beyond Rock Hill, west to Kings Mountain, and east of Durham, but  
1468 north only as far as Exit 23. Money the state doesn't have to spend on I-77 seems to be  
1469 money that is available to resolve other road issues. With this quick resolution of adding  
1470 general purpose lanes on a 9.2-mile segment of Interstate 485, between I-77 and  
1471 *(inaudible)*, an interstate built less than 15 years ago.  
1472  
15-2 1473 I commend our government officials at local and state levels for seeking the council of  
1474 managed lanes experts, but I question the tendency of the state officials, both elected and  
1475 appointed, to largely ignore the will of the people who will receive virtually nothing for  
1476 \$550M and like I said to a 50 year contract. Thank you.  
1477  
1478 Moderator: Thank you sir for your comment. That will conclude tonight's  
1479 public hearing. We will be around to answer any questions that you would like. Again,  
1480 please come out tomorrow night. We will be down in Charlotte tomorrow night.  
1481  
1482 I want to thank you all for coming out. Have a good night.  
1483  
1484 Audience Member: Just a real quick one, it's like 30 seconds. It needs to be  
1485 answered, if I may sir.  
1486  
1487 Moderator: No, please send in your written comments. Because we have to  
1488 leave; they told us that we have to be done by 9:00.  
1489  
1490 Audience Member: We'll listen to you.  
1491  
9-4 1492 Audience Member: Just real fast. The Environmental Assessment is typically  
1493 for 20 years. According to the schedule here, the HOT Lanes are supposed to open the  
1494 traffic in 2017. The Environmental Assessment only goes out to 2017. What kind of  
1495 impact is there going to be to the Environmental Assessment if there's no project?  
1496 Shouldn't the Environmental Assessment go out 20 years? Thank you.  
1497  
1498 Moderator: Thank you. Good night.  
1499  
1500  
1501  
1502  
1503 Hearing Adjourned.  
1504  
1505 Jammie Robbins, Moderator  
1506 Public Involvement Unit  
1507 July 17, 2013  
1508

1509 Typed by Johnetta Perry

## Appendix B1 - July 17, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
1	1	Tim Scott	Project Funding	McCrory passed the Highway Funding Bill and I'd like to know why we can't go ahead and reallocate or reprioritize the P3 Process here for I-77 with the new criteria. I think that we should be able to use objective criteria instead of the political criteria that we used to push this one through and get it approved.	The Strategic Mobility Formula applies only to those projects scheduled for bid opening after July 2015. Projects awarded for construction before then will proceed as scheduled; projects slated after that time will be ranked and programmed according to the new formula.
1	2	Tim Scott	Alternatives Analysis	When you went through the plan you never really had a general purpose lane in the alternatives. There was no consideration at all for a general purpose lane. I kind of find that appalling and as stewards of our state, I think that you at least owe it to the citizens to at least consider and explore that as an opportunity. I think it's criminal that you failed to do so. Absolutely criminal and people should be held accountable for that.	<p>FHWA Memo <i>NEPA Analysis of Toll Roads</i> (10/15/04) states a Metropolitan Planning Organization (MPO) might identify toll revenues as a funding source for a highway in a transportation plan because all other public funds are committed for other projects and not available. In this circumstance, the need for a project can include a need for a particular revenue source, such as tolls, to pay for the project.</p> <p>The I-77 HOT lanes project is being developed to provide immediate travel time reliability within the study area. The purpose and need for the I-77 HOT lanes project is consistent with the financial objective identified in MUMPO's 2035 LRTP, which states to "Make investment decisions for transportation modes that make the most efficient use of limited public resources". This includes actively exploring new sources of revenue and to foster innovative financing and partnership opportunities for project development and implementation.</p> <p>To meet the stated purpose, managed lanes or HOT lanes were evaluated. An added benefit of managed lanes is long term travel time reliability within the study area leveraging currently available funding sources.</p> <p>The best value proposition is to leverage private partner funding to improve the entire corridor and to provide travel time reliability along the length of the entire corridor.</p> <p>Right-of-way constraints along the corridor would require the displacement of numerous homes and businesses for any further widening that would be required following the completion of a project with only general purpose lanes. An opportunity currently exists to construct a long term managed solution to provide long term travel time</p>

## Appendix B1 - July 17, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
					reliability along the corridor. The construction of only general purposes lanes would negate any such opportunity for long term travel time reliability.
1	3	Tim Scott	Cost of Tolls	<p>One of the things that I've been trying to ask is how much is it going to cost per mile to drive on this road.</p> <p>You know what it's going to cost. You know traffic studies. And no one can tell me what it's going to cost per mile during heavy congestion or light congestion. I think part of the problem is there's no limit to the amount that we can charge a potential driver on this lane.</p>	<p>The price of the I-77 HOT lanes at a specific location and point in time will be determined by consumer demand, rates of speed and overall congestion levels. The rates will be higher during morning and afternoon rush hours and lower at times when demand is not as high. Drivers will see the posted toll rates and can decide to move into a HOT lane or remain in the toll-free lane. Once a driver enters the HOT lane, the price of that driver's trip is fixed and will not change during the duration of that trip.</p> <p>Revenue received above this set return is to be shared with NCDOT on an increasing scale. The more revenue the developer earns, the larger the share of that revenue goes to the state. That mitigates the possibility of exorbitant profits for the partner.</p> <p>The successful bidder's ability to maximize earnings is limited by consumer supply and demand since users have choice. Therefore, because the bidders have substantial revenue risk, it is in their best interest to maintain customer focus and competitively price the service.</p> <p>Current law requires that the developer hold a public hearing on the toll rates, including an explanation of the tolling setting methodology, prior to setting toll rates on the HOT lanes.</p>
2	1	Karl Schwalb	P3	<p>If the road does not cover that, what other provisions in the contract that do not hold the citizens of North Carolina liable for increased costs, penalties, etc.? It should be at least a win/lose proposition for the P3 Partner. The way I understand the contract written now, they can't lose. The only thing the State of North Carolina is doing under the current contract is getting \$340M of which we will pay either nothing or we could pay in far excess of that \$340M should the usage be less than what's anticipated. And I think a lot of people here are anticipating that this is not going to be a financially viable</p>	<p>The NCDOT made a critical decision early in the development of this P3 project. P3 arrangements can be constructed as availability payment deals or revenue risk deals. Availability payment deals shift the risk of traffic revenue to the owner whereas revenue risk deals shift that significant risk to the developer. This project is a revenue risk deal, and therefore the risk of obtaining the revenue necessary to repay debt and investors for the construction, maintenance and operation of the facility is on the developer. The public subsidy available for initial construction is capped at \$170 Million, although the actual</p>

## Appendix B1 - July 17, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
				operation.	<p>subsidy required is anticipated to be driven downward due to competitive tension in the bidding process. The remainder of the funds will be secured by the developer through a combination of private equity and debt to which it is responsible for repayment.</p> <p>It is anticipated that the private equity contributed by the developer will be approximately one-third of the total construction cost. The private equity investors will not have any recourse against NCDOT in the event of insufficient revenue or developer default.</p> <p>As is customary in P3 deals with regard to the developer obtaining investment grade ratings for the project and securing necessary financing, lenders typically require limited recourse against the DOT in the event of developer default. Under very specific circumstances where the developer is responsible for default, the developer would only be entitled to 80% of the senior debt amount outstanding. The developer would not be receiving any return of its equity in this event. In the extreme event that revenue is grossly insufficient so as to result in developer default; NCDOT would benefit from the delivery of the project for a fraction of the cost of construction and would assume control of the asset.</p> <p>Prior to a developer default, if the project is consistently underperforming, the lender may be entitled to a limited and contingent subsidy from the DOT during the initial "ramp-up" years of the project based on only the revenue shortfall which is insufficient to cover the debt service payments in those years. This limited subsidy may not be required by the lenders depending on the cost of construction and the projected revenues in the successful bidder's proposal.</p> <p>Further, the P3 agreement provides remedies to NCDOT if the developer fails to timely complete its work or meet its contractual obligations. For example, the developer will be assessed liquidated damages if it fails to achieve final acceptance by a certain deadline. Also, unauthorized road and lane closures and failure to comply with critical</p>

## Appendix B1 - July 17, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
					operations and maintenance requirements will lead to the assessment of liquidated damages against the developer.
2	2	Karl Schwalb	Traffic Operations	What is the access/egress from the HOV Lane? In other words, it is going to be a Jersey barrier lane where we all can only get on at certain points and off at certain points? Or can you get on and then get off at any time and any place?	<p>A 4-foot buffer will separate HOT lanes from the general purpose lanes. Other flexible delineators may be used and will be determined during final design. Specific ingress and egress points will be designed so as to ensure safety of the travelling public and located so as to ensure that the ingress and egress to and from the HOT lanes do not adversely affect the operation of the general purpose lanes.</p> <p>Access locations and operations were considered and included in the <i>Traffic Operations Technical Memorandum</i> and summarized in <b>Section 3.4</b> of the <i>Environmental Assessment</i>. In addition, the P3 arrangement requires that the developer demonstrate that the addition of the HOT lanes and associated ingress and egress points does not adversely affect the general purpose lanes or ramps and loops thereto. Proper placement of the ingress and egress locations will be important to meet the contract requirements.</p> <p>Access locations identified in the <i>Environmental Assessment</i> are shown for illustrative purposes and the minimum requirements for ingress and egress locations are detailed in the draft comprehensive agreement.</p> <p>Access locations into and out of the HOT lanes will be at designated areas along I-77 determined during final design and subject to minimum numbers and locations in the comprehensive agreement.</p>
2	3	Karl Schwalb	P3	Should the company who is the partner in building it not be able to sustain the revenue necessary to make a profit, what are the citizens of North Carolina's liability? A level liability, in other words, they put in \$340M or "x" amount the citizens have to pay back "x" amount or is it going to be surcharges, penalties, additional fees that will go beyond that?	See response to Speaker #2, Comment #1.

## Appendix B1 - July 17, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
3	1	Doug King	P3	I understand that I believe there are four bidders or four prequalified bidders; I'm not sure the terminology. What happens if only one of those bidders ends up presenting a qualified bid? What happens? Do they automatically get it?	As of October 2013 there are four shortlisted bidders working to submit a bid for the project.  In the unlikely event that only one bidder proposes on the project, NCDOT will compare this bid to what is referred to as the Engineer's Estimate as is customary with all NCDOT projects. The sole bid will need to fall within a reasonable range of the Engineer's Estimate to ensure that NCDOT is receiving a fair bid. The Federal Highway Administration would also need to concur in this determination.  NCDOT will complete a detailed project cost estimate review with the Federal Highway Administration. NCDOT has no obligation to award to a sole bidder.
3	2	Doug King	Toll Collection	So, how does a user of the HOT Lanes know when they get a bill that it's accurate? There is no paper trail audit. Well, my question is how do you know that you're being charged correctly? What facilities are there to make sure that the vendor who operates this is charging fairly? Are there audits so forth?	The concession agreement outlines the toll collection process, including billing. The North Carolina Turnpike Authority (a part of NCDOT) will send all bills and collect the amounts owed. Both the private concessionaire and the Authority are responsible for making sure that the bill is accurate. A HOT lanes user cannot be billed for the toll if it is not validated through agreed upon procedures.  Tolling policies established for the Triangle Expressway toll road in Raleigh, as well as other future toll roads in the state, will be followed for this project as well.  Numerous audit activities are available to the NCDOT and FHWA over the course of the contract.  N.C.G.S. 136-18(39a) (NC Session Law 2013-183), requires that the developer hold a public hearing on the toll rates, including an explanation of the tolling setting methodology, prior to setting toll rates on the HOT lanes.
3	3	Doug King	Other HOT Facilities	And then finally, I understand there are very few completed HOT Projects in the United States, maybe if any. Exact, I would like to know how many exactly have been done in the United States, this type of project with a Public-Private Partnership. How many in the United States? And then what about other countries maybe where this idea originated, what is the history there?	An answer of 18 projects in the US was given at the meeting.  The NCDOT is aware of 1 out of these 18 projects that used a P3 to complete construction. That project opened in November 2012.  The NCDOT is not aware of how many HOT lanes projects in the world have utilized a P3 funding mechanism.

## Appendix B1 - July 17, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
4	1	Pattie Marshall	Project Funding	<p>So, my understanding is that the Strategic Mobility Formula has been approved by McCrory. I'm not sure exactly...it's going to be put in place. So, this is a 10-year transportation plan, the Strategic Mobility Formula. So, I'm asking will you put the widening of I-77 to this formula. I'd like to hear your comments on why you will or you will not allow this project to be put to this mobility formula.</p> <p>If not, why not? And if you did, where do you think it would rank? Or let's find out and see where we rank. That's my question. I don't know if that could be answered tonight, but I would kind of like an answer.</p>	See response to Speaker #1, Comment #1.
5	1	Mark Neroni	Project Cost	<p>What is the difference in cost of a HOT Lane Project versus just dropping 2 more general purpose lanes; basically the same thing without the HOT Lane piece in there, without all of the flyovers, without all that. What is that cost differential? How much are we paying just so we can have a Private Partner involved in it to have a funding mechanism that's unique?</p>	<p>Costs associated with the construction of HOT lanes are approximately 10% higher than if general purpose lanes were to be constructed. Additional impacts associated the construction of HOT lanes versus general purpose are minimal. A majority of the costs associated with this project will be the responsibility of the selected concessionaire. Tolls collected from HOT lanes help fund the costs of building and maintaining the road. The use of this P3 arrangement will allow NCDOT to transfer substantial risks to the private sector in the areas of design, construction, operations, maintenance, tolling and revenue, while gaining additional roadway capacity rapidly. HOT lanes will provide a long-term reliable trip time within the corridor with contractually mandated performance guarantees. These guarantees are not afforded by general purpose lanes.</p>
5	2	Mark Neroni	Traffic Operations	<p>Okay, my next question is really the impact on general purpose lanes, because I think as DOT experts I think everybody is aware that whenever you have people merging into a lane causes that lane to slow down. Right now, we currently have merging from just the right side and with the new HOT Lanes we're going to have people merging in not only from the right side but now from the left side.</p> <p>So, the general purpose lanes are now going to get more</p>	<p>A traffic operational analysis was completed for this project which considered impacts of vehicles weaving between the HOT lanes and interchange ramps. The <i>Traffic Operations Technical Memorandum, July 2013</i> identified that the overall traffic speeds in the general purpose lanes would not be reduced as result of the traffic weaving between the HOT lanes and interchanges.</p> <p>During final design, the developer is responsible for producing a similar analysis along the entire corridor to</p>



## Appendix B1 - July 17, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
				clogged. So, how does your approach, how does these designs address the general purpose lanes and their congestion?	demonstrate to the Department that the final design likewise does not adversely affect the operation of the general purpose lanes.
5	3	Mark Neroni	Right of Way	One of the parts of the cost that the people in the great State of North Carolina are contributing, we're contributing that precious right-of-way to this project and we're tying it to a Public-Private Partnership in what we donate; then we get the people that can afford to pay the \$2,500 a year, getting to use those lanes, getting to use that right-of-way. To me, that just doesn't seem right.	Minimal additional right of way will be required for this project. This additional right of way will be owned by NCDOT. The right-of-way will not be donated to the NCDOT but instead will be purchased and funded as part of the initial public subsidy.
6	1	Mark Gibbons	P3	One of my questions is it was mentioned here that there's been face-to-face meetings with the possible companies that could get the contract and I assume in good business practices back and forth that has guided what the RFP might look like or does look like. But my question is was there an independent review done of the RFP and by who or entity or company did that?	<p>It is correct that numerous interactions have occurred with the bidders. Specifically, to date, ten one-on-one meetings or calls have been held with each bidder. Those interactions with the potential bidders are very important. Often, the feedback from bidders is to clarify scope, introduce innovations to bring down cost and clarify language to avoid unintended cost. Therefore, a lot of contractual clarifications occur during that interaction.</p> <p>Working on this RFP is a team of technical experts from Parsons Brinckerhoff, financial/commercial experts from KPMG, the NC Attorney General's Office as well as outside legal counsel from Nossaman, who specializes in these deals. NCDOT has also engaged about 15 different business units with approximately 50 to 70 people at NCDOT looking at various parts of this RFP.</p> <p>NCDOT has not hired an outside party to conduct an independent review. It is NCDOT's opinion that the team working on this RFP, in coordination with the Federal Highway Administration has ensured a system of checks and balances has been followed.</p> <p>Moreover, prospective lenders, including the USDOT TIFIA office, and rating agencies have and will continue to scrutinize the language contained in the bid documents.</p>
6	2	Mark Gibbons	P3	What concerns me is that we are a very low population density area, urban area compared to a lot of other places that these other 18 HOT Lane Projects are.	The private sector will not invest in projects where they do not have the potential to earn a reasonable return for the risk taken. However, the ability to maximize earnings is limited by consumer supply and demand since users have

## Appendix B1 - July 17, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
				<p>If I've read correctly, I'm not an expert on this, but I've done a lot of research on it in the last few months. If I'm not mistaken, we need to take in about \$20M+ a year in revenue from this project to be feasible, viable. And one project I know off the top of my head that's roughly the same size population as we are is Salt Lake City. They're only bringing in about \$600K a year of revenue off of their HOT Lane Project.</p> <p>I don't know if we're comparing apples and oranges but it kind of scares me that that amount of money has to be generated and it could fall on the backs of taxpayers not only here, but in all of North Carolina.</p>	<p>choice. Therefore, because the developer has substantial revenue risk, it is in their best interest to maintain customer focus and competitively price the service.</p> <p>See response to Speaker #2, Comment #1 regarding the state's liability in the event that the private developer defaults on the project.</p>
6	3	Mark Gibbons	Existing Use of I-77	<p>We count every time we come from Charlotte up or here down and the numbers many times are between 3 to 5 cars we'll see in the HOV Lanes between Charlotte and Huntersville where I live.</p> <p>We see the bus once in a while go by with very few people on it. And now the number that you can get into that lane to drive free goes up by one person. We're an independent people in states like North Carolina.</p>	Comment noted.
6	4	Mark Gibbons	Project Funding	<p>But every morning the traffic stays between Exit 30 and Exit 19. And when you get pass Exit 19 going south, it's a drag race to Charlotte; 70 to 75 miles per hour, no problem.</p> <p>In the afternoon, you come out of Charlotte, 70 to 75 miles per hour. And when you come around that long, sloping curve and see the new Exit 19 and that's when you start to see taillights. Between Exit 30 and Exit 19 with one general purpose lane on each side would fix the problem</p>	<p>See response to Speaker #1, Comment #2.</p> <p>HOT lanes will provide a long-term reliable trip time within the corridor with contractually mandated performance guarantees. These guarantees are not afforded by general purpose lanes.</p>
7	1	Kerry Miller	Other HOT Projects	Out of 18 projects, how many are profitable?	By the governance of those 18 operational projects, 17 are collecting revenue above operations and maintenance. The other is right about at that line, depending on which month you're looking at it. It's either above or below. Of those 18 projects, only one is Public-Private Partnership. And that just opened in November.

## Appendix B1 - July 17, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
8	1	Ron Berst	Project Funding	I read in the Charlotte paper where it's stated that if this project did not go through that it might be 20 or 25 years for funding of traditional road construction. Is that correct?	Traditional funding sources are not adequate to meet all the transportation needs in the region.
8	2	Ron Berst	Project Prioritization	Okay, my question is this, how or where can I find the list of the projects that are going to be ahead of this project? The 20 years of construction that are more important than this project, how can I find that list?  It's just hard for me to believe that there is 20 years' worth of projects that are going to be more important and more vital than this one right here. That's really hard to believe.	The current project prioritization for the Charlotte region can be found in the Mecklenburg Union Metropolitan Planning Organization's (MUMPO) 2035 Long Range Transportation Plan (LRTP) <a href="http://mumpo.org/2035-long-range-transportation-plan">http://mumpo.org/2035-long-range-transportation-plan</a> . MUMPO is currently updating their project rankings as part of their 2040 Metropolitan Transportation Plan.
9	1	Kurt Naas	Bridge Replacement	The second point is I feel compelled to address this notion that if we build the general purpose lane solution it's only going to be \$50M less than if we build the HOT Lane solution. The problem with the HOT Lane solution is that it requires the replacement or construction of 9 bridges. Five of those bridges are currently existing; none of those bridges are on NCDOT's structurally deficient list or functionally deficient list. So, we're going to spend tens of millions of dollars replacing structurally sound bridges.	Excluding the Griffith Street bridge, the remaining existing structures are being replaced because of inadequate horizontal and/or vertical clearances.
9	2	Kurt Naas	General Purpose Lanes	Further, we're going to add several other million dollars adding lanes where they're already lanes in Charlotte. If you look at the 2009 Parsons Brinckerhoff study, they said if you just add general purpose lanes basically from Huntersville up to (Inaudible) the cost of that would be \$75M. Am I correct? That study is a little bit dated, but it seems to me that if you build the general purpose lanes where you need them, we're talking about 1/5 of the cost that we are for the HOT Lane solution.	A standalone project to add General Purpose lanes has not been identified and thus a detailed cost estimate has not been prepared.  See response to Speaker #1, Comment #2.  The best value proposition is to provide is to leverage private partner funding to improve the entire corridor and to provide travel time reliability along the length of the entire corridor.  Right-of-way constraints along the corridor would require the displacement of numerous homes and businesses for any further widening that would be required following the completion of a project with only general purpose lanes. An opportunity currently exists to construct a long term managed solution to provide long term travel time reliability along the corridor. The construction of only

## Appendix B1 - July 17, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
					general purpose lanes would negate any such opportunity for long term travel time reliability. The I-77 Feasibility Study, <i>Technical Memorandum (February 2010)</i> referenced as “2009 Parsons Brinckerhoff study” has differing assumptions and scope of work than the current I-77HOT P3 project. Some examples of major scope/assumption differences include noise wall and structure widening/replacement considerations.
9	3	Kurt Naas	P3	So, I guess I’m getting to the point where I have to ask who is really looking out for the taxpayer in this particular agreement. And my question is can we have an independent, somebody who does not have an vested interest, and I count the NCDOT as having a vested interest and I certainly count the PBs. and the KPMGs, and the law firms having a vested interest. Can we have an independent, objective, and critical review of this contract before we sign ourselves up to 50 years and \$550M?	See response to Speaker #6, Comment #1.
10	1	Vallee Bubak	General Purpose Lanes	So, what we asked for, the original plan that we saw from Bill Cox from the Huntersville Transportation Commission was it was going to be \$75M to widen I-77 where it was the most congested. That’s a simple plan. Well, you showed us a very, very complex plan that can take years and years to build. My concern is if we just merely widen the road where we need it that would be a much simpler project.	See response to Speaker #9, Comment #2.
10	2	Vallee Bubak	Emergency Response Coordination	I want to know if we are even in compliance with McGuire Nuclear Plant. And if we have this massive project and we’ve got people trying to evacuate because of an emergency or terrorist attack, they will not be able to get out.	Your concerns regarding evacuation during construction of the project would apply regardless of the type of facility that is built. Construction activities for HOT and general purpose lanes are identical.  In the event of a problem at Duke Energy’s McGuire Power Station, Duke Energy would immediately notify federal, state and local authorities of a problem at the station. These officials would then notify the public if any action is necessary. Duke Energy's website outlines the procedures to be taken in the event of an emergency. These procedures vary depending on your proximity to the facility and can be found at:

## Appendix B1 - July 17, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
					<a href="http://www.duke-energy.com/nuclear-emergency-preparedness/mcguire.asp">http://www.duke-energy.com/nuclear-emergency-preparedness/mcguire.asp</a> . Duke Energy will coordinate with NCDOT in the event of a need for evacuations. The comprehensive agreement for the project allows the NCDOT to suspend tolling in the case of such an emergency, thereby providing for additional lanes to be used for the purposes of evacuation.
10	3	Vallee Bubak	Request for cost of Study.	How much have you all made off of this? I mean, it is an incredible presentation, but I mean we've got to have paid you millions of dollars for all of this and all these studies over the years; money that could have been going to just building general purpose lanes to begin with. And I just want to know. Can NCDOT answer me that? Will that be revealed to us how much you pay KPMG, Nossaman, Parsons Brinckerhoff, and Atkins for their Environmental Impact Study?	Yes, NCDOT is required to disclose payments made to financial and legal advisors prior to entering into a contract with the successful bidder. The costs for developing the NEPA documentation for the project are largely consistent with those for a general purpose lane solution.
11	1	Chuck Suter	Opinion Statement	I actually really don't have any questions. I just really have a statement. Public-Private-Partnerships are the beginning of fascism.	Comment noted.
12	1	Howard Peabody	Project Funding	I would suggest to cool it off, slow down, let this new program start that the Governor is enacting. Allegedly it's going to be better distribution of the funds.	See response to Speaker #1, Comment #1.
13	1	Marylou Richardson	Impact on Other Roads	The on and off ramps, this is a lake community. We go from 23 at the hospital. We go up to Birkdale. We go up to the lake area. Where are we going to get on and off? Well, I don't think we are. So, therefore, we're going to be congesting US 21 and NC 115. NC 115 goes through Davidson, one of the most historic beautiful towns of our state. I cannot believe that they're not up in arms.	The proposed project is not anticipated to affect parallel or connecting facilities. Local trips in the general purpose lanes may benefit from reduced congestion as regional travelers move into the HOT lanes. To increase the availability of segments of the project to the communities in the northern and central sections of the project, a minimum of two additional ingress and/or egress points will be required beyond the number shown at the public hearings.
14	1	William Rakatansky	Design Year	The first question I have is because this is a 50 year contract, with a private concessionaire, okay. What studies and projections for travel count and congestion	There are no current studies which investigate 50 years into the future. The Mecklenburg Union Metropolitan Planning Organization's (MUMPO) 2035 Long Range Transportation

## Appendix B1 - July 17, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
				analysis for the contract time of 50 years has been done? Because I can envision that as 10, 20, 30, or 40 years go down the road and as more people move to this area, it will continue to congest; not only the general purpose lanes, but also the HOT Lanes if they are built, okay. So, what studies have been done for the projection time of those increments up to 50 years, okay?	Plan (LRTP) <a href="http://mumpo.org/2035-long-range-transportation-plan">http://mumpo.org/2035-long-range-transportation-plan</a> identifies future transportation needs through 2035 and will continue to monitor these transportation needs into the future.
14	2	William Rakatansky	Planning Process / Public Involvement	The second question I have is a little more political in a way. But one of the things that you presented on the slide, which was kind of enlightening is that the adjacent or nearby property owners can vote for or against the noise walls that you want to build. Well, I guess that's all well and good, but you know why weren't we the citizens who are being affected by this toll lane proposal not given the opportunity to also vote for or against the toll lanes?	Transportation project decisions are made by the local Metropolitan Planning Organization comprised of locally elected officials.  Public involvement activities for this project are documented in Section 6.2 of the <i>Environmental Assessment</i> .
14	3	William Rakatansky	Clarification of Proposed Project	At or around mile marker 19 thereabouts, heading northbound on I-77, the high occupancy vehicle lane changes. It stops. It ends and it continues on as a free general purpose lane. Will that free general purpose lane be converted to a HOT Lane? If it will, my understanding is that violates federal law.	Although, the current location of existing general purpose lanes may need to shift in some locations along the corridor, the proposed project does not remove any existing general purpose lanes or convert any existing general purpose lanes to HOT lanes.
14	4	William Rakatansky	Truck Only Lanes	Right now, the proposal, the RFP, states that the semi-trucks must stay in the general purpose lanes. They are going to be prohibited from using the HOT Lanes. If that's the case, that first of all says to me that congestion in the general purpose lanes will at some point in the future be untenable.  Secondly, if the trucks were in the general purpose lanes and they're side by side, they can pose a safety hazard to regular motorists and vehicles and cars. And I guess thirdly, I think DOT and the private operator may be missing out a huge opportunity to reap lots of money, huge amounts of money by prohibiting the trucks from using the HOT Lanes. Think about it. They're heavy vehicles. They're long vehicles and as a result the trucks could theoretically really boost the profitability of the concessionaire because they are such large vehicles and	Restricting trucks from the HOT lanes promotes a more orderly mix of traffic and thereby improves throughput, increases sight distance in leftmost lanes, generally improves safety, and still permits the orderly movement of trucks.  Title 23 U.S.C 166(4) provides State agencies the ability to toll vehicles for access to HOV lanes provided that the agency:  (A) establishes a program that addresses how motorists can enroll and participate in the toll program; (B) develops, manages, and maintains a system that will automatically collect the toll; and (C) establishes policies and procedures to— (i) manage the demand to use the facility by varying the toll amount that is charged; and (ii) enforce violations of use of the facility.

## Appendix B1 - July 17, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
				the concessionaire can charge more.	Further, N.C.G.S. 136-89.199 (NC Session Law 2013-183) allows NCDOT to specify the high occupancy requirements or other conditions for use of the HOT lanes, which may include restricting vehicle types from using the HOT lanes.
15	1	Clay Furches	Impact on Other Roads	The HOT Lane Proposal does not address or improve local transportation needs. Many trips on I-77 are from one local exit to another, such as Exit 30 to Exit 25. The HOT Lane concept adds marginal benefits to the majority of those citizens and local businesses. Alternative routes such as NC 115 or US 21 will remain seriously inadequate. Moreover, this proposal fails to address any future widening for I-77 beyond Exit 36.	The I-77 HOT lanes project is being developed to provide immediate travel time reliability within the study area. Future widening of I-77 north of Exit 36 to I-40 is included in the STIP as project numbers I-4750B and I-4750C with unfunded construction beyond 2023. Furthermore, TIP Project I-4750AB contemplates one additional lane in each direction between Exits 28 and 36.
15	2	Clay Furches	Public Involvement	I commend our government officials at local and state levels for seeking the council of managed lanes experts, but I question the tendency of the state officials, both elected and appointed, to largely ignore the will of the people who will receive virtually nothing for \$550M and like I said to a 50 year contract.	Comment noted.
9	4	Kurt Naas	Design Year	The Environmental Assessment is typically for 20 years. According to the schedule here, the HOT Lanes are supposed to open the traffic in 2017. The Environmental Assessment only goes out to 2017. What kind of impact is there going to be to the Environmental Assessment if there's no project? Shouldn't the Environmental Assessment go out 20 years?	Per FHWA <i>Interim Guidance on the Application of Travel and Land Use Forecasting in NEPA</i> (March 2010) a project may not have to rely on future performance to meet purpose and need, and its "design year" may be shorter to manage current congestion. In addition to the Purpose and Need, the traffic operational analysis utilized a 2017 design year to address the immediate project purpose of providing reliable travel time reliability. The 2017 Design Year only applies to the project's Purpose and Need and traffic operational analysis. Other environmental analyses such as indirect and cumulative effects and air quality consider impacts through 2035.

## **Appendix B2**

### **July 18<sup>th</sup>, 2013 Public Hearing Transcripts**

<b>Speaker Number</b>	<b>Comment Found On Page</b>	<b>Response Found On Page</b>
1	B2-5	B2-14
2	B2-6	B2-14
3	B2-6, B2-13	B2-14, B2-21
4	B2-6	B2-14
5	B2-7	B2-15
6	B2-7	B2-16
7	B2-10	B2-17
8	B2-10	B2-19
9	B2-12	B2-19
10	B2-13	B2-21
11	B2-13	B2-21





1 **OFFICIAL PUBLIC HEARING TRANSCRIPT**

2 **I-77 High Occupancy/Toll (HOT) Lanes**  
 3 **From I-277 (Brookshire Freeway – Exit 11) to NC 150 (Exit 36)**

4 **STIP Project NOs. I-3311C, I-5405, & I-4750AA**  
 5 **WBS Number 34181.1.1, 45454.1.1, & 40099.1.1**

6 **Thursday, July 18, 2013**

7  
 8  
 9  
 10  
 11  
 12 Alright, good afternoon ladies and gentlemen, I would like to welcome you all to the  
 13 North Carolina Department of Transportation's Public Hearing on the proposed I-77  
 14 High Occupancy Toll Lanes Project or HOT Lanes Project, which runs from I-277,  
 15 Brookshire Freeway, in Mecklenburg County to NC150 in Iredell County.

16  
 17 My name is Jammie Robbins. I am a Public Involvement Officer with the Department of  
 18 Transportation and I will be your moderator for tonight's public hearing. But before we  
 19 go any further, I want to take the time to cover the housekeeping and ground rules. As far  
 20 as housekeeping goes, we are recording this hearing. This is a formal proceeding. If you  
 21 have your cell phones on, if you would turn those to silent as not to interrupt these  
 22 proceedings. And also, the restrooms are just outside this door.

23  
 24 As far ground rules go, I only have one rule and that is the "golden rule". And that is to  
 25 treat others as you would like to be treated. I say that because in a public forum, a lot of  
 26 times people have different opinions. So, when we get to the public comment period. I  
 27 ask you, if someone is saying something that you don't agree with, I ask that you not  
 28 heckle them from the crowd, but afford them the same respect that you would like if you  
 29 got up to speak. If we follow that rule, we are going to have a nice, orderly, and civil  
 30 meeting.

31  
 32 I would like to introduce other staff here tonight. All which play a role in development of  
 33 this project. From our Local Division, we have our Division Engineer Mr. Louis  
 34 Mitchell. We have our Deputy Division Engineer, Mr. Scott Cole. We have our Public  
 35 Information Officer, Mrs. Jen Thompson. From our Project Developer Environmental  
 36 Analysis Branch, we have Mr. Eric Midkiff and Teresa Ellerby. They both oversee the  
 37 Environmental Document that was prepared.

38  
 39 From our Traffic Noise and Air Group, we have Mr. Greg Smith, Teak Kevn Kim, and  
 40 Mr. Aaron Heustess. From our Division Right-of-Way Office, we have Mr. Kenny Hill.  
 41 And from Transportation Management Program Unit, Mr. Roger Rochelle is here. And  
 42 we have Mrs. Christy Huff too.

43  
 44 Okay, let's go ahead and get started. And also do we have any local officials here that  
 45 would like to be recognized? I think, is Representative Alexander here?  
 46

47 Representative Alexander: Right here. *(Moderator continues)*

48  
 49 And Mrs. McAulay, Mrs. Sarah McAulay, good to have you today. Alright, let's start  
 50 with the ***purpose of tonight's hearing***. Simply, tonight's hearing is to make you, the  
 51 public, a part of the project development process. Specifically, tonight, we want to get  
 52 your input on the location and the design of the project.

53  
 54 Now, environmental studies were completed on this project and cataloged in the  
 55 Environmental Document, known as the Environmental Assessment or EA as we refer to  
 56 it. And a copy of that EA along with the maps that you've seen here tonight have been  
 57 available at the local office in Charlotte and in the Town of Huntersville. And the maps  
 58 and the documents are also online at the NCDOT Public Meetings Webpage. And we just  
 59 went live today with the I-77 HOT Lanes Webpage. Developments will continue to be  
 60 updated with information regarding this project.

61  
 62 Again, this is a public hearing. We've come out to hear what you have to say. The  
 63 public's involvement is critical to the success of any of our projects. ***Public participation***  
 64 is an important aspect of the project development process. So, we need to hear from you.  
 65 You need to make your voices heard. And being here is not just enough by sitting down  
 66 with us. Again, you can make your voices heard by having them recorded tonight in the  
 67 formal comment section or by submitting written comments.

68  
 69 And you can submit written comments via email, via mail, on your own stationary. But  
 70 we also have provided you a ***comment sheet*** in the handout. Does everyone have a  
 71 handout? If you do, the very last page of the handout is a comment sheet. So, I really  
 72 encourage you to fill this comment sheet out. You can leave it with us tonight or you can  
 73 mail it in to myself or Mr. Carl Gibilaro. He's with Atkins, who is the consultant firm  
 74 who help assisted us with preparing the environmental document as well as the hearing  
 75 maps that you see here tonight. And we are taking comments through August 1<sup>st</sup>. So, you  
 76 know, you don't have to feel rushed to leave your comment here tonight. You have 15  
 77 days to get those comments into us.

78  
 79 So, what do we do with those comments? Shortly after the comment period has ended,  
 80 we will hold an internal meeting that is known as a post-hearing meeting, where we will  
 81 discuss all of the comments that has been received through that comment period. And  
 82 staff from various branches from NCDOT will convene to discuss each and every  
 83 comment.

84  
 85 Now to be clear, the Department cannot just take public comment into consideration in  
 86 making these decisions. We have to balance that against good sound engineering criteria.  
 87 We have to look at cost, traffic service, safety, impacts to the natural and human  
 88 environment; to ensure that we do the best balancing act we can to ensure the best  
 89 product on the ground for the traveling public.

90  
 91 Now, minutes of this meeting will be prepared and made available to the public. So, if  
 92 you desire a copy let me know. If you send in a comment, just put it somewhere on your

comment that you desire a copy of the post-hearing meeting minutes. And also let me know how you would like to receive them. We can email them to me or we can mail them to me. I just kind of touched on the public comment period. Again, we will incorporate comments into the final design plans of the project, where feasible.

And again following this post-hearing meeting, all of the work that is going since the finishing of the Environmental Assessment, all of the work that is going on into the public hearings and what we hear back from you will all be catalogued in the next Environmental Document or the Final Environmental Document known as the FONSI; Finding of No Significant Impact. We expect to have that signed in August, 2013.

The **current schedule** is for construction to begin in the fall of 2014, with expectations of opening it to traffic in late 2017. Now, this is a Federal-Aid Project and will be constructed under the State-Federal Aid Highway Program and financing for this project will include multiple sources. North Carolina is growing very rapidly and the growth is putting a strain on our existing infrastructure. The growth is really outpacing our traditional funding sources.

So, we as a department have to look at new and innovative ways to augment that traditional funding to provide the improvements that are needed. So, one of those ways is through a Public-Private Partnership, P3 and that is what we are proposing on this project. Under that process, the Department of Transportation and federal government will pay up to \$170M of the cost. That is a maximum we will not allow any more for that. The P3 Team that is selected will be responsible for the remaining 2/3 cost of the project. And the P3 Team will be responsible for the final design of the project, the construction of the project, and they will also operate the HOT Lanes.

Now, let's talk about the "why" of the project. Why are we doing this? In transportation terms, that is called the **purpose and need** of the project. The purpose of the project is to provide immediate travel time reliability along I-77 from Uptown Charlotte to the Lake Norman area.

Now, I-77 is a critical north-south route. It connects the Charlotte region to Columbia, South Carolina to the south, Virginia, West Virginia, and Ohio to the north. And this segment of I-77 is experiencing significant congestion and delays. And again, the predicted growth out here will only continue to exacerbate that problem.

Again, we are proposing to improve 26 miles of I-77 from I-277, the Brookshire Freeway to NC 150 by introducing HOT Lanes. And this project is actually comprised of 3 Transportation Improvement Program Projects, as I-3311C, I-5405, and I-4750AA. Now, just to let you know the breakup, I don't know if you can see that on the screen, but basically I-3311C runs from I-277 to I-85. I-5405 runs from I-85 up to Exit 28 or Catawba Avenue and I-4750AA is from Catawba Avenue up to the end of the project.

What are HOT Lanes? HOT Lanes are HOV Lanes or High Occupancy Vehicle Lanes that allow vehicles that do not meet the occupancy requirements to use the lanes by

paying a toll. Now, the toll that they could pay varies based on congestion, time of day, and traffic flow. Under this project, no general purpose lanes will be removed. And also, it will be important to note that the buses, motorcycles, or any other transit service, and vehicles with 3 or more people can use those lanes for free.

Now, under the project development process, there are several alternatives that we looked at to meet that purpose and need. We looked at the No-build Alternative, or the Do Nothing Alternative. Then we looked at 3 Build Alternatives. And the differences between the 3 Build Alternatives are basically the number of HOT Lanes that are provided along I-77. And the differences between the alternatives are only between I-85 and I-277, north of I-85 all alternatives are the same. Now, the No-build Alternative or the Do Nothing Alternative is basically used as a baseline in comparison against the Build Alternatives.

Now, Build Alternative 1 and 2 basically have the same impacts. Build Alternative 1 proposes one HOT Lane in each direction of I-277 up to I-85. Build Alternative 2 proposes 2 HOT Lanes in each direction from I-277 to I-85, and that's the difference between those. Build Alternative 3 only proposes to convert the existing HOV Lane, south of I-85 to a HOT Lane. It doesn't introduce the northbound HOT Lane. So, those are the differences.

And our preferred alternative is Alternative 2; because we feel it provides adds additional HOT Lane capacity with minimal impacts. This is just a rendering of the cross section would look like with one HOT Lane. We have the general purpose lanes on the outside and the HOT Lanes being added to the median. And this is what it would look like with 2 HOT Lanes.

Now, let's talk about the **project impacts**. In the handout we have we provided the entire impact statement from the Environmental Assessment, but I'm just going to cover the main highlights. Under Build Alternatives 1 and 2, we have 10 relocations. Those are homes and businesses that have to be acquired in order to construct the project. And it breaks down to be 7 residences and 3 businesses. Build Alternative 3, again is just the conversion of the existing HOT Lanes where there are no impacts, so there are no relocations.

**Project cost**, Build Alternative 1 is roughly \$375.8M. Build Alternative 2 is \$393.4M. And Build Alternative 3 is \$239.3M.

Alright, now anytime the Department takes on an action of widening the highway or building a new highway we have to take a look at the impact of that project on the surrounding community as it relates to noise. So, we look for ways to reduce the amount of noise to the community. And the most common way to mitigate for that noise is to construct a noise wall.

Now, our **traffic noise policy** basically states that federal and state governments are no longer responsible for providing noise abatement measures for development that occurs

within the noise impacted area after the “Date of Public Knowledge”. And the “Date of Public Knowledge” is the approval date of the Final Environmental Document. In this case, again we anticipate that being the FONSI, or the Finding of No Significant Impact, which again we expect to have completed in August.

So, just to be a little more clear on that any existing development will be analyzed. If you have a property where you have a building permit that has been issued at the time of the approval of the “Date of Public Knowledge”, then that property or that development will be considered in the evaluation of getting a noise wall or noise abatement measures.

Now, once decisions are made regarding the final location of those noise walls, all property owners and tenants who are expected to receive at least a 5 decibel reduction from that noise wall will be sent a ballot to vote their preference for or against the noise wall. And we will build the noise wall unless we receive back a simple majority vote of “no”.

And as far as *right-of-way process*, once decisions are made regarding final design, limits of the project will be staked in the ground. If you are an affected property owner, our Right-of-Way Agent will contact you and arrange a meeting to explain the plans to you, how the project affects you, and your rights as a property owner.

Now, if permanent right-of-way is required, then an appraisal will be done of your property. And what will be offered to you will be the current market value of that property at its highest and best use. Now, in this process The Department of Transportation must:

- Treat all owners and tenants equally.
- We must pay just compensation in exchange for property rights.
- We must fully explain the owner’s rights.
- And we must provide relocation assistance.

Now, again if you are a relocatee, if your home or business is to be acquired as a part of this project, then additional assistance in the form of advice or monetary compensation is available to you. We should have some pamphlets here tonight if any of you are impacted here tonight; I suggest speaking with Mr. Hill. He or someone from his staff will probably be out to contact you when it goes to construction. Any detailed right-of-way questions; I suggest that you speak to Mr. Hill before you leave.

Again, I already talked about Comment Sheet but there’s another form in the handout known as the **Title IV Form**. It’s a completely voluntary form. We ask that you fill that out. It is an anonymous form, but it gives us some information that we hope we can use to better serve you in the future. And again, you can mail that in later or you can fill it out and leave it tonight. Again, we are taking comments through August 1<sup>st</sup>.

Alright, let’s take a look at the maps. Let’s start by going over the colors on the map and what they mean. Hopefully, a lot of you had a chance to look at the maps during the pre-hearing open house. But I want to go over these with you again.

Anywhere you see that brown color that will represent buildings. Anywhere you see dark green will represent existing right-of-way. The dark green with the hatching will represent existing easements. Anywhere you see the light green will represent new right-of-way or proposed right-of-way that we would need to purchase in order to construct the project. If you see the light green with the hatching that will represent proposed easements. It could be construction, drainage, or utility easements.

Anywhere you see grey that will represent existing roadway. Anywhere you see the grey with the hatching that will represent existing roadway to be removed as a part of the project. Anywhere you see the orange that will represent existing roadway to be resurfaced. Yellow will represent new pavement. Anywhere you see red will represent concrete structures. That will be bridges, coverts, medians, etc.

Anywhere you see the red and white candy cane striping that will represent existing concrete structures that would remain as part of the project. Where you see the black and red striping that will represent existing concrete structures to be removed as part of the project. There’s a light blue on the map that will represent FEMA property. The dark blue represents bodies of water. Where you see the, I guess, the hot pink color will represent railroad right-of-way. The lighter pink will represent exiting utility easement. And the pink with the hatching represents cemeteries.

The areas with the red hatching will represent noise study areas. And the one thing I didn’t touch on with this project, there are 21 areas that meet the preliminary justification for a noise walls and as I go through the maps, I’ll point those out and they’re all up and down the entire project. All those noise study areas, those are the people that will receive a ballot and vote their preference for the noise wall. And the light blue also represents the HOT Lanes. And they’ll stand out really good against the other road colors. And there’s a kind of faint yellow color that represents historic property.

Alright, let’s start here. The project starts along I-277. As we go along here there are noise study areas on both sides. Here’s College Street. Here we go north. Here are some minor improvements along I-277. And again, here just past Graham Street we pick up the HOT Lanes. And under Build Alternative 1 and 2, we propose one HOT Lane in each direction along I-277. We will have to provide a new bridge there. We have noise study areas on both sides.

Here’s Hanover Street. We will be replacing a bridge over I-277. And because under Build Alternative 1 and 2, we will be constructing a flyover to carry the HOT Lanes from I-277 directly onto I-77.

Alright, we pick up here. Here’s a flyover that carry over the HOT Lanes from I-277 onto I-77, both northbound and southbound. Then we see noise study areas on both sides of I-77. This is the grey area here. Along existing I-77, the HOT Lanes pick up at these locations. We will be replacing the bridge over Oaklawn Avenue over I-277. We will be replacing it with new alignment. The old bridge will be removed.

PH2

277 We continue to the north. Here are the noise study areas. Here we are tonight. Here's  
 278 Lasalle Street. We will be replacing, basically redoing the interchange. We will modify  
 279 the ramps here and build a new bridge to carry Lasalle Street over I-77. Then noise study  
 280 areas on both sides.  
 281  
 282 Alright, we pick up; again what I'm showing you here is Build Alternative 1. Again,  
 283 those were one HOT Lane from I-277 to I-85. But the impacts for 1 and 2, all the  
 284 construction you see will be the same under Build Alternative 2. It will be the same thing,  
 285 so, I'm not going to go through those maps.  
 286  
 287 Again, we continue on.  
 288  
 289 Audience Member: Would you go back to Oaklawn?  
 290  
 291 Moderator: Go back to Oaklawn.  
 292  
 293 Audience Member: Yes.  
 294  
 295 Moderator: Well, I'll have time for questions afterwards.  
 296  
 297 Audience Member: I thought you would better explain it as you go if you went  
 298 back to Oaklawn.  
 299  
 300 Moderator: Okay, I got it. I got lost, hold on.  
 301  
 302 Carl Gibilaro: It should be on Sheet 2.  
 303  
 304 Moderator: Yeah, I was trying not to go back out. Again, we are realigning  
 305 Oaklawn to the north. The existing alignment...the existing bridge will be removed once  
 306 the new bridge is completed. And Andrill Terrace will tie into Oaklawn on the new  
 307 alignment.  
 308  
 309 Alright, well anyway we continue on to the north. Again, a HOT Lane in each direction;  
 310 we will build a new bridge here.  
 311  
 312 Audience Member: Is that Lasalle? Where it is at?  
 313  
 314 Moderator: No, no past Lasalle.  
 315  
 316 Audience Member: Past Lasalle?  
 317  
 318 Moderator: Yeah, this is I-85.  
 319  
 320 Audience Member: Oh, okay.  
 321  
 322

PH2

323 Audience Member: Can you go back and let me see it?  
 324  
 325 Moderator: Okay, Lasalle Street, interchange configuration will be much the  
 326 same way it is today. We are just going to some minor ramp modifications here and there  
 327 will be a new bridge over Lasalle Street or carry Lasalle over I-77. Basically, we're just  
 328 replacing that bridge there. So, that's what's going there, alright.  
 329  
 330 Alright, here we go back at I-85 and we continue the HOT Lanes; of course, we will  
 331 build a new flyover to carry the southbound HOT Lane over I-85. Now, from this point  
 332 on all alternatives are the same. Again, from I-85 to Catawba Avenue we are proposing 2  
 333 HOT Lanes in each direction. Here, we already picked up the 2 HOT Lanes, again noise  
 334 study areas on both sides of I-277.  
 335  
 336 Audience Member: That's Alternative 1?  
 337  
 338 Moderator: Now, it's Alternatives 1, 2, and 3, they're all the same from this  
 339 point forward.  
 340  
 341 Audience Member: Okay.  
 342  
 343 Moderator: Again, heading north, noise study areas on both sides with 2 HOT  
 344 Lanes in each direction. Here's Sunset Road. We continue to the north; 2 HOT Lanes in  
 345 each direction.  
 346  
 347 Continuing on. On the left side there's a noise study area just past Lakeview Road. Here  
 348 we come to W. T. Harris Boulevard. Continue on 2 lanes. Alright, then we continue on.  
 349 Here we come to I-485. Two lanes, we continue on. Here's a noise study area to the west.  
 350 Here's Hambright Road. We will be replacing that bridge.  
 351  
 352 Alright, we continue on, 2 lanes in each direction of HOT Lanes. Here we cross Mount  
 353 Holly-Huntersville Road. Alright, we continue on. This is a noise study area on each side.  
 354 Here we cross Sandy Ford Road. We continue on; noise study areas on both sides.  
 355  
 356 We continue to the north. Westmoreland Road, we will be replacing that bridge over I-  
 357 77. And again, there are noise study areas on the left side. Here we continue on. Here we  
 358 come to Catawba Avenue. And this is where we transition under all alternatives to one  
 359 HOT Lane in each direction. Again, we have noise study areas on both sides.  
 360  
 361 Here's that transition back to one HOT Lane heading north all the way through to the end  
 362 of the project. Here we past Griffith Street. We will have to replace that bridge at that  
 363 interchange. We continue on with one HOT Lane crossing into Iredell County. Then  
 364 another noise study area. Here we cross Langtree Road with noise study areas off to the  
 365 west.  
 366

Sorry about that. Every time I get to the end of the map and I go to the next map, it picks up at the end of the map. But anyway, we continue on with one HOT Lane in each direction. Here we cross Williamson Road and a noise study area up here to the west.

We continue on. Another noise study area. We're almost to the end of the project. Here we cross Brawley School Road. And from this point we're at the end of the HOT Lane Project. And then we transition back to these general purpose lanes up here past River Road, alright River Highway, NC 150.

Moderator: That is enough of me talking. Now, we are at the public comment period. And we'll start with those who signed up to speak. And when you come up please state your name and address. Now, and if you didn't sign up to speak and you heard something you want to come up and make your voices heard. You will get a chance to speak once I have exhausted this list.

Alright, and one note...one note, before we start the public comment period, the actual access points along the project have not been set in stone. They are...we had shown on the map. They are just preliminary that has yet to be determined. So, further coordination and more decisions have to be made before we figure out where those access points are going to be located. Alright, let's start with Mrs. Lisa Rudisill. If you would, you can come up and speak.

Audience Member: Can I ask you a question sir?

Moderator: If you can wait to come up to speak.

Lisa Rudisill: Alright. My name...is it on? My name is Lisa Rudisill. Can you all hear me? Yeah. Okay, my name is Lisa Rudisill. I live on the south end of Charlotte. In old Providence area, but I also have property on the north end of Charlotte, which is about a mile, a resident mile, from I-485 and I-85, almost junction, but at any rate, it is on Mount Holly Road.

But I just wanted to make a general comment. First of all, I have to say these decisions were very difficult ones for the leadership. And I can see they worked very hard on trying to figure out the best solution they think they can find. And I also have to say that I'm certainly no kind of expert on any of this. In fact, I don't travel those sections of the road, particularly on I-77 north of town during rush hour. Although, I have traveled those sections of road and I have been up in that area quite a bit.

I will say that I believe the federal aid is a good thing and I remember hearing about how proud North Carolinians were when they were a part of the, I believe it was the Eisenhower Program that, I don't know, but it began the whole interstate system here and how extremely proud we were. But, so, just to be able to get federal aid to help with this is a good thing.

In addition to that, as a side note I lived in a rural area of North Carolina for some time and I know that we were a little bit heave maybe is the word with Charlotte on occasion because they were some votes taken about road bonds where Charlotte had to spend a great deal of tax money to work on roads. And in the rural areas we had very poor roads. And so you know I think, we though why would we go for this? You know, because there was going to get large sums of money. So I, I'm just saying that in terms of that the federal aid is a good thing, positive.

So, I also want to say that I had a couple of friends here that as I am a Charlotte native, they were here earlier and they left and said that this project has already been decided before they came. And perhaps they haven't spent enough of time trying to follow this. I have been to some meetings over the last couple of years where this has been discussed. So, I probably have a little jump on them. And I will try and go as fast I can here *(inaudible)*.

So, I want to say in a general sense that the concept of the toll roads frightens me a little bit as a native, because it is something that we never had in North Carolina. I was told that there was a full toll road around Raleigh now I think. There again I am not an expert I am just passing on what I have been told. And it scares me somewhat to think that we would have toll roads here for a number of reasons, which I won't get into all this right now.

But I will say far as toll roads go, this seems to be a fairly friendly project. The only thing that concerns me is that if you get into having toll roads that do you open the door for further, make it easier to have more toll roads in the state. So, that does concern me.

And in a general sense, I personally believe that mass transportation is a better alternative than increasing roadways, for a number of reasons again. For example, we have to spend a lot of money on fighting wars and we have a lot of tension in the world over oil and gasoline. So, the more we can combine together and travel together on mass I think the better we are. So, I just tend to be a mass transportation proponent in general. So, in that sense looking at the designs in any areas, I personally believe that fewer lanes are better and not more lanes.

But, I would also be interested to know how much use the HOV Lanes now receive. I don't have the various statistics on that yet, and as I have said, I don't travel those roads during rush hour. And I am wondering if some of those people might complain and want to use the HOV Lanes and maybe this is a way they can do that by being allow to pay more to go there, I don't know.

But, I will wrap this up by saying that I don't know how you going to convince people to more carpooling and I don't know if our mass transit system is strong enough to give people what they really need. I don't think it should just be something to send students to college or school on. But it's a real important alternative for many people that I know, personally, to get to work. So, that's all and I'm a little confused about your Alternatives 1, 2, 3 in some sense, but at any rate.

458  
 459 Moderator: If you have any questions and you want to stay around, we can  
 460 answer those.  
 461  
 462 Lisa Rudisill: Alright.  
 463  
 464 Moderator: Thank you for your comments. Next we have Mrs. Sarah  
 465 McAulay. Be careful.  
 466  
 467 Sarah McAulay: I'm fine. Thank you. Thank you. I'm Sarah McAulay. I live  
 468 at 300 Gilead Road in Huntersville. And I am Huntersville's Mayor Pro Tem. I also serve  
 469 as Chairman of the Mecklenburg Union Planning Organization. In other words, the  
 470 project that combined these 3 projects earlier projects on I-77 approved them to be  
 471 combined into one for this current project that we're talking about.  
 472  
 473 In my opinion throughout the High Occupancy Toll Lane project area, I have observed  
 474 daily I-77 being at a standstill movement of vehicles. Especially, at high usage lanes,  
 475 high usage times, but also during numerous day and night travel times that I have been on  
 476 I-77. The length of I-77 project area, not just during the morning and evening home to  
 477 work or work to home times, but during the day time periods. And during the holidays  
 478 and sporting events and other special events that occur throughout our regional area. We  
 479 have experienced stopped traffic on almost on I-77.  
 480  
 481 To wait and delay continuing this project with the high occupancy toll lanes on I-77 will  
 482 continue the negative impact we currently experience on the environment, on local  
 483 residents, interstate travelers, local, regional and state commerce, energy response times,  
 484 and the overall safety of our citizens, locally.  
 485  
 486 I support Alternate 2 as the preferred plan and to go forward with this plan. The  
 487 Environmental Assessment Documents indicate a strong professional analysis of our I-77  
 488 area and seem to be complete. I support and endorse Alternate 2 design of this I-77 High  
 489 Occupancy Toll Lane Project from Charlotte I-277, Brookshire Freeway north into  
 490 Morrisville at NC 150 and the River Road as you said. I support continuing Alternates 2.  
 491 Thank you.  
 492  
 493 Moderator: Thank you ma'am. Next we have Tammy Hill.  
 494  
 495 Tammy Hill: Good evening.  
 496  
 497 Audience Members: Good evening.  
 498  
 499 Tammy Hill: Since there are a lot of (*inaudible*) sites, landfill, and other  
 500 environment issues on the I-77, (*inaudible*) Street, I-77, please help me understand how  
 501 this will improve the environment when these cars will have to stop to pay the toll roads?  
 502 Thank you.  
 503

504 Moderator: Well, these tolling will be electronic. There will be no toll booths;  
 505 no one would have to stop. So, it's all electronic as far as video cameras and electronic  
 506 gantries. Next we have Mr. Frank Taller? Talley?  
 507  
 508 Frank Taller: Frank Talley.  
 509  
 510 Moderator: Frank Taller.  
 511  
 512 Frank Talley: First of all, good evening. My name is Frank Talley. I live at 4522  
 513 East Argyle Drive here in Charlotte. First of all, I would like to say that as a citizen and  
 514 as a taxpayer, I am very disappointed with the fact that I received this information when I  
 515 walked in the door. I recognize that you have internet capabilities, but a lot of people in a  
 516 lot of communities, people are unaware of the internet capabilities and don't have those  
 517 kinds of services in their homes. If you are going to have a drastic impact on people in  
 518 their homes, you need to take in consideration that they need more information. They  
 519 need a little bit more time to peruse that document.  
 520  
 521 If you don't provide that then it will be situation similar to which you have today. You  
 522 are thrusting it down their throat. Now, you are trying to build a better system here in  
 523 Mecklenburg County. HOV Lanes has been there for 8, 9, 10 years. It has never been  
 524 used wisely. That HOV Lane would have better access to the people if they had been  
 525 removed when people would have been allowed to use them.  
 526  
 527 You want to talk to like you want to put more lanes there and you going to put tolls there.  
 528 One of the better situations that I feel very strongly about one of the most dangerous  
 529 situations here in Mecklenburg County is trucking transportation. I wonder have you all  
 530 ever looked at the aspect of putting in a lane just for the trucks here in Mecklenburg  
 531 County. It appears that many of the accidents that take place, takes place in the right hand  
 532 lane of people trying to exit the lanes here on the interstate. No one has done a study to  
 533 take that into consideration? That should be taken into consideration.  
 534  
 535 And when it comes down to this traffic situation, how many lanes is it going to add. Is it  
 536 going to add one lane or is it going to add 2 lanes. From the information I get, it's only  
 537 going to add one lane. And if it's only going to add one lane, I don't see how it's actually  
 538 going to profit the system as we have today.  
 539  
 540 Moderator: The preferred alternative proposes 2 lanes in each direction.  
 541  
 542 Frank Talley: Two lanes? That's going to be 2 additional lanes?  
 543  
 544 Moderator: Two additional HOT Lanes.  
 545  
 546 Frank Talley: So what about the HOVs? You still going to have the HOVs Lanes  
 547 and 2 additional HOT Lanes?  
 548  
 549 Moderator: The HOV Lanes is going to be converted to Hot Lanes.

550  
 551 Frank Talley: Well, I still think that you need to a look at the possibility of  
 552 putting trucking transportation on one of the outside lanes so, that people with their  
 553 families when they exit; they can easily exit and they can exit safely. These mass transits  
 554 for trucking, if you would put them in one in the outside lane, they will help govern  
 555 themselves. They don't do it; your state troopers don't monitor the roads well. These  
 556 trucks pass in Charlotte running 85 miles per hour. But if you put them in one lane, on  
 557 that outside lane, they will help govern the trucking industry, as far as Mecklenburg  
 558 County is concerned. I will leave it with you.  
 559  
 560 Moderator: Thank you Mr. Talley.  
 561  
 562 Frank Talley: Thank you.  
 563  
 564 Moderator: Next we have Joretta Lawrence.  
 565  
 566 Joretta Lawrence: Good evening everyone.  
 567  
 568 Audience Members: Good evening.  
 569  
 570 Joretta Lawrence: I am Joretta Lawrence. And I am on 1601 Whisnant  
 571 Avenue. The I-277 Brookshire and I-77 will affect me. My major concern is the noise. I  
 572 have a problem with it now and also the ozone. I want to know if they are going to come  
 573 in closer to those backyards, to monitor them from there. I keep seeing you say they are  
 574 monitoring here and they're monitoring here. No one has been in my yard or talked  
 575 concerning this matter. I would like this noise to be monitored from where the road is  
 576 now from my backyard. I give them permission to come in to do that.  
 577  
 578 And with the ozone problem, the (*inaudible*) still, I understand we do need improvement.  
 579 But, I replaced the roof for some of that black tar on that black tar on the trees back there;  
 580 I did have my plants back there. I had to move them. A lot of them died. My garbage can,  
 581 it's the same thing. So, where is this coming from?  
 582  
 583 Now, I've been there a number of years; but until the traffic increased here in Charlotte, I  
 584 didn't have that problem. My plants stayed outdoors for the spring of the year to the fall  
 585 of the year. Never came in with this black tar. It's on my garbage can. And then I had to  
 586 replace my light grey cans with some dark grey cans. But if you look real good, it's still  
 587 on there too. The white picnic tables, they're covered with the substance. I don't know  
 588 what it is. And (*inaudible*), we have a problem.  
 589  
 590 But I would like to someone from the Environment Department of this project come in  
 591 my backyard; like I said I-277, Brookshire. When you make that turn to come in on I-77,  
 592 that where our houses sit. It's 7 families there. And it is affecting us. Unfortunately, I'm  
 593 the only one here tonight. But I would like someone to contact me. I'm always up 24/7  
 594 basically, because I don't sleep. I nap.  
 595

596 So, if this is going to increase to 2 lanes, 3 lanes, it's going to affect me. And then I  
 597 looked on you all internet, and it saying, you know, times is changing, you got to make  
 598 improvements. Okay, you come and get part of my land, how long is going to be before  
 599 you come back to get the rest of it? I need to know all of this. I'm getting up in age. I got  
 600 grandchildren. I have greatgrands. So, these questions here, I'd like for them to be  
 601 answered. That's my major 2 concerns. It's the ozone and the noise. Thank you.  
 602  
 603 Moderator: Thank you ma'am.  
 604  
 605 Audience Member: What was your address again?  
 606  
 607 Joretta Lawrence: 1601 Whisnant, that's off of Oaklawn.  
 608  
 609 Moderator: Thank you ma'am. That concludes our list of those who signed up  
 610 to speak. If you would, come up. Be careful.  
 611  
 612 Cheryl Hampton: Good afternoon or good evening. I'm Cheryl Hampton.  
 613 And I work well; I am a resident here in Charlotte. I do not live in the affected area. But I  
 614 work with 15+neighborhoods along Beatties Ford Road Corridor. We have several of the  
 615 neighborhood presidents and other officers that are here this afternoon and I understand  
 616 the DOT has been meeting with them.  
 617  
 618 The group had several concerns. I believe Mrs. Hill highlighted this area, the Beatties  
 619 Ford Road area, Corridor area has suffered for a number of years with environmental  
 620 issues; both air quality and water quality as she alluded to. We have Irwin Creek, which  
 621 is running parallel to your project area, as well as Stewart Creek on the other side. Two of  
 622 our neighborhoods have already been harmed by earlier enhancements when DOT put in  
 623 Brookshire and so folks were relocated and all of that.  
 624  
 625 So, the concerns that we are raising that I heard our residents in the area talk about is  
 626 again as the earlier speaker said the noise, the noise buffer. I heard you say that you will  
 627 be sending out ballots to those folks. A picture is worth a thousand words and so, folks  
 628 may not always get the correct understanding for it. So, you will have pictures. How long  
 629 do they have to send that ballot back in?  
 630  
 631 Moderator: We normally, at least give it 2 weeks, 2 to 3 weeks.  
 632  
 633 Cheryl Hampton: Okay. Is there any way to extend that time? Because the  
 634 neighborhoods probably would need to meet. Those residents will need to meet and have  
 635 some understanding together if there are selections. I wanted you to know that Beatties  
 636 Ford Road Corridor and the neighborhoods have been working with our elective officials,  
 637 like Representative Alexander and others, Senator Joel Ford, Malcolm Graham, the  
 638 University here to do a corridor revitalization.  
 639  
 640 So, we are very concerned about not only the environmental aspects and impact, but the  
 641 quality of life impact as well. And so we have some aesthetics themes that we are trying



6-1  
cont

642 to maintain on the corridor and we would certainly want time for the residents to be able  
643 to, the president, here to meet with their residents so they can understand what that ballot  
644 is; because if you send a ballot out cold, you see how many you have here. So, we are  
645 going to get on our pipeline here. Our informal pipeline and do that but if that time period  
646 can be extended that's one thing.

6-2

648 The second, we're concerned about is the maintenance upkeep and grass cutting for those  
649 new rights-of-ways. We have a right-of-way along on Brookshire Freeway. It's not being  
650 cut now. It's not being cut now. It's not being up kept. If you come along for the right-of-  
651 ways that are but Brookshire Freeway and Beatties Ford Road that area is overgrown. We  
652 cannot get the name of the contractor who has the state contract. We need that gentleman  
653 to come and cut that grass. So, I would like you all to take that back all because of the  
654 corridor, neighborhoods, and residents are working to really make this, make the Beatties  
655 Ford Road Corridor to enhance it.

6-3

657 The third thing is I did not have a chance to read the full Environmental Assessment, but  
658 as Mrs. Hill brought up we are very concerned about the mitigating the environmental  
659 impact during construction. And we wondered what is being required of the contractor  
660 during construction.

Page B2-8

662 Also we are concerned about the outreach. I heard you say there are 7 residences and 3  
663 businesses. We would suggest to you to contact those people if you missed them one  
664 time. Number one not just a letter but to have a visit from someone and to have a visit at  
665 the appropriate time of day; because people may work during the day. And so you may  
666 have to have someone to come out in the afternoon and make sure that they understand  
667 the relocation and all of that.

669 So, we're very concerned again about the environmental impacts, the noise buffer.  
670 Gentleman was so kind that to explain to me. However, I think that the neighborhood  
671 presidents here need time to explain what that ballot is to their residents. We also need  
672 time to have some conversation with our city officials, because we understand that they  
673 will be picking the exterior to the road. So many of us along McCrorey, Dean,  
674 Dalebrook, going on up, there is already one privacy barrier there, which is a nice brick  
675 wall. So, we really need to understand fully and to have those pictures, and I understand  
676 that it is a textured concrete that it will not be brick. So, we are very concerned about  
677 that.

6-4

679 We are concerned. And I don't know did your Environmental Assessment take into  
680 account the air quality and dust that the lady talked about earlier that is covering  
681 everything; because her household is not the only one that has that problem. And I need  
682 this group to understand and you need to explain to them that the FONSI, the Finding of  
683 No Significant Impact. Once you have done that how soon before you are going to come  
684 back and do a request for a release of funds? Because once you get that clearance, that  
685 environmental clearance, the project is off and running. And so I think this group still has  
686 some questions. Particularly for those neighborhoods that are but the project area.

687

6-5

688 So, we would just want to make sure that someone from NCDOT come out and work  
689 with these neighborhoods and explain very clearly about what you are doing to mitigate  
690 and because there are always unintended consequences. Sounds very good, we do not  
691 want to stop progress. We understand about the traffic, but we want to make sure these  
692 neighborhoods have already been impacted enough by prior projects.

693  
694 So, we would like to have some clarification around that in regards to noise, air quality,  
695 to what will take place during construction and more information on the buffer and an  
696 extended time that these residents can meet. I also have a question. You said that this is a  
697 Public-Private Partnership. You already said that the federal government had allocated  
698 \$114M.

699  
700 Moderator: Up to.

702 Cheryl Hampton: Up to that and then \$56M from the state. But option 2,  
703 Alternative 2, is \$393M. So, the Public-Private Partnership is going to put in the  
704 remaining \$100 and some odd million?

706 Moderator: Yeah, but that's in addition. If I understand it right, that \$393M  
707 will have to be for Public-Private Partnership.

709 Cheryl Hampton: Do you know who that is now?

710 Moderator: No, it has not been selected.

712 Cheryl Hampton: It's not been selected? So there will be a RFP/RFPQ  
713 process?

714  
715 Moderator: A RFP will go out.

717 Cheryl Hampton: And they will then select a contractor as well?

719  
720 Moderator: Yes, ma'am.

722 Cheryl Hampton: Okay, will you all be monitoring them through the  
723 procurement process and labor standards?

724  
725 Moderator: Yes, ma'am.

727 Cheryl Hampton: To make sure? And will someone monitor for the  
728 environmental impacts during construction?

729  
730 Moderator: Yes, Mr. Rodger Rochelle oversees that, he and his group.

731 Cheryl Hampton: Okay, so they are to come up with that or you are going to  
732 negotiate that balance? That other \$150 something? There's that gap.

733

PH2

734 Moderator: The federal and state governments are going to put in up to  
 735 \$170M. If the bidding comes in where we pay less, then it will be less. It's a maximum of  
 736 \$170M.

737  
 738 Cheryl Hampton: Okay, so you are going to then negotiate with Public-  
 739 Private Partnership to come down to what you have available? And what they would put  
 740 in? Am I understanding that correctly? They're going to put the balance in? Help me  
 741 here. I think we need to know this.

742  
 743 Team Member: The balance put in by the private entity, and the private  
 744 entity would recover over 20 some odd year period and it all ties back into what is being  
 745 charged in the variable pricing model to use the toll lane. All that ties back to their cost of  
 746 funds, you know, it's a moving target.

747  
 748 Cheryl Hampton: Okay, I got you. So, initially it starts for the first 5 years.  
 749 What is the cost each of the riders who will use the toll lanes?

750  
 751 Moderator: We don't know that.

752  
 753 Cheryl Hampton: You don't know that yet? Will you come back and tell us.

754  
 755 Audience Member: How high can it go? Is there a limit?

756 Moderator: I don't know.

757  
 758 Team Member: Excuse me. Excuse me for interjecting. Good evening. You  
 759 are exactly right. That we're contributing \$170M, the remainder is gathered by the  
 760 Private Partner and in exchange for bringing that money to the table, whether it be loans  
 761 or investors. They get the right to toll revenue and they'll share that toll revenue if  
 762 exceeds expectations.

763  
 764 You asked about a maximum toll cap. This is a market demand issue. So, if no one in this  
 765 room uses those toll lanes, then that rate comes down. But they are also required to  
 766 maintain a certain speed and operational performance in those lanes. So, as demand goes  
 767 up and those lanes fill up, they'll need raise the price to keep the reliable travel time on  
 768 those lanes.

769  
 770 Audience Member: You're using a variable pricing model.

771  
 772 Team Member: Yes.

773  
 774 Audience Member: Which mean it's variable by time or day and it's variable  
 775 by degree of congestion.

776  
 777 Team Member: That is absolutely right.

778

PH2

779 Audience Member: Yes, I mean, the actual cost goes up and down all day long  
 780 and you're probably going to end up with, in response to the earlier question...

781  
 782 Moderator: Would you come, please? We are recording everybody and we  
 783 want to make sure that we get you.

784  
 785 Audience Member: I suspect that the microphone probably picked me up from I  
 786 were. But, I was saying you got a variable pricing model, okay. So, that this early out,  
 787 they can't really tell you what it is going to cost. For instance, to go 26 miles at 4:00,  
 788 because they don't know the cost of funds. And they don't know whether the funds are  
 789 being contributed as an equity contribution, which makes it a one cost or they're  
 790 borrowing the money, which may make it an entirely different cost; so that part of it is  
 791 still up in the air.

792  
 793 The other thing that's important though is that because this is time of day pricing, it's  
 794 possible for you to go out and go 26 miles at a time of day when the demand is very low  
 795 and pay almost nothing. Course, if you want to do in the middle of the most congested  
 796 part of the day, it's possible that you going to pay a lot. So, whereas now you go out and  
 797 you think about it, it does require you to think.

798  
 799 But one of the control features is that there are public access lanes the entire length; so  
 800 that you are not forced to go into a toll lane. You can still take the same public access  
 801 lanes that exist now to drive the entire 26 miles.

802  
 803 The other thing you might not have paid attention to early on in his presentation was the  
 804 fact that if you've got 2 other people riding with you, you can use the toll lane free.  
 805 Anything that's using more than 3 people can travel without the charge. Now, in the toll  
 806 situation around Raleigh, they use something called "Easy Pass". They encourage you to  
 807 get that so that everything is done electronically.

808  
 809 He also mentioned something about taking photographs of, I guess, your license plates in  
 810 order to help figure that one out. That has created problems in some places. And I hope  
 811 that in this area we don't push that particular solution; that will try to encourage people to  
 812 get the Easy Pass. And use the cameras to monitor whether or not somebody, you know,  
 813 whether or not there is 2 people or one person in the wrong lane as oppose to doing the  
 814 pricing the other way.

815  
 816 And lastly ladies and gentlemen, some of you first got information from my office about  
 817 this project over a year ago. Because when it first came up, those of you who are my  
 818 email list, I started sending you information about it and encouraging you to participate in  
 819 meeting like this. This at least the 2<sup>nd</sup> or 3<sup>rd</sup> meeting about this project. Some of you have  
 820 been at the earlier meeting, because I saw you.

821  
 822 And I'll tell you, that the maps over here are much better than the map right there. The  
 823 maps right here. If you look at the maps you will see that there are changes that are  
 824 reflective of the earlier meetings. When people talked about problems with houses being

825 taken along Dean Street and some other places and encroachment on some other  
826 neighborhoods; and so the preferred right-of-way now has shifted. So that the number of  
827 properties, residential properties that are being affected is down from an earlier map.  
828  
829 So, participation actually does get listened to. It might now move as fast as we all want it  
830 to. But it does get listened to. So, I want to commend each and every one of you for  
831 coming out this evening, because citizen participation is what all this about. And believe  
832 me, people like me who have to vote on money for this kind of stuff, pay attention to  
833 what folks like you have to say about it. Thank you very much.  
834  
835 Moderator: Thank you sir.  
836  
837 Geraldine Johnson: My name is Geraldine Johnson and I live at 2009 Crestdale and  
838 also my daughter lives at 19 Trentwood Place. And my concern is personal, because the  
839 back of my house is where 2 houses, they stopped 20 years ago before they gave me a  
840 brick wall. Now, they put the brick wall on the opposite side of I-77. Where there are no  
841 houses basically where Double O used to be, all the way down that creek. There's  
842 nothing. But there's a big nice big wall. And yet, where I live and some other neighbors  
843 on the back wall there is NOTHING.  
844  
845 Crack I-85 and I-77 where they break off and join, which we call the "truckers gift  
846 curve", and that's exactly what is. It's been happening ever since the road was  
847 constructed over 20 years ago. Are you going to straighten it out, you're going to build  
848 others roads and you're going to revamp? What are you going to do about the death trap  
849 that has been occurring at that same site for over 20 years is my question? And that is my  
850 priority. Straighten that curve, limited bare area. And like she said, the noise level is  
851 terrible for anybody who lives on Trentwood Place and Dalebrook. The roaring, you  
852 came down, you cut the bushes down. You didn't put any back up.  
853  
854 In some sites, I see over the city of Charlotte where the stumps are, you have inserted  
855 new little buddings. But where I live, you cut it down; like I said even the little wire  
856 screen, little twisted whatever you put there, other than a brick wall. You left the others  
857 of us exposed and you did absolutely nothing. So, why we're spending money for  
858 something new, would you please consider those that you have lost and forgotten 20  
859 years ago? Thank you.  
860  
861 Moderator: Thank you ma'am.  
862  
863 Audience Member: Sorry for my appearance, I just got off work. I wanted to  
864 talk about the...  
865  
866 Moderator: State your name.  
867  
868 Charles Serger: Oh, Charles Serger, Mecklenburg. I wanted to talk about  
869 the Public-Private Partnerships. What happens when these things occur is the public, all  
870 of us, we put up money and then the private area adds some money into as well. Then

8-1  
cont 871 what happens is the private interest makes all of the profit and we take all of the risk;  
872 because there is no real risk to them. And how many of these things have been profitable  
873 around the country? Some of them have been able to upkeep themselves, but there none  
874 of them are actual profitable.  
875  
876 So then, so what else happens? Okay, you've got this 50 year contract, whichever  
877 industry goes with this; they're going to write their own contract. You all want to know  
878 why they couldn't fire hire Cosell from NBC for all those years? He wrote his on  
879 contract. That's a nice thing to be able to do.  
880  
881 Also, you're going to have all the way up I-77, okay, you're going to have this right-of-  
882 way that's already there. Now, once the toll roads come in, you can't even add no more  
883 general purpose lanes.  
884  
885 Moderator: That is not true.  
886  
887 Charles Serger: Oh, yes it is.  
888  
889 Moderator: No, it's not true.  
890  
891 Charles Serger: How's that not true?  
892  
893 Moderator: I'm not going to get into and debate with you.  
894  
895 Charles Serger: Okay.  
896  
897 Moderator: This project is not conclude us from doing any other improvements  
898 to I-77.  
899  
900 Charles Serger: So, you are here to say tonight, that if the toll roads are put  
901 in that we can go ahead and add 2,3 more general purpose lanes on the other side if  
902 that...  
903  
904 Moderator: The way these projects are funded, we can...there are projects that  
905 are proposed to adding addition general purpose lanes. So, this does not conclude us from  
906 (inaudible).  
907  
908 Charles Serger: So, there is not restriction whatsoever of adding general purpose  
909 lanes? Is that correct?  
910  
911 Moderator: No, if it is in the TIP, we can add those. Those projects can move  
912 forward once funding is...  
913  
914 Charles Serger: Because that is news to me, because it not the way it was  
915 before. Also, I'd like to ask, you were talking about a couple of different options. The

916 number that I understand is it's going to be about a \$550M toll road. Is that correct?  
 917 Because I know the numbers...huh?  
 918  
 919 Moderator: Yes, I think it's around \$500M.  
 920  
 921 Charles Serger: \$550M. Now, earlier I think we were talking about a much  
 922 lower number, correct?  
 923  
 924 Charles Serger: Correct or no?  
 925  
 926 Moderator: What do you mean when you about a lower number?  
 927  
 928 Charles Serger: For the toll road. For the entire project, we were talking  
 929 about a much lower number than \$550M. Am I correct? Okay, I thought you were  
 930 throwing around some numbers, around \$300M.  
 931  
 932 Moderator: The \$393M is in addition, if I am not mistaken, in addition to the  
 933 money that the state gets in.  
 934  
 935 Charles Serger: Okay, so how much would it exactly cost to just simply...  
 936  
 937 Moderator: Is that correct?  
 938  
 939 Charles Serger: How much would it cost to just simply widen the road  
 940 instead of adding the toll roads?  
 941  
 942 Moderator: I don't know if we have those estimates.  
 943  
 944 Charles Serger: Well, the estimates that were gotten by Representative  
 945 Robert Raleigh said that it would cost in between \$70 and \$100M to just widen the roads.  
 946 But instead we are going to put in a \$550M toll road for 50 years. Now, the profits off  
 947 that, no private company is going to get involved in that for that long a period of time  
 948 unless they can double their money. So, I'm thinking, doubling that, that's \$1.1G instead  
 949 of \$100M. So, the price difference over the long term is going to be \$1G. Am I crazy to  
 950 make that assumption?  
 951  
 952 Audience Member: May I point out something? Robert Raleigh was not talking  
 953 about 26 miles. He was talking about only a portion of the project. So, I mean, we're not  
 954 comparing light to light.  
 955  
 956 Moderator: Apples to apples.  
 957  
 958 Charles Serger: No, no but what Robert Raleigh was talking about was  
 959 from I-85 down here, all the way up to Mooresville.  
 960  
 961 Audience Member: I think that's Exit 28 he was talking about.

962  
 963 Audience Member: He was talking about...the projects divide into 3 sections.  
 964 He's basically talking about the section at the very end around Iredell County. That  
 965 section is what his focus was. And that's why it's not in comparison to light to light. The  
 966 end project that goes through this district that's out the other side of this wall. It has some  
 967 constraints because it goes, as you move down this way, you're going through some of  
 968 the most expensive properties in the State of North Carolina.  
 969  
 970 And in an earlier study, they determined that it wasn't feasible to buy right-of-way to,  
 971 you know, to widen it. They did look at double decking it, which also is really crazy,  
 972 wild, expensive. And of the alternatives, using this demand pricing and using toll lanes  
 973 turns out that actually be the most feasible and economical way of doing it, if what you're  
 974 trying to do is control congestion over an extended period of time. It's something like 25,  
 975 30 years.  
 976  
 977 Charles Serger: Yeah, but when we asked...when we asked the legislators  
 978 and the DOT and all that stuff, I mean, I'm really, really involved in this stuff. I know it  
 979 probably as good as you guys. The statement that we received is that adding these toll  
 980 roads will not relieve congestion, plain and simple. The goal is not to relieve congestion  
 981 at all. That's not what it's for. They said they can use the tolls to help pay for the upkeep  
 982 of the roads.  
 983  
 984 Now, a lot of folks were really excited about when Pat McCrory was elected finally  
 985 Charlotte was going to back some of the money that you know has been going to four  
 986 lanes highways that lead to a restaurant out in the middle of nowhere in North Carolina.  
 987 Now, we get Pat McCrory down here giving away our airport this morning. Well, that's  
 988 not what he was doing this morning, the Senate was doing that. But, he's fine with giving  
 989 away the airport to another Public-Private Partnership and he goes up to Raleigh; and  
 990 instead of us finally getting some of our money back, he wants to toll us, you know.  
 991  
 992 Speaker Thom Tillis, look I'm a Republican and I'm really upset with these Republicans,  
 993 because Thom Tillis, he went out there and talk to Trucking Association out there on I-95  
 994 because Parsons wanted to put toll lanes out there and he went and told them we aren't  
 995 going to toll I-95 because the Trucking Association came out against it. And he brought  
 996 it right back here to his own hometown. And Pat McCrory is allowing all this stuff to go  
 997 on.  
 998  
 999 So we're going to have a 50 year contract, a 50 year contract and these tolls like they said  
 1000 there is no limit. Could I, is it feasible to say that I if I pull out of here tonight and jump  
 1001 on that toll lane and I go up to Mooresville, I might have to pay 50 bucks? Feasible, just  
 1002 feasible; that could happen. There could be a \$50 toll.  
 1003  
 1004 Moderator: I wouldn't think that would be that high, but I don't know.  
 1005  
 1006 Charles Serger: Be it could, theoretically?  
 1007

1008 Moderator: I don't know.  
 1009  
 1010 Charles Serger: Theoretically? Is there a law that says that will not happen,  
 1011 because other than law or legislation, then it can happen, correct?  
 1012  
 1013 Moderator: Can you answer that question?  
 1014  
 1015 Charles Serger: In Colorado, they're paying \$24 to go 6 miles.  
 1016  
 1017 Team Member: I can't speak to Colorado but I would ask those in the  
 1018 room, would you pay \$50 to travel to Mooresville? And if the answer is a consensus no,  
 1019 then this private company is not making a dime. So, they're going to do what? Just like  
 1020 you charge for the demand of anything, they're going to lower the price.  
 1021  
 1022 Audience Member: What are you going to use as measurement to determine  
 1023 that the toll roads are successful if people choose not to use the toll road and the roads are  
 1024 congested? What are you going to use?  
 1025  
 1026 Team Member: Measurement primarily is over the long term. If we've got  
 1027 a long term solution where you have the option to travel from point A to point B along  
 1028 that corridor in a reliable travel time, that's a successful project. And that what the  
 1029 managed lanes do for us.  
 1030  
 1031 Charles Serger: Let me make just one quick final point. Not many of you  
 1032 are going to pay that \$50 that is in this room tonight. Guess what? People that got that big  
 1033 money in their pockets, they will. And you are going to be stuck there on those 2 general  
 1034 purpose lanes, 2 general purpose lanes.  
 1035  
 1036 Remember, right now there's HOV Lane, all we got to do is widen that road, and it only  
 1037 cost \$100M to add that one addition lane both ways. I know there is some debate over  
 1038 that. But I'm telling you, I've talked to Brawley. I've talked to Kurt Naas, who runs...  
 1039 and this...if you all want to check out some websites, go to WidenI77.org and  
 1040 Tollfreeandsee.org. But the fact of the matter, is those 2 general purpose lanes, you're  
 1041 going to be stuck on them.  
 1042  
 1043 So, you might not able to pay for the \$50, but somebody with deep pockets can and as the  
 1044 population grows and those lanes instead of, it's only a small area right there where you  
 1045 can add more lanes. It's going to be really hard to add more general purpose lanes to the  
 1046 right. It's not as hard or expensive to add general purpose lanes towards the left, towards  
 1047 middle of the 2 roads; once those toll lanes go in, also the exits going to be in the middle  
 1048 of the road.  
 1049  
 1050 So, we've got what 5 bridges right now that are in really good condition. That are all  
 1051 going to have to be revamped and spending more money on that. Somebody's going to  
 1052 have to pay for that. And, you know, the state and the feds, the government are already  
 1053 going to put up \$150M. That \$150M can widen our roads and there's nobody that can

1054 debate that's the fact. Those roads can be widened with that \$150M. So, get used to  
 1055 sitting in those general purpose lanes once this goes through. Look around this country,  
 1056 everywhere else it's happened, that's the way it is. Thank you.  
 1057  
 1058 Moderator: Thank you sir.  
 1059  
 1060 Greg Johnson: Hi, my name is Greg Johnson. I'm the President of Forth Ward and  
 1061 resident in Charlotte. I just have a couple of points to make. I think first of all, I  
 1062 appreciate everybody's perspective here. I think everyone is raising legitimate questions.  
 1063 We have three specific issues and then one general.  
 1064  
 9-1 [ 1065 Specifically, at the exit at Graham, the drawing, the maps that are posted on the black  
 1066 hanging drapes there showing encroachment on 11<sup>th</sup> Street, and that's in conflict with  
 1067 Exhibit 9 in the existing concession agreement, which does not show encroachment on  
 1068 11<sup>th</sup> Street. I talked to the Parsons Brinckerhoff person and he said you are right, this is a  
 1069 discrepancy. We've got to figure this out.  
 1070  
 9-2 [ 1071 We are concerned also at that area like everybody else, about noise and sound pollution.  
 1072 And right now, it's not clear whether there will have to be a sound barrier in place. I'm  
 1073 told a kind of late breaking news; they may reach out to the neighborhood and ask us if  
 1074 we want one. But I mean, the last speaker raised just a really...we may disagree about it  
 1075 but the numbers or whatever, but he raised a really interesting question about this Public-  
 1076 Private Partnership; which we were told that is one of the most enticing factors for this  
 1077 deal; that we got some private money in here.  
 1078  
 1079 But if the people who talked about sit on their picnic tables or ripping out trees and not  
 1080 putting back in trees like them, the public, the private part of that they're whole reason  
 1081 for being is to make as much money as possible, to bring in as much dough as they can  
 1082 and to shell out as little of dough as they can. And if that means they rip out a tree and put  
 9-3 [ 1083 in a sapling that will satisfy the terms of the contract. So, I just think we just need to be  
 1084 very clear and understand that the DOT and other have been working on trying write the  
 1085 contract language so that it protects us against these sorts of things. But let's not kid  
 1086 ourselves, there's a group in here sole purpose is to make money. It's not to relieve traffic  
 1087 or anything like that. So, I'm concerned about the noise barriers in that 11<sup>th</sup> Street area.  
 1088  
 9-4 [ 1089 And then finally, I'm concerned about the ending of the HOT Lane right before the  
 1090 Graham Street Exits. There's a potentially dangerous place there where people go out of  
 1091 the end of the HOT Lane and want to exit onto Graham Street and they're going to have  
 1092 to cut across several lanes of traffic in a very short amount of time. And again, when I  
 1093 was talking to this gentleman before this meeting, what they said is well that can flexible,  
 1094 you know, we can look at it. But again, if you are the money making company, you're  
 1095 probably going to want to have as much toll road, you know, tolls required as possible.  
 1096  
 1097 And I think it's especially sensitive, not just for our neighborhood, but for the Panthers  
 1098 games and our new baseball stadium; because people are going to be exiting off of that  
 1099 off of those HOT Lanes and try to get over to the that part, which is that Graham Street

9-4 cont 1100 Exit. So, I just think, you know, directionally I get why we are doing this. I think we're  
1101 all are sharing the same concerns here. There's a traffic problem. There's a lot of ways to  
1102 solve this. But, however we solve it, we need to make sure that we're taking care of the  
1103 environmental impact and life safety issue. And I'm not exactly sure if that is totally  
1104 buttoned up yet.  
1105  
1106 Moderator: Thank you sir.  
1107  
1108 Mable Latimer: My name is Mable Latimer and I'm President of Oaklawn  
1109 Park Community Improvement Organization. I am not going to repeat any of the  
1110 concerns that have already been stated, but I would like to ask that as a president I would  
1111 receive information when mailing is going out to the members of Oaklawn Park that live  
1112 on Dean Street.  
1113  
1114 It's very seasoned neighborhood and some of the people on Dean Street are much more  
1115 seasoned than I am. So, when they receive information just like tonight. I think that there  
1116 would be more people here. But when they receive a card, half of them don't read it or  
1117 and there is no one in the home but them. So, I think that I would feel better when they  
1118 receive information that they've got to fill out whether they approve or don't approve of  
1119 any kind of situation. That at least, I along with our Vice President or other members that  
1120 are interested in those people that are well over in their 90s could receive the proper  
1121 information. They'll know what it is about that they are actually filling out.  
1122  
1123 Moderator: Okay.  
1124  
1125 Mable Latimer: I would be gladly to give you my address.  
1126  
1127 Moderator: Yes, if you would, actually Greg Smith is handling...his staff that  
1128 will be handling the balloting.  
1129  
1130 Mable Latimer: Okay.  
1131  
1132 Moderator: So, if you would before you leave give it to him to make sure that  
1133 he has your contact information. And then we can coordinate.  
1134  
1135 Mable Latimer: Thank you so much.  
1136  
1137 Moderator: Thank you. Anyone else?  
1138  
11-1 1139 Ronald Ross: Ronald Ross, I stay on 3108 Dawnshire Avenue. And just a quick  
1140 comment as far as during the construction process with the neighborhoods that will be  
1141 affected by probably increased traffic flows. Hopefully, you know, prior to there would  
1142 be some conversation that hopefully could alleviate those problems. Again, I'm really  
1143 concerned with the pollution effect, increased traffic on the road if or once the toll roads  
1144 are implemented. So, that's what, I just wanted readdress that and let everyone know that  
1145 we are really concerned about that.

1146  
1147 Moderator: Thank you. Anyone else? Keep in mind that written comments  
1148 carry the same weight as verbal comments. If you didn't get to say something today, you  
1149 have up into August 1<sup>st</sup> to say your additional comments, alright  
1150  
1151 Audience Member: I have one question. May I ask it?  
1152  
1153 Moderator: Yes, please come up. State your name, again because this is being  
1154 recorded and it's going to be transcribed. I just want to make sure that we capture it.  
1155  
1156 Tammy Hill: You know everybody has been really...  
1157  
1158 Moderator: State your name.  
1159  
1160 Tammy Hill: I'm sorry. My name is Tammy, Tammy Hill. About the  
3-2 1161 environmental piece, have you all looked at it? Because I know the government has done  
1162 a lot of study about the health of urban pollutants. Have you all? Are you sharing it with  
1163 the public, the reports? I looked at that handbook and I didn't see it backed there. I  
1164 looked at it starting on page 23; that big thick handbook. I went back there and I didn't  
1165 see it.  
1166  
3-2 cont 1167 So, I'm talking about the actual fact like air quality can cause respiratory problems, the  
1168 cancer rate, I didn't see that in there; and the public need to really understand the really,  
1169 real effect on health issues. I mean, because there are a lot of people over here suffering  
1170 with asthma. And then, you know, as he just mentioned when you start this construction,  
1171 those pollutants, cars are going to be stopped even the more when the construction is  
1172 taken place. And I think it's a fair question to release the report that actually let the public  
1173 see what these toxins can cause.  
1174  
1175 Moderator: Thank you ma'am. Alright, anyone else? Well, I thank you all for  
1176 coming out tonight. If you have neighbors or friends that didn't make it out tonight,  
1177 please feel free to take a handout, additional handout with you to them and encourage  
1178 them to send in any comments. Thank you.  
1179  
1180  
1181  
1182 Hearing Adjourned.  
1183  
1184 Jamille Robbins, Moderator  
1185 Public Involvement Unit  
1186 July 18, 2013  
1187  
1188 Typed by Johnetta Perry

## Appendix B2 - July 18, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
1	1	Lisa Rudisill	Tolling Roads in North Carolina	The only thing that concerns me is that if you get into having toll roads that do you open the door for further, make it easier to have more toll roads in the state.	The state of North Carolina has been studying the use of tolls in road building since 2002 as a result of rapid growth, heavy congestion and dwindling resources. Historical financing methods are not sufficient to address the growing transportation needs in the state. North Carolina currently has one toll road in operation in Wake County and is looking at four other toll roads across the state. In addition, managed lanes similar to those proposed on I-77 are being explored for inclusion on other interstates throughout the state.
1	2	Lisa Rudisill	Current Use of HOV Lanes	I would also be interested to know how much use the HOV Lanes now receive.	Based on traffic counts collected in the Fall of 2011, the percentage of total daily vehicles using the I-77 HOV lanes is approximately 5% of the total traffic volumes of I-77.
2	1	Sarah McAulay	Supports Project	I support Alternative 2 as the preferred plan to go forward with this plan.	Comment noted.
3	1	Tammy Hill	Toll Operations	Please help me understand how this will improve the environment when these cars will have to stop to pay the toll roads?	Tolls will be collected electronically and there will not be any need to stop and pay a toll. Drivers will set up an account with NCDOT and be issued a small electronic device called a transponder. When a vehicle is in the HOT lanes, the transponder is read by antennas mounted above the roadway and payment will be deducted from the customer's account. If there are three or more passengers in your vehicle, you will have the ability to turn "switch" the transponder to the HOV designation so that you are not charged a toll.
4	1	Frank Talley	Public Involvement	First of all, I would like to say that as a citizen and as a taxpayer, I am very disappointed with the fact that I received this information when I walked in the door. I recognize that you have internet capabilities, but a lot of people in a lot of communities, people are unaware of the internet capabilities and don't have those kinds of services in their homes. If you are going to have a drastic impact on people in their homes, you need to take in consideration that they need more information. They need a little bit more time to peruse that document.	A series of public meetings and workshops have been held for this project since Spring 2012 to inform the public about this project. Public involvement activities for this project are documented in Section 6.2 of the <i>Environmental Assessment</i> . In advance of this hearing, a public notice (postcard) advertising the Pre-Hearing Open House and Public Hearing was mailed to approximately 1,100 property owners in the study area. In addition, the public notice and a press release were published in local media and on community websites. This notice also included information on where the Environmental Assessment and Hearing Maps could be reviewed in advance of these meetings.

## Appendix B2 - July 18, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
4	2	Frank Talley	Truck Only Lanes	I wonder have you all ever looked at the aspect of putting in a lane just for the trucks here in Mecklenburg County. It appears that many of the accidents that take place, takes place in the right hand lane of people trying to exit the lanes here on the interstate. No one has done a study to take that into consideration? That should be taken into consideration.	FHWA's Publication, <i>Issues in the Financing of Truck-Only Lanes</i> (FHWA-HRT-05-007) concluded that "adding truck-only lanes to existing highways would be expensive enough that State and local DOTs are unlikely to find sufficient resources to fund them using traditional sources, such as a State's road-use tax fund..."
5	1	Joretta Lawrence	Noise and Air Quality	My major concern is the noise. I have a problem with it now and also the ozone. I want to know if they are going to come in closer to those backyards, to monitor them from there. I keep seeing you say they are monitoring here and they're monitoring here. No one has been in my yard or talked concerning this matter. I would like this noise to be monitored from where the road is now from my backyard. I give them permission to come in and do that.	<p>Traffic noise impacts are determined through use of the current Traffic Noise Model (TNM) approved by the Federal Highway Administration. In addition, procedures detailed in Title 23 CFR 772, the NCDOT Traffic Noise Abatement Policy, and the NCDOT Traffic Noise Analysis and Abatement Manual are adhered to. Your neighborhood was included in Noise Study Area #2 in the I-3311C Design Noise Report. Under the Preferred Alternative, a noise barrier is proposed along northbound I-77 near Whisnant Street south of Oaklawn Avenue.</p> <p>Data is not collected from every residence, but from selected areas that best represent a noise study area that is analyzed in the TNM model. In Noise Study Area #2, existing noise measurements were taken at three locations along Tinnin Avenue, two locations on Polk Street, and one location on Johnson Street.</p> <p>An air quality study, <i>Microscale Carbon Monoxide and Mobile Source Air Toxics Air Quality Analysis</i> (Kimley-Horn and Assoc., June 2013), prepared for this project assessed potential air quality impacts (including ozone) associated with all alternatives under consideration. This analysis determined that this project would not result in any adverse effects on air quality and is in compliance with National Ambient Air Quality Standards, including standards for ozone. The results of this analysis are summarized in <b>Section 5.2.2</b> of the <i>Environmental Assessment</i>.</p>



## Appendix B2 - July 18, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
5	2	Joretta Lawrence	Air Quality	Now, I've been there a number of years; but until the traffic increased here in Charlotte, I didn't have that problem. My plants stayed outdoors for the spring of the year to the fall of the year. Never came in with this black tar. It's on my garbage can. And then I had to replace my light grey can with a dark grey can. But if you look real good, it's still on there too. The white picnic tables, they're covered with the substance. I don't know what it is. And (inaudible), we have a problem.	The air quality analysis conducted for the project in accordance with state and federal standards determined that this project would not result in any adverse effects on air quality and is in compliance with National Ambient Air Quality Standards, including standards for ozone. The origin and composition of the material cited in the comment cannot be determined or attributed to a particular source without additional analysis.
6	1	Cheryl Hampton	Noise Walls	The concerns that we are raising that I heard our residents in the area talk about is again as the earlier speaker said the noise, the noise buffer. I heard you say that you will be sending out ballots to those folks. So, we are very concerned about not only the environmental aspects and impact, but the quality of life impact as well. And so we have some aesthetics themes that we are trying to maintain on the corridor and we would certainly want time for the residents to be able to, the residents, here to meet with their residents so they can understand what that ballot is; because if you send a ballot out cold, you see how many people you have here. So, we are going to get on our pipeline, our informal pipeline and do that. But if that time period could be extended that's one thing.	Noise barrier locations have been identified and are presented in the individual Design Noise Reports prepared for I-3311C, I-5405, and I-4750AA. Results of these reports are summarized in <b>Section 5.2.1</b> of the <i>Environmental Assessment</i> .  Noise barrier features have not been determined yet. Municipalities will have the opportunity to participate in the selection of noise wall aesthetic features, for those proposed walls located within their jurisdictions. Approved noise barriers will be constructed to NCDOT standards. Benefitted receivers of these proposed barriers in historic districts such as the Oaklawn neighborhood will be given an opportunity to vote on the aesthetic look of the wall from standard options approved by NCDOT for use.  Subsequent to receipt of this comment, a meeting was held on August 1, 2013, 1 at the NCDOT Traffic Management Center, to provide additional information on the proposed barrier locations and voting process for the aesthetic look of the noise walls with Oaklawn Park residents.
6	2	Cheryl Hampton	Roadway Maintenance	The second, we're concerned about is the maintenance upkeep and grass cutting for those new rights-of-ways. We have a right-of-way along Brookshire Freeway. It's not being cut now. It's not being cut now. It's not being up kept. If you come along for the right-of-ways that are but Brookshire Freeway and Beatties Ford Road that area is overgrown.	Your concerns regarding right-of-way maintenance have been forwarded to NCDOT Division 10 Maintenance Engineer. Concerns about the maintenance of this area will be addressed.

## Appendix B2 - July 18, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
6	3	Cheryl Hampton	Impacts During Construction	...we are very concerned about the mitigating the environmental impact during construction. And we wondered what is being required of the contractor during construction.	As discussed in <b>Section 5.6</b> of the <i>Environmental Assessment</i> , a construction mitigation plan will be developed during the design phase of the project. Temporary construction impacts will be minimized through adherence to NCDOT's Best Management Practices (BMPs). The Developer will be required to develop a Communication, Public Outreach and Communication Plan which requires them to effectively engage the community in the design, construction and operation of the Project.
6	4	Cheryl Hampton	Air Quality	...did your Environmental Assessment take into account the air quality and dust...	Yes. A <i>Microscale Carbon Monoxide and Mobile Source Air Toxics Air Quality Analysis</i> (Kimley-Horn and Assoc., June 2013) was prepared for this project to assess potential air quality impacts associated with all alternatives under consideration. This analysis determined that this project would not result in any adverse effects on air quality and is in compliance with National Ambient Air Quality Standards. The results of this analysis are summarized in <b>Section 5.2.2</b> of the <i>Environmental Assessment</i> .
6	5	Cheryl Hampton	Public Involvement	we would just want to make sure that someone from NCDOT come out and work with these neighborhoods and explain very clearly about what you are doing to mitigate and because there are always unintended consequences.	See response to Speaker 6, Comment #3.
7	1	Geraldine Johnson	Noise Walls	...my concern is personal, because the back of my house is where 2 houses, they stopped 20 years ago before they gave me a brick wall. Now, they put the brick wall on the opposite side of I-77. Where there are no houses basically where Double O used to be, all the way down that creek. There's nothing. But there's a big nice big wall. And yet, where I live and some other neighbors on that back wall there is NOTHING.	Under the Preferred Alternative, a noise barrier wall is proposed along the southbound lanes of I-77, north of Lasalle Street and south of I-85 near Lincoln Heights Court, which will provide noise reduction benefits to your community.

## Appendix B2 - July 18, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
7	2	Geraldine Johnson	I-77/I-85 Interchange	I-85 and I-77 where they break off and join, which we call the “truckers death curve”, and that’s exactly what is. It’s been happening ever since the road was constructed over 20 years ago. Are you going to straighten it out, you’re going to build others roads and you’re going to revamp? What are you going to do about the death trap that has been occurring at that same site for over 20 years is my question?	This project does not include improvements to the I-77/I-85 interchange, but will not preclude future improvements being studied as part of STIP project FS-1210A, which is analyzing improvements to this interchange. As part of the P3 contract, there is a requirement that the Developer includes a preliminary design recommendation for a long-term reconstruction solution for this interchange and provides an explanation as to how the final design for this project will facilitate a future improvement to the interchange.
7	3	Geraldine Johnson	Noise Walls	<p>The noise level is terrible for anybody who lives on Trentwood Place and Dalebrook. The roaring, you came down, you cut the bushes down. You didn’t put any back up.</p> <p>You left the others of us exposed and you did absolutely nothing. So, why we’re spending money for something new, would you please consider those that you have lost and forgotten 20 years ago? Thank you.</p>	<p>Under the Preferred Alternative, a noise barrier is proposed along the southbound lanes of I-77, north of Lasalle Street and south of I-85 near Lincoln Heights Court in the area of your neighborhood that is near I-77. Trentwood Place and Dalebrook Drive are near I-85, which is outside the study area for this project, therefore noise walls were not evaluated along I-85 for this project.</p> <p>The construction contract for this project will require the Developer to develop a Corridor Landscaping and Aesthetics Plan (CLAP) that establishes an overall vision for the corridor. The CLAP will also include details regarding future landscaping and future aesthetic hardscape elements that will ultimately result in a uniform, corridor-wide landscape. Further, the P3 contract provides for an allowance available for expenditure during construction to initiate the implementation of the CLAP.</p>

## Appendix B2 - July 18, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
8	1	Charles Suter	P3	I wanted to talk about the Public-Private Partnerships. What happens when these things occur is the public, all of us, we put up money and then the private area adds some money into as well. Then what happens is the private interest makes all of the profit and we take all of the risk; because there is no real risk to them. And how many of these things have been profitable around the country? Some of them have been able to upkeep themselves, but they're...none of them are actually profitable.	<p>The NCDOT made a critical decision early in the development of this P3 project. P3 arrangements can be constructed as availability payment deals or revenue risk deals. Availability payment deals shift the risk of traffic revenue to the owner whereas revenue risk deals shift that risk to the developer. This project is a revenue risk deal. Therefore, the risk of obtaining the revenue necessary to repay debt and investors for the construction, maintenance and operation of the facility is the developer's. The public subsidy for initial construction is capped at \$170 Million and is anticipated to be driven downward due to competitive tension in the bidding process. The remainder of the funds will be secured by the developer through a combination of debt and private equity.</p> <p>If revenue exceeds expectations, the NCDOT shares in the revenue.</p> <p>18 similar managed lanes projects are operational in the U.S. and 17 of those projects are collecting revenue above operations and maintenance.</p>
9	1	Greg Johnson	Traffic Operations	Specifically, at the exit at Graham, the drawing, the maps that are posted on the black hanging drapes there showing encroachment on 11th Street, and that's in conflict with Exhibit 9 in the existing concession agreement, which does not show encroachment on 11th Street. I talked to the Parsons Brinckerhoff person and he said you are right, this is a discrepancy, we've got to figure this out.	The mapping on display is preliminary in this regard and subject to change. It is anticipated that this project will be designed and constructed using a design-build process and minor revisions to these plans could occur at this time. Additional public involvement opportunities will occur to inform the public of any changes.

## Appendix B2 - July 18, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
9	2	Greg Johnson	Noise Walls	We are concerned also at that area like everybody else, about noise and sound pollution. And right now, it's not clear whether there will have to be a sound barrier in place.	Section 5.2.1 of the Environmental Assessment identifies recommended noise barrier locations, including three barriers along I-277 east of Graham Street. Two barriers are along the eastbound I-277 shoulder from around Pine Street to around North Tryon Street and one barrier is along the westbound I-277 shoulder from around North College Street to around North Brevard Street.  NCDOT is communicating with affected neighborhoods and has begun initial discussions regarding noise barrier placement and aesthetics. NCDOT met with representatives of Center City Partners and Fourth Ward Neighborhoods on August 20, 2013, to provide additional information on the proposed barrier locations and voting process for the aesthetic look of the noise walls. This coordination will continue.
9	3	Greg Johnson	Noise Walls	So, I just think we just need to be very clear and understand that the DOT and others have been working on trying write the contract language so that it protects us against these sorts of things. But let's not kid ourselves, there's a group in here that's sole purpose is to make money. It's not to relieve traffic or anything like that. So, I'm concerned about the noise barriers in that 11th Street area.	Noise barriers meeting the requirements of Title 23 CFR 772, the NCDOT Traffic Noise Abatement Policy, and the NCDOT Traffic Noise Analysis and Abatement Manual will be constructed.

## Appendix B2 - July 18, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
9	4	Greg Johnson	Traffic Operations	<p>And then finally, I'm concerned about the ending of the HOT Lane right before the Graham Street Exits. There's a potentially dangerous place there where people go out of the end of the HOT Lane and want to exit onto Graham Street and they're going to have to cut across several lanes of traffic in a very short amount of time.</p> <p>There's a traffic problem. There's lot of ways to solve this. But, however we solve it, we need to make sure that we're taking care of the environmental impact and life safety issue. And I'm not sure if that is totally buttoned up yet.</p>	<p>The mapping on display at the Public Hearing inadvertently showed the HOT lanes terminating on I-277 just east of Graham Street. Analyses of the HOT lanes assumed that they will actually begin and end between N. Church Street and N. Tryon Street for safety purposes. The HOT lane access points are preliminary and subject to change. It is anticipated that this project will be designed and constructed using a design-build process and minor revisions to these plans could occur during final design.</p> <p>Access locations identified in the <i>Environmental Assessment</i> are shown for illustrative purposes and the minimum requirements for ingress and egress locations are detailed in the draft comprehensive agreement.</p> <p>The weaving movements between the I-77/ I-277 direct connect HOT ramps and the I-277 on-/off-ramps on the north side of Uptown were included in the traffic operations analysis conducted using the computer model VISSIM. Despite short weaving lengths, the analysis showed that the average speeds will remain approximately the same on I-277.</p>
10	1	Mable Latimer	Public Involvement	I am not going to repeat any of the concerns that have already been stated, but I would like to ask that as a president I would receive information when mailing is going out to the members of Oaklawn Park that live on Dean Street.	NCDOT will copy the Oaklawn Park Neighborhood Association president on future mailings to neighborhood residents. This included sending a list of residents receiving noise wall ballots.

## Appendix B2 - July 18, 2013 Public Hearing Comments and Responses

Speaker No.	Comment No.	Name	Topic	Comment	Response
11	1	Ronald Ross	Public Involvement	Just a quick comment as far as during the construction process with the neighborhoods that will be affected by probably increased traffic flows. Hopefully, you know, prior to there would be some conversations that hopefully could alleviate those problems. Again, I'm really concerned with the pollution effect, increased traffic on the road if or once the toll roads are implemented.	<p>As discussed in Section 5.6 of the Environmental Assessment, a construction mitigation plan will be developed during the design phase of the project which will contain detailed information regarding traffic operations during construction. As with all construction projects, proper traffic management plans will be developed and implemented in coordination with the local agencies and in compliance with local agency and federal guidelines in an effort to minimize traffic pattern changes and associated impacts. Temporary construction impacts will be minimized through adherence to NCDOT's Best Management Practices (BMPs).</p> <p>The Developer will be required to develop a Communication, Public Outreach and Communication Plan which requires them to effectively engage the community in the design, construction and operation of the Project.</p> <p>This project is included in Mecklenburg-Union Metropolitan Planning Organization's (MUMPO) 2035 Long Range Transportation Plan and the NCDOT Transportation Improvement Program which the USDOT has confirmed conforms to the air quality goals established by the state air quality implementation plan and meets the requirements of the Clean Air Act (section 176(c) (42 U.S.C. 7506(c)).</p>
3	2	Tammy Hill	Public Health	<p>I know the government has done a lot of study about the health of urban pollutants. Have you all? Are you sharing it with the public, the reports?</p> <p>I'm talking about the actual effect, like air quality can cause respiratory problems, the cancer rate, I didn't see that in there; and the public need to really understand the really, real effect on health issues. I mean, because there are a lot of people over here suffering with asthma. And then, you know, as he just mentioned when you start this construction, those pollutants, cars are going to be stopped even the more when the construction is taking place. And I think it's a fair question to release the report that actually let the public see what these toxins can cause.</p>	<p>This Environmental Assessment complies with the National Environmental Policy Act (NEPA) to assess the impact of the proposed project on a broad range of issues to the human, natural and physical environments.</p> <p><i>A Microscale Carbon Monoxide and Mobile Source Air Toxics Air Quality Analysis</i> (Kimley-Horn and Assoc., June 2013) was prepared for this project to assess potential air quality impacts associated with all alternatives under consideration with this project. This analysis determined that this project would not result in any adverse effects on air quality and is in compliance with National Ambient Air Quality Standards. The results of this analysis are summarized in Section 5.2.2. of the <i>Environmental Assessment</i>.</p>

## Appendix B3

### Public Hearing Comment Forms

Document Number	Comment and Response Found on Page
CF-001	B3-1
CF-002	B3-1
CF-003	B3-2
CF-004	B3-2
CF-005	B3-2
CF-006	B3-3
CF-007	B3-3
CF-008	B3-3
CF-009	B3-4
CF-010	B3-4
CF-011	B3-4
CF-012	B3-5
CF-013	B3-5
CF-014	B3-5
CF-015	B3-6
CF-016	B3-6
CF-017	B3-6
CF-018	B3-6
CF-019	B3-7
CF-020	B3-8
CF-021	B3-9
CF-022	B3-9
CF-023	B3-12
CF-024	B3-12
CF-025	B3-13
C-001	B3-14
C-002	B3-16
C-003	B3-16
C-004	B3-17
C-005	B3-21
C-006	B3-21
C-007	B3-22





## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
CF-001	Thomas Tohn	1	P3	Who are the private managers? And who funds them? How do you know their money is clean after tax not illegally or unethically funded by felons?	<p>The I-77 HOT lanes procurement is a competitive process. The successful bidder will meet the project construction and operational goals at the lowest public subsidy (cost). The successful bidder must be properly registered to do business in the State of North Carolina. As of March 2013, the current shortlisted bidders include:</p> <p><b>Charlotte Access Mobility Group</b> (ACS Infrastructure Development, Inc. and InfraRed Capital Partners Limited, partnering with Dragados U.S.A., Inc. and United Infrastructures Group, Inc., Florence &amp; Hutcheson)</p> <p><b>Cintra Infraestructuras, S.A.</b> (Partnering with Ferrovial Agroman, S.A. and W.C. English, Inc., Louis Berger Group)</p> <p><b>Metrolina Development Partners (OHL Concesiones, S.A.)</b> (Partnering with Lane Construction Corporation and Obrascón Huarte Lain, S.A., HDR)</p> <p><b>Char-Meck Development Partners (Vinci Concessions, S.A.S. and Meridiam Infrastructure NA)</b> (Partnering with Archer Western Constructors, L.L.C. and Blythe Construction, Inc., Parsons Transportation Group.)</p> <p>NCDOT will oversee all work by the selected team, which will be held to predetermined performance standards.</p> <p>The private partner will provide funds most likely in the form of a combination of TIFIA loans, private activity bonds, private equity, and/or bank debt. Often private equity is obtained in the form of public and private sector pension funds. Numerous audit activities are available to the NCDOT over the course of the contract.</p>
CF-002	Carde Gibbons	1	General Purpose Lanes	I-277 to exit 19 - there is no congestion. The congestion is at the bottle neck after exit 18...Just put general purpose lanes after exit 18, 19.	<p>There is not any funding currently available to provide general purpose lanes along the entire corridor in the foreseeable future. The best value proposition is to leverage private partner funding to improve the entire corridor and to provide travel time reliability along the length of the entire corridor.</p> <p>The I-77 HOT lanes project is being developed to provide immediate travel time reliability within the study area. The inclusion of General Purpose lanes would not address this purpose.</p>

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
					The purpose and need for the I-77 HOT lanes project is consistent with the financial objective identified in MUMPO's 2035 LRTP which states to "Make investment decisions for transportation modes that make the most efficient use of limited public resources". This includes actively exploring new sources of revenue and to foster innovative financing and partnership opportunities for project development and implementation.
CF-003	Alex Wiseman	1	Future Projects	Hambricht Rd. is 4 lanes on 2035 LRTP. New bridge should be wide enough for 4 lanes or designed to be easily widened in the future.	Hambricht Road is not funded in the 2035 LRTP. Hambricht Road will be widened only to accommodate bicycles and pedestrians. Widening of the bridge at Hambricht Road in the future is not anticipated to be hindered by the completion of this project.
CF-003	Alex Wiseman	2	Traffic	What are the AADTs between each interchange for 2030/2035? Public hearing maps should reflect DDi @ exits 28 and 35.	AADTs for 2030/2035 are beyond the design year (2017) of the proposed project. The public hearing maps show the project corridor in the design year of 2017. Proposed diverging diamond interchanges in the corridor are not precluded from future implementation.
CF-004	H.C. Furches			No questions or comments requiring response.	
CF-005	Kimberly Reilly	1	Need for project.	Once rush hour traffic (southbound) gets to I-485 it is a drag race into the city, so please explain why we need more lanes down there.	Proposed HOT lanes in each direction within the study limits are necessary to meet the project's purpose to provide a long term solution for travel time reliability along I-77 from Uptown Charlotte to the Lake Norman area. Identified improvements address both northbound and southbound traffic during the morning and evening peak periods throughout the entire project limits.  The I-77 HOT lanes project is being developed to provide long term travel time reliability within the study area. The inclusion of general purpose lanes would not address this purpose.  The purpose and need for the I-77 HOT lanes project is consistent with the financial objective identified in MUMPO's 2035 LRTP which states to "Make investment decisions for transportation modes that make the most efficient use of limited public resources". This includes actively exploring new sources of revenue and to foster innovative financing and partnership opportunities for project development and implementation.

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
CF-006	Troy D. Reed	1	Emergency Coord.	If we had to evacuate because of a Duke Energy accident - where would all the people go?	<p>In the event of a problem at Duke Energy's McGuire Power Station, Duke Energy would immediately notify federal, state and local authorities of a problem at the station. These officials would then notify the public if any action is necessary. Duke Energy's website outlines the procedures to be taken in the event of an emergency. These procedures vary depending on your proximity to the facility and can be found at: <a href="http://www.duke-energy.com/nuclear-emergency-preparedness/mcguire.asp">http://www.duke-energy.com/nuclear-emergency-preparedness/mcguire.asp</a>. Duke Energy will coordinate with NCDOT in the event of a need for evacuations.</p> <p>The comprehensive agreement for the project allows the NCDOT to suspend tolling in the case of such an emergency, thereby providing for additional lanes to be used for the purposes of evacuation.</p>
CF-007	Kathy Pearce	1	General Purpose Lanes	A better solution would be these lanes added as general purpose lanes. We have a lot of trucks + a lot of out of state traffic. Why should we have to pay a toll, when the rest of the state does not?	<p>Traditional funding sources are not adequate to meet all the transportation needs in the region. Only vehicles not meeting high occupancy requirement will be required to pay a toll. Buses, motorcycles, and vehicles with three or more passengers will be permitted to use the HOT lanes free of charge. In addition, vehicles will also be able to utilize the general purpose lanes without having to pay a toll.</p> <p>The state of North Carolina has been studying the use of tolls in road building since 2002 as a result of rapid growth, heavy congestion and dwindling resources. Historical financing methods are not sufficient to address the growing transportation needs in the state. North Carolina currently has one toll road in operation in Wake County and is looking at four other toll roads across the state. In addition, managed lanes similar to those proposed on I-77 are being explored for inclusion on other interstates throughout the state.</p>
CF-008	John A. Scott	1	Traffic Operations	The plans show no thought of the congestion created by those crossing general lanes to exit the highway.	A traffic operational analysis was completed for this project which considered impacts of vehicles weaving between the HOT lanes and interchange ramps. The <i>Traffic Operations Technical Memorandum, July 2013</i> identified that the overall traffic speeds in the general purpose lanes would not be reduced when compared against the No-Build alternative as result of the traffic

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
					weaving between the HOT lanes and interchanges. During final design, the developer is responsible for producing a similar analysis along the entire corridor to demonstrate to the NCDOT that the final design likewise does not adversely affect the operation of the general purpose lanes.
CF-009	Joe Pellino	1	Project Funding	We pay taxes to take care of this kind of project.	Current tax revenues are not sufficient to address all of the transportation needs throughout the state. Alternative financing methods, such as tolling, are being explored as a means to address the increasing transportation needs throughout the state. It is projected that traditional revenues will decrease and construction costs will inflate in the upcoming years and decades. Even assuming no construction cost inflation and steady revenues, traditional funding sources are not adequate to meet all the transportation needs in the region. Vehicles with three or more passengers, buses, and motorcycles will be permitted to use the HOT lanes free of charge.
CF-010	Pattie Marshall	1	Project Funding	This needs to be put to the McCrory strategic mobility formula - where it would come out in the top 10% and use money on hand.	The Strategic Mobility Formula applies only to those projects scheduled for bid openings after July 2015. Projects awarded for construction before then will proceed as scheduled; projects slated after that time will be ranked and programmed according to the new formula.
CF-011	Robert Oliphant	1	Traffic Operations	Would there be a toll booth installed or just a license tag photographed and sent to car owner, which would be costly maintaining both.	All tolls will be collected electronically and no toll booths will be constructed as part of the proposed project. Users will be encouraged to have a small electronic device called a transponder. When a vehicle is in the HOT lanes, the transponder is read by antennas mounted above the roadway. Toll payment would automatically be deducted from those customers that are not exempt for the HOV designation (i.e. primarily vehicles with fewer than three occupants) who have set up an account with the NCDOT. Customers who choose not to set up an account or obtain a transponder will pay their tolls through Bill by Mail. In such case, as a vehicle passes through the HOT lanes, an image of the license plate is taken from an overhead camera. The registered owner of the vehicle is identified through the Department of Motor Vehicles and a Bill by Mail is sent to the customer for payment. For vehicles containing three or more

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
					passengers, the transponder can be “switched” to the HOV designation so that a toll will not be charged.  Tolling policies established for the Triangle Expressway toll road in Raleigh, as well as other future toll roads in the state, will be followed for this project as well.
CF-012	Barbara Rosengrant	1	Proposed Alternative	Divide project into 4 sub projects in order of importance. Do on a funds available basis 1) Exit 23-28 2) Exit 28-36 3) 277 to I-85 4) I-85 to Exit 23	Comment noted. The intent of the project is to provide a long term travel time benefit between uptown Charlotte and Lake Norman and the communities in between. It is projected that traditional revenues will decrease and construction costs will inflate in the upcoming years and decades. Even assuming no construction cost inflation and steady revenues, traditional funding sources are not adequate to meet all the transportation needs in the region.
CF-012	Barbara Rosengrant	2	Traffic Operations	Current HOV is not used because of difficulty getting off. How is this problem being addressed? People in regular lanes will not let HOT cars in. Thus a slow up on the HOT.	A traffic operational analysis was completed for this project which considered impacts of vehicles weaving between the HOT lanes and interchange ramps. The <i>Traffic Operations Technical Memorandum, July 2013</i> identified that the overall traffic speeds in the general purpose lanes would not be reduced when compared against the No-Build alternative as result of the traffic weaving between the HOT lanes and interchanges.  Ingress and Egress to and from the HOT lanes will occur at locations established during final design such that safe ingress and egress can occur without adversely affecting the operation of the general purpose lanes. The contract requires a minimum of six egress and/or ingress points in each direction along the corridor.
CF-013	Mark Gibbons	1	Traffic Operations	The traffic problem is between Exit 19 and Exit 30 both morning and night.	Comment noted.
CF-014	Kurt Naas	1	Design Year	The assessment goes out to 2017, the same year the project opens. Why is this so?	Per FHWA <i>Interim Guidance on the Application of Travel and Land Use Forecasting in NEPA</i> (March 2010) a project may not have to rely on future performance to meet purpose and need, and its “design year” may be shorter to manage current congestion. In addition to the Purpose and Need, the traffic operational analysis utilized a 2017 design year to address the immediate project

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
					purpose of providing reliable travel time reliability. The 2017 Design Year only applies to the project's Purpose and Need and traffic operational analysis. Other environmental analyses such as indirect and cumulative effects and air quality consider impacts through 2035.
CF-015	Z. N. Hill	1	Coordination with CATS	Transportation should be provided especially for the CATS riders during construction!!! And how will this effect CATS buses.	NCDOT will coordinate with CATS during final design and construction to minimize impacts to CATS bus operations.
CF-016	Corvin D. Hogan			No questions or comments requiring response.	
CF-017	Cedric J. Hogan			No questions or comments requiring response.	
CF-018	Greg Johnson	1	P3	I am concerned that the outsourcing leaves too many decisions regarding safety/noise to the private developer. No official at the meeting answered this question.	The state maintains public ownership and control over the I-77 HOT Lane investment throughout the concession term. The P3 contract will give the developer the right to collect toll revenues in return for constructing and maintaining the project to meet state specified contractual requirements, including those regarding safety and noise. Any change proposed by the concessionaire will have to be approved by NCDOT. At each hearing, a table for questions specifically about air quality and noise was staffed by NCDOT team members.
CF-018	Greg Johnson	2	Noise Walls	I am concerned (and our neighborhood is concerned) with the proposed plan for 277 at Graham: - the proposed plan encroaches on existing 11th St. - we are concerned w/noise - no sound barrier seems to be planned - the current end of HOT lanes on 277 north of Graham don't give enough room for cars to exit onto Graham. This could create problems for stadium patrons and dump more traffic onto	Section 5.2.1 of the Environmental Assessment identifies recommended noise barrier locations, including three barriers along I-277 east of Graham Street. Two barriers are along the eastbound I-277 shoulder from around Pine Street to around North Tryon Street and one barrier is along the westbound I-277 shoulder from around North College Street to around North Brevard Street.  The mapping on display at the Public Hearing inadvertently showed the HOT lanes terminating on I-277 just east of Graham Street. Analyses of the HOT lanes assumed that they will actually begin and end between N. Church Street and N. Tryon Street for

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
				Church St.	<p>safety purposes. The HOT lane access points are preliminary and subject to change. It is anticipated that this project will be designed and constructed using a design-build process and minor revisions to these plans could occur during final design.</p> <p>Access locations identified in the <i>Environmental Assessment</i> are shown for illustrative purposes and the minimum requirements for ingress and egress locations are detailed in the draft comprehensive agreement.</p> <p>The weaving movements between the I-77/ I-277 direct connect HOT ramps and the I-277 on-/off-ramps on the north side of Uptown were included in the traffic operations analysis conducted using the computer model VISSIM. Despite short weaving lengths, the analysis showed that the average speeds will remain approximately the same on I-277.</p> <p>The project team has coordinated with the NCDOT Congestion Management Unit in the development of the traffic operational analyses methodology for this project. Impacts of vehicles weaving between the HOT lanes and interchange ramps were considered as part of the analysis. The <i>Traffic Operations Technical Memorandum, July 2013</i> identified that the overall traffic speeds in the general purpose lanes would not be reduced when compared against the No-Build alternative as result of the traffic weaving between the HOT lanes and interchanges.</p> <p>During final design, the developer is responsible for producing a similar analysis along the entire corridor to demonstrate to the Department that the final design likewise does not adversely affect the operation of the general purpose lanes.</p> <p>The <i>Traffic Operations Technical Memorandum</i> recommends a HOT lane access point be provided along I-277; however the exact location will be determined during final design.</p>
CF-019	Chris Grancagnolo	1	Suggested Alternative	<p>here is a cheaper, better alternative:</p> <ol style="list-style-type: none"> <li>1) Add a standard 3rd lane from mm 20/23 to 31</li> <li>2) Extend/widen the exit/entrance ramps to allow for merging</li> <li>3) Add exits at Mt Holly-Huntersville (22) and/or</li> </ol>	Suggestion acknowledged.



## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
				<p>Stumptown (24)</p> <p>4) Add trees on west side of 77 to prevent 'lake view traffic'</p> <p>5) Synchronize the lights on all the crossroads to prevent backup</p> <p>6) Add proper turning lanes in the City of Charlotte to allow vehicles to move</p> <p>7) Continue to add lanes on Statesville Road all the way to Mooresville to allow for alternate routes</p> <p>8) Eliminate left exit/entrances on 77 and 277 which is the primary cause of traffic on 77 in the City area</p>	
CF-019	Chris Grancagnolo	2	Suggested Alternative	Use the \$50million that the DOT just saved on the 485 completion project toward the Charlotte city roads that cause traffic on 277 (proper light synchronization and turning lanes). After all, we know that is the true reason why you are proposing the HOT lane – to pay for 277, not 77 because there is already enough to pay for 77.	<p>Suggestion acknowledged.</p> <p>See response to Document CF-007, Comment #1.</p>
CF-020	Joan Riddle	1	Facility Design	It appears only thru traffic will benefit from HOT lanes - many people in the northern region travel between Northern I-77 lanes - having barriers to separate the lanes also leads to safety issues - too many cars trying to merge and switch lanes in smaller areas -	<p>The I-77 HOT lanes project is being developed to provide long term travel time reliability within the study area.</p> <p>The HOT lanes and general purpose lanes will be separated by a 4-foot striped pavement buffer to separate the HOT lanes from the general purpose lanes.</p> <p>Impacts of vehicles weaving between HOT lanes and interchange ramps were considered as part of the analysis in the <i>Traffic Operations Technical Memorandum</i> (July 2013). The analysis identified that the overall traffic speeds in the general purpose lanes would not be reduced as a result of the traffic weaving between the HOT lanes and interchanges.</p> <p>To increase the availability of segments of the project to the communities in the northern and central sections of the project, a minimum of two additional ingress and/or egress points will be required beyond the number shown at the public hearings.</p>

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
CF-020	Joan Riddle	2	Impacts	Adding two lanes will create more harm to the environment.	<p>The improvements for all of the Build Alternatives north of I-85 will be within the existing right of way, with work being done primarily in the median. Environmental impacts associated with all build alternatives can be found in the <i>Environmental Assessment</i>.</p> <p>The FHWA has determined that Alternative 2 will have no significant impact on the human environment. This decision is based on the <i>Environmental Assessment</i> and its supporting documents, which have been independently evaluated by the FHWA and determined to adequately and accurately discuss the need, environmental issues, and impacts of the proposed project and appropriate mitigation measures.</p>
CF-020	Joan Riddle	3	Public Involvement	I feel that my voice does not count or means anything. I believe the decision has been made and that is purely political without regard to those of us who live, work and use I-77 in this region.	Public involvement activities for this project are documented in Section 6.2 of the Environmental Assessment.
CF-021	Jennifer Smith	1	Noise Walls	I think noise walls should be first rather than last because of the construction noise to nearby residents.	Noise walls are most often erected near the end of project construction because they otherwise can severely constrain a contractor's accessibility within the construction limits.
CF-022	Kenneth Clausen	1	Project Funding	It appears that the only NO-BUILD Alternative considered is that of widening in the "close-in" zone and not any of the other zones that are regularly congested during rush hours. It appears that all of the funding that NCDOT expects to have available without tolls would be consumed in that area. IS THAT CORRECT?	As explained in <b>Section 3.1</b> of the <i>Environmental Assessment</i> , the I-3311E project is currently identified and funded in NCDOT's 2012 - 2018 State Transportation Improvement Program (STIP) to honor a commitment made when the HOV lanes were originally constructed. The Selected Alternative, Build Alternative 2, incorporates improvements that fulfill the requirements of Project I-3311E.
CF-022	Kenneth Clausen	2	Alternative Analysis	A study at UNCC showed the "close-in" congestion to occur at the junctions of I-277 and I-85 and not the entire in-city zone. Meanwhile, it is clear on a daily basis that the zone from MP 20 to about MP 30 is congested and slowed considerably at rush hours and sometimes other	No standalone project has been identified within these limits in the current LRTP within the near future and therefore no detailed cost estimate has been prepared at this time.

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
				periods due to lane drops. There are only three overpasses (Hambright, Westmoreland and Griffith Roads) that would require reconstruction for that zone to be widened, so the cost of widening there for general lanes should be relatively modest. HAS THAT ALTERNATIVE BEEN CONSIDERED AND PRICED?	
CF-022	Kenneth Clausen	3	Project Costs	The construction of a toll road system incurs heavy costs that general widening does not. Among those costs are the ROW, utility impacts and construction of HOT lanes in zones where traffic capacity is presently adequate; the additional ROW, side work and construction for two four-foot wide buffer zones shoulders at overpasses; the additional signing and the toll collection system, operation and enforcement itself. HAVE THOSE ADDITIONAL IMPACTS AND COSTS BEEN QUANTIFIED?	Costs associated with the construction of HOT lanes are approximately 10% higher than if general purpose lanes were to be constructed. Additional impacts associated with the construction of HOT lanes versus general purpose are minimal. A majority of the costs associated with this project will be the responsibility of the selected concessionaire. Tolls collected from HOT lanes help fund the costs of building and maintaining the road. The use of this P3 arrangement will allow NCDOT to transfer substantial risks to the private sector in the areas of design, construction, operations, maintenance, tolling and revenue, while gaining additional roadway capacity in the near-term.
CF-022	Kenneth Clausen	4	Cost of Tolls	The fact that the dollar amount of the tolls is unknown is a major problem to the potential user and the public. I believe that the concept is that the P3 firm will set the toll amount to maximize its return that is the point that maximizes numbers of cars times the toll per car. But the P3 firm must also amortize its investment and make a profit, so there could be a disparity between the maximum income and income required. Theoretically, that is the risk that bidders assume, but we heard at the public hearing that the State is assuming much of the risk – that the firm gets paid in any case. WHAT LONG TERM GUARANTEES ARE BEING MADE TO THE CONTRACTOR?	Current law requires that the developer hold a public hearing on the toll rates, including an explanation of the tolling setting methodology, prior to setting toll rates on the HOT lanes.  The successful bidder will meet the project construction and operational goals at the lowest public subsidy (cost). The developer assumes the revenue risk of the project in the event that the project underperforms. Conversely, if the project revenue performance exceeds bid projections, the State will share in the revenue upside limiting the developers return. It is true that the private sector will not invest in projects where they do not have the potential to earn a reasonable return for the risk taken. However, the ability to maximize earnings is limited by consumer supply and demand since users have choice. Therefore, because the developer has substantial revenue risk, it is in their best interest to maintain customer focus and competitively price the service.  For HOT Lanes, federal law sets a high level of performance requirements for congestion which include average operating

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
					<p>speed and minimum average speed. Toll pricing will therefore target free flow conditions in the HOT lanes in order to meet these performance requirements as outlined in the agreement. If the HOT lane is being underutilized the developer will be incentivized to reduce toll rates to a point that attracts more users. Only as the HOT lanes fill up will the developer need to increase rates to maintain free flow.</p> <p>In addition, the concession comprehensive agreement includes detailed performance requirements for the operations, maintenance and hand back requirements for the facility. If the private partner fails to meet these performance requirements on a regular basis, a series of actions from increased monitoring to financial penalties to default can be taken by NCDOT.</p>
CF-022	Kenneth Clausen	5	Toll Lane Enforcement	<p>The intent, I believe, is that cars with three or more passengers do not have to pay a toll in the HOT lanes. The overhead electronic tolling systems cannot reliably count the number of passengers in the cars. I understand that drivers will be able to flip a switch on the transponders to indicate whether there are three or fewer passengers and that this will be on the "honor" system. So the driver has to decide, "Do I want to pay \$X.xx, or do I want to go through for free?" That would tax the integrity of a Billy Graham. HOW IS THE TOLL COLLECTION SYSTEM TO BE ENFORCED WITHOUT TYING UP TRAFFIC, OR WILL THE 3 PASSENGER PERK BE DROPPED?</p>	<p>Toll rate signs are required to be placed at a minimum 1 ½ miles in advance of any entry point. Once a vehicle enters the HOT lanes, on-site enforcement of use of the HOT lanes will primarily be the responsibility of the developer which may include the use of law enforcement and video or other such technologies that may be developed and refined over the course of the comprehensive agreement. Once a determination is made that a violation has occurred and been verified, the tolling policies established for the Triangle Expressway toll road in Raleigh, as well as other future toll roads in the state, will be followed for this project as well.</p>
CF-022	Kenneth Clausen	6	Traffic Operations	<p>There seems to be another flaw in the system for the HOT users when the general lanes are heavily congested and maybe even stopped. He sails along and then wants to get off. He will slow traffic in the HOT lane while merging and then have to jockey his way across three or four lanes of traffic where the drivers owe him no favors. IS NOT THIS SITUATION LIKELY TO BE A CONTRIBUTOR TO MORE ACCIDENTS, WHICH WOULD TIE UP TRAFFIC EVEN MORE? NOTE THAT</p>	<p>A traffic operational analysis was completed for this project which considered impacts of vehicles weaving between the HOT lanes and interchange ramps. The <i>Traffic Operations Technical Memorandum, July 2013</i> identified that the overall traffic speeds in the general purpose lanes would not be reduced as result of the traffic weaving between the HOT lanes and interchanges.</p> <p>During final design, the developer is responsible for producing a similar analysis along the entire corridor to demonstrate to the NCDOT that the final design likewise does not adversely affect the operation of the general purpose lanes.</p>

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
				NOT JUST ONE CAR WILL BE EXITING, BUT SEVERAL AT EACH EXIT AT ANY GIVEN TIME.	Ingress and Egress to and from the HOT lanes will occur at locations established during final design such that safe ingress and egress can occur without adversely affecting the operation of the general purpose lanes.
CF-023	William Latta	1	Future Development	I have a developer who is working with the Town of Huntersville on an early exit on exit 25 with the Town of Huntersville. We want to be sure DOT and Atkins are aware of our plans. There needs to be more on + off places in Huntersville and early exit on exit 25 with the Town of Huntersville. We want to be sure DOT and Atkins are aware of our plans. There needs to be more on + off places in Huntersville to toll lanes and longer exit lanes	NCDOT has coordinated with the Town of Huntersville and is aware of this proposed project. The I-77 HOT lanes project would not preclude this proposed project if/when it moves forward.  To increase the availability of segments of the project to the communities in the northern and central sections of the project, a minimum of two additional ingress and/or egress points will be required beyond the number shown at the public hearings.
CF-024	Mark J. Neroni	1	HOT Lane Access	The current plan doesn't provide access points for Cornelius or Huntersville citizens. It guarantees I-77 will be congested for us at least 50 years.	Access locations identified in the <i>Environmental Assessment</i> are preliminary and subject to change.  Ingress and Egress to and from the HOT lanes will occur at locations established during final design such that safe ingress and egress can occur without adversely affecting the operation of the general purpose lanes.  To increase the availability of segments of the project to the communities in the northern and central sections of the project, a minimum of two additional ingress and/or egress points will be required beyond the number shown at the public hearings.
CF-024	Mark J. Neroni	2	Project Funding	Your approach is a new tax on commuters – either you wait in traffic or you pay, \$2,400 - \$2,800 per year in tolls as a daily commuter!	Current tax revenues are not sufficient to address all of the transportation needs throughout the state. Alternative financing methods, such as tolling, are being explored as a means to address the increasing transportation needs throughout the state. HOT lanes are being utilized throughout the country (and further considered in other parts of North Carolina) as a long term management technique to maximize the existing roadway networks.  The HOT lanes provide an option for users to pay for greater travel time reliability on a trip-by-trip basis.  See response to Document CF-007, Comment #1.

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
CF-024	Mark J. Neroni	3	Design Year	The assessment only looks out to 2017. If this is a 50 year contract, shouldn't it look out for 50 years? Also, there is a lot of infrastructure that doesn't appear needed. Yet it is included in the cost. So, you are extorting the commuters from the northern suburbs to pay for it.	<p>See response to Document CF-014 Comment #1.</p> <p>The purpose and need for the I-77 HOT lanes project is consistent with the financial objective identified in MUMPO's 2035 LRTP which states to "Make investment decisions for transportation modes that make the most efficient use of limited public resources". This includes actively exploring new sources of revenue and to foster innovative financing and partnership opportunities for project development and implementation.</p> <p>The I-77 HOT lanes project is being developed to provide immediate and long term travel time reliability within the study area. The assessment evaluates the impact of the project to the human, natural, and physical environments from construction of the project.</p> <p>To meet the stated purpose, managed lanes or HOT lanes were evaluated. An added benefit of managed lanes is long term travel time reliability within the study area.</p> <p>The infrastructure to be designed and constructed as detailed in the Environmental Assessment is the anticipated work needed and the bidders are encouraged to innovate to reduce the costs during and after the bidding process.</p>
CF-024	Mark J. Neroni	4	Project Funding	Where would I-77 fall on the new road fund allocation model recently passed by the NC legislature and Governor McCrory? Why are we getting grandfathered into the old, unfair allocation of funds model? Our traffic counts per lane of traffic from Mooresville to Exit 19 appear to be the highest in the state.	See response to Document CF-010 Comment #1.
CF-025	Ron Berst	1	General Purpose Lanes	Why do we not just put in two extra GP lanes from about exit 19 to 28 and then one thru to exit 36?	<p>See response to Document CF-002, Comment #1.</p> <p>The I-77 HOT lanes project is being developed to provide long term travel time reliability within the study area. The inclusion of General Purpose lanes would not address this purpose.</p> <p>The purpose and need for the I-77 HOT lanes project is consistent with the financial objective identified in MUMPO's 2035 LRTP which states to "Make investment decisions for transportation modes that make the most efficient use of limited public</p>

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
					resources". This includes actively exploring new sources of revenue and to foster innovative financing and partnership opportunities for project development and implementation. Right-of-way constraints along the corridor would require the displacement of numerous homes and businesses for any further widening that would be required following the completion of a project with only general purpose lanes. An opportunity currently exists to construct a long term managed solution to provide long term travel time reliability along the corridor. The construction of only general purposes lanes would negate any such opportunity for long term travel time reliability.
CF-025	Ron Berst	2	Project Prioritization	What about general purpose lanes? I have heard it will be 20+ years before funding would be available...I would like to see the list of road project that are more important!!! This is a major/critical north/south transportation corridor for the Charlotte region and there are 20 years of more important projects???	See response to Document CF-025 Comment #1. The current project prioritization for the Charlotte region can be found in the Mecklenburg Union Metropolitan Planning Organization's (MUMPO) 2035 Long Range Transportation Plan (LRTP) <a href="http://mumpo.org/2035-long-range-transportation-plan">http://mumpo.org/2035-long-range-transportation-plan</a> . MUMPO is currently updating their project rankings as part of their 2040 Metropolitan Transportation Plan.
CF-025	Ron Berst	3	Project Funding	The Huntersville – Mooresville area has above average real estate compared to other areas which means our property taxes are higher...When does our area receive equal funding?	Roadways are funded through gas taxes and vehicle fees, not property taxes.
C-001	Mable Latimer	1	Noise Walls	The residents of Oaklawn Park are very concerned about the increased noise and the proposed strategy to mitigate that noise. There is an existing brick wall or barrier that currently stands as a buffer. The proposed project calls for the installation of a second wall or buffer. However, we were not given any information on the type or size of the new buffer. Furthermore, will the existing wall be torn down or will a second wall be constructed in addition to the existing brick wall?	Noise barrier locations have been identified and are presented in the individual Design Noise Reports prepared for I-3311C, I-5405, and I-4750AA. Results of these reports are summarized in Section 5.2.1 of the Environmental Assessment. Noise barrier features have not been determined yet. Municipalities will have the opportunity to participate in the selection of noise wall aesthetic features, for proposed walls located within their jurisdictions. Benefitted receivers of these barriers proposed in historic districts will be given an opportunity to vote on the aesthetic look of the wall from standard options approved for use by NCDOT. All approved noise barriers will be constructed to NCDOT standards. The existing brick privacy walls are anticipated to remain in place

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
					unless there are conflicts with the inclusion of noise barriers which would occur along Dean Street and Genesis Park Place. Subsequent to receipt of this comment, a meeting was held with Oaklawn Park residents on August 1, 2013, at the NCDOT Traffic Management Center, to provide additional information on the proposed barrier locations and voting process for the aesthetic look of the noise walls.
C-001	Mable Latimer	2	Roadway Maintenance	Presently, there are issues of maintenance, area clean-up and grass cutting in the area where the existing wall currently stands. A second wall could potentially create additional challenges or unintended consequences, which will impact health and safety, as well as reduce the quality of life for residents whose homes face the buffer and highway. Oaklawn Park is a clean, quiet neighborhood and I, along with the other residents, want it to remain so. The new buffer should be aesthetically appealing and constructed so as not to create further challenges for residents living in the area.	See response to Document C-001 Comment #1. Your concerns regarding right-of-way maintenance have been forwarded to NCDOT Division 10 Maintenance Engineer. Concerns about the maintenance of this area will be addressed.
C-001	Mable Latimer	3	Right of Way Acquisition	We are opposed to any further "taking of property" or relocation of residents as it relates to this project, if required.	The Preferred Alternative will require the relocation of seven residences. All seven of these residences require relocation due to the reconstruction and realignment of the Oaklawn Avenue bridge. Right of way will be refined for the Preferred Alternative during final design and will be minimized to the extent practicable.
C-001	Mable Latimer	4	Roadway Maintenance	Furthermore, there is an issue with maintenance and clean-up of right-of-ways. Neither the State of North Carolina nor the City of Charlotte will claim responsibility and the residents are left to suffer the consequences. The intersection of Brookshire Freeway and Beatties Ford Road, including the abutting right-of-ways, are in dire need of clean-up and grass cutting. This poses a health and safety issue for area residents. We do not want this same thing happening in Oaklawn	See response to Document C-001 Comment #2.



## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
				Park.	
C-002	Reed Law	1	Conversion of HOV lane to HOT lane	The pricing is absurd on the costs and you are also STEALING the existing HOV lanes to offset the actual cost... <b>This is NOT RIGHT.</b> If you want to build a HOT lane, you need to do it with ALL NEW lanes, NOT steal away the existing HOV lanes we already paid for with our tax dollars....in the process (the language used in explaining the public about this has been VERY under-handed & VERY misleading. No one has informed the public that we are LOSING the HOV lanes we already paid for with our tax dollars & this project get these for FREE!!!	The conversion of the existing HOV lanes was first identified in 2007 as part of the FASTLANES study prepared in cooperation with the City of Charlotte, NCDOT and the South Carolina DOT. As stewards of public investment, the NCDOT is pursuing the conversion of the existing HOV lanes on I-77 to HOT lanes to allow more residents to take advantage of this previous investment. The HOT lanes will allow high occupancy vehicles to use these lanes without charge; however the minimum number of occupants will increase from 2 to 3. Public involvement activities for this project are documented in Section 6.2 of the Environmental Assessment, through which the conversion of the HOV lanes to HOT lanes has been discussed.
C-002	Reed Law	2	Cost of Tolls	There has been NO mention in anything I have read or heard on this that states the "proposed" rates that will be charged for those cars having less than 3 occupants (and I am sure I know several reasons why this has not been openly discussed...)	The price of the I-77 HOT lanes at a specific location and point in time will be determined by consumer demand, rates of speed and overall congestion levels. The rates will be higher during morning and afternoon rush hours and lower at times when demand is not as high. Drivers will see the posted toll rates and can decide to move into a HOT lane or remain in the toll-free lane. Once a driver enters the HOT lane, the price of that driver's trip is fixed and will not change during the duration of that trip.  Current law requires that the developer hold a public hearing on the toll rates, including an explanation of the tolling setting methodology, prior to setting toll rates on the HOT lanes.
C-003	Vincent Ferraiuolo	1	Cost of Tolls	While I oppose HOT lanes and believe it's short sighted, what is never discussed is what the cost per ride could end up costing.. Is there a cap? Is it per mile? Per exit? How much could it foreseeably cost to use the lane on a typical workday in morning or afternoon? If the answer is unknown, then that is a clear example of how the local communities are being betrayed? How can you know to support it if there is not realistic idea	See response to Document C-002 Comment #2.

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
				on the cost to use it other than "variable"?	
C-004	Mike Smith, Charlotte Center City Partners	1	Land Use Plans	...the assessment documentation does not mention some of our local land use and transportation plans, including the 2020 Center City Vision Plan (adopted by City Council in 2011), and the recently completed study of the I-77/I-277 Loop that was jointly funded by MUMPO, NCDOT, and CDOT. I am enclosing a copy of the 2020 Plan and a page summarizing the plan recommendations that are relevant to this project.	A statement has been added to the FONSI recognizing this plan. Recommendations in the plan do not change the finding of the Environmental Assessment.
C-004	Mike Smith, Charlotte Center City Partners	2	Other Plans	Ensuring that the addition of HOT Lanes on I-277 is consistent with the I-77/I-277 Loop Study recommendations, in that any new lanes constructed on I-277 will help reduce weaving, make exit and entry to the freeway safer, and simplify wayfinding for drivers;	NCDOT is aware of the I-77/I-277 Loop Study and has coordinated with that study's project team. As of the publication date of the Environmental Assessment, the I-77/I-277 Loop Study had not been adopted nor published for the Environmental Assessment to incorporate or reference.  However, a traffic analysis was conducted and summarized in the <i>Traffic Operations Technical Memorandum, July 2013</i> for this project which considered impacts of vehicles weaving between the HOT lanes and interchange ramps.
C-004	Mike Smith, Charlotte Center City Partners	3	Future Development	Making sure that the HOT Lanes do not hinder nor preclude future development opportunities planned for the North End and Applied Innovation Corridor;	NCDOT is aware of the proposed ideas for this planning area. The proposed HOT lanes project would not preclude the proposed ideas if/when development moves forward.
C-004	Mike Smith, Charlotte Center City Partners	4	Noise Walls	Mitigating the potential negative effects that the proposed noise walls could have on views to and from Charlotte's center city neighborhoods, either by proposing alternative solutions to shield residents from highway noise, by mandating a higher design standard for these walls, or perhaps eliminating certain walls altogether. If the walls must be constructed, we respectfully suggest that NCDOT require the walls be faced in	NCDOT is communicating with affected neighborhoods and has begun initial discussions regarding noise barrier placement and aesthetics. NCDOT met with representatives of Center City Partners and Fourth Ward Neighborhoods on August 20, 2013, to provide additional information on the proposed barrier locations and voting process for the aesthetic look of the noise walls. This coordination will continue.  Enhancements to the standard NCDOT concrete column and concrete panel noise walls are generally performed through

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
				real brick on both sides, like the noise walls that the state previously installed between US-74 (Independence Boulevard) and the Elizabeth and Chantilly neighborhoods in Charlotte.	request of the local government. Should a local government request that materials be used that are more costly than those proposed by NCDOT, the requesting entity must assume 100% of the actual additional construction cost.  NCDOT is communicating with affected neighborhoods and has begun initial discussions regarding noise barrier placement and aesthetics. Subsequent to the receipt of this comment, NCDOT met with representatives of Center City Partners and Fourth Ward Neighborhoods on August 20 <sup>th</sup> to provide additional information on the proposed barrier locations and voting process for the aesthetic look of the noise walls. This coordination will continue. Potential noise wall benefactors will be balloted and have the option to vote for or against the inclusion of any given noise wall.
C-004	Mike Smith, Charlotte Center City Partners	5	Noise Walls	...we have been informed by residents, neighborhood organizations, and businesses that they have not had enough time nor received adequate information to express their preferences. The first public hearing with detailed information about noise impacts and the proposed locations of noise walls was not held until July 18, 2013. We have heard complaints from residents and businesses that were not notified by NCDOT about this meeting.	See response to Document C-004, Comment #4.  As a result of coordination with neighborhoods and requests for additional information, the ballot deadline was extended.
C-004	Mike Smith, Charlotte Center City Partners	6	Noise Walls	...we have heard concerns from neighborhood residents about the timing of the balloting process for the proposed noise walls. To make an informed decision, they would have like to receive information in advance about the noise study and proposed noise walls, including renderings showing exactly what the proposed walls will look like, and sufficient time to discuss the proposal as a community. Most residents had not received any information about the project by the time the ballots were mailed on August 2 <sup>nd</sup> . It might be to your advantage for a representative from NCDOT to meet with residents of the Fourth	See response to Document C-004, Comment #4.  As a result of coordination with neighborhoods and requests for additional information, the ballot deadline was extended.

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

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				Ward neighborhood to provide this information and answer their questions about the proposed project.	
C-004	Mike Smith, Charlotte Center City Partners	7	Historic Resources	Fourth Ward should also be counted among the list of historic neighborhoods affected by this project. It is recognized as a historic district by the City of Charlotte, and has been designated by the NC Historic Preservation Office as eligible for historic designation in the National Register of Historic Places.	NCDOT is aware of the Fourth Ward Historic District's 1995 determination of eligibility for listing in the National Register of Historic Places. However, the North Carolina Historic Preservation Office (NC-HPO) concurred in a letter dated January 31, 2013, that the historic integrity of the district within the I-77 HOT Lanes Area of Potential Effect has been severely compromised; making those blocks of the district no longer eligible for listing in the National Register. This letter is included in Appendix C – Agency Correspondence, of the Environmental Assessment.  The NC-HPO proposed revising the National Register boundary that already takes into account the historic district's boundary decrease as a result of the CSX Main Line Grade Separation Project (P-5002, ER 09-1268), which determined that seven blocks of the district northwest of Graham Street were no longer eligible for listing in the National Register.
C-004	Mike Smith, Charlotte Center City Partners	8	Public Involvement	We would also suggest reaching out to businesses and nonprofit organizations whose property and views will be directly affected by this project.	Public outreach opportunities for this project are documented in Section 6.2 of the Environmental Assessment.  In addition see response to Document C-004, Comment #4.
C-004	Mike Smith, Charlotte Center City Partners	9	Consistency with other plans	<i>"Undertake a comprehensive study of the I-77/I-277 loop. With its wide lanes, fast-moving traffic, and multiple bridges and tunnels, the freeway loop is the biggest obstacle to connectivity in Center City."</i> The Charlotte Department of Transportation conducted this study in 2012. According to the environmental assessment report, the assessment did not consider the recommendations of the I-77/I-22 loop study. Given that the proposed project includes a direct connection to the I-277 loop, this is a significant oversight. Extending the HOT Lane onto I-277 will add additional complexity to a complex system,	NCDOT is aware of this I-77/I-277 Loop Study and has coordinated with that study's project team. As of the publication date of the Environmental Assessment, the I-77/I-277 Loop Study had not been adopted nor published for the Environmental Assessment to incorporate or reference.  The <i>Traffic Operations Technical Memorandum</i> , July 2013 completed for this project considered impacts of vehicles weaving between the HOT lanes and interchange ramps.

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
				and should be very carefully considered.	
C-004	Mike Smith, Charlotte Center City Partners	10	Noise Walls	<i>“Overcome the Barrier of the Loop. Although it serves an important traffic-carrying function, the freeway loop is a barrier that discourages walking and biking in Center City; causes a major disconnect between Uptown and the surrounding neighborhoods; and inhibits development potential and, therefore, tax revenues.”</i> The sound walls proposed along I-277 will increase the barrier effect of the freeway, further isolating North End businesses and neighborhoods from the downtown “Uptown”).	See response to Document C-004, Comment #4.
C-004	Mike Smith, Charlotte Center City Partners	11	Noise Walls	<i>“Enhance Center City’s urban view sheds by establishing guidelines that maintain visibility of Uptown’s skyline and new corridors.”</i> The sound walls proposed along I-277 will block skyline views of Center City from this primary entrance corridor.	See response to Document C-004, Comment #4.
C-004	Mike Smith, Charlotte Center City Partners	12	Noise Walls	<i>“Link Uptown and North End to catalyze development opportunities and maximize potential tax revenues...Connect North End to Uptown and the surrounding areas to fully leverage nearby assets...improvements must be made to the Brookshire Freeway and 11<sup>th</sup> and 12<sup>th</sup> streets to remove the physical barriers that divide North End from Uptown. New development should also help bridge the gap between the two areas.”</i> The proposed sound walls will create an additional obstacle to local efforts to revitalize the North End, establish an Applied Innovation Corridor, and spark new development opportunities with better connections to Uptown.	See response to Document C-004, Comment #4.

## Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
C-005	Greg Johnson	1	Noise Walls	<p>On behalf of our neighborhood association I would like to confirm Fourth Ward's support of Michael Smith's questions regarding the proposed HOT lane project. We are excited about the improvements and their importance to the region and our neighborhood but we do want to make sure the sound barriers, in particular, receive the time and attention they deserve.</p> <p>I have already received several questions from homeowners who received ballots. Although Fourth Ward is designated an historic district and controlled by the Historic District Commission the sound barrier questions in the ballot do not match the approach NCDOT has taken with other historic neighborhoods. We'd also like to learn more about the proposed height of the barrier nearest Church Street. It seems now like it would entirely block the view of Uptown</p> <p>I would be happy to convene a special meeting of interested residents and your staff. Charlotte Center City Partners has done a thorough job of studying potential impacts, vetting questions and communicating with the constituencies. I would like to have them involved, too.</p>	See response to Document C-004, Comment #4.
C-006	Mike Restaino	1	Noise Walls	<p>I am one of the Board members to the Tenth Street Townhomes Home Association. Our members have attended hearings and raised issues which we still have not received answers. Our Treasurer has also sent a letter to Greg Smith at the NCDOT raising issue regarding the balloting. Specifically lack of details regarding the noise wall and why the Fourth Ward, which is a designated historic district, was not included in the historic balloting option. His issues have not been addressed but yet we are to vote on the noise wall by the deadline date of 8/23. Our Association is supportive of Michael Smith's and</p>	See response to Document C-004, Comment #4.

**Appendix B3: Citizen Comments (Comment Forms, Letters, and emails) and responses**

Document No.	Commenter	Comment No.	Topic	Comment	Response
				Greg Smith's communications to you. We would appreciate an opportunity to have our issues answered and a noise wall considered appropriate to the requirements of the Historic Board of Review.	
C-007	David Park	1	Noise Walls	<p>I am disappointed that brick walls are not being used at this gateway to Charlotte as was done around the Raleigh outer belt and elsewhere. In my travels around the country there are some very attractive concrete sound walls but none that are just plain concrete. ALL of the city of charlotte should be very concerned about the appearance of these walls everywhere, not just in historic districts. I cannot imagine the negative impression that will be created when everyone sees steel post and plain concrete planks surrounding the city as they approach from the North and East!</p> <p>Why is this a decision to be made by a few homeowners instead of the entire city?</p>	<p>See response to Document C-004, Comment #4.</p> <p>If the City of Charlotte officials desire an aesthetically upgraded noise barrier, a cost sharing agreement will have to be prepared between NCDOT and the City of Charlotte to address any additional costs.</p>

## **Appendix B4**

### **Southern Environmental Law Center**

- Letter ..... B4-1
- Response ..... B4-12





## SOUTHERN ENVIRONMENTAL LAW CENTER

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## VIA US MAIL AND E-MAIL

Re: Environmental Assessment for the I-77 High Occupancy/Toll Lanes Project

Dear Mr. Robbins:

On behalf of the Catawba Riverkeeper and Clean Air Carolina, the Southern Environmental Law Center ("SEL-C") offers the attached comments on the above-referenced Environmental Assessment ("EA") prepared by the Federal Highway Administration ("FHWA") and the North Carolina Department of Transportation ("NCDOT") (collectively, the "Transportation Agencies"). In our comments, we identify a number of concerns related to the environmental review of the proposed I-77 High Occupancy/Toll Lanes Project ("Project") which we believe makes the EA inadequate to meet the requirements of the National Environmental Policy Act ("NEPA") and other federal and state laws relevant to the potential eventual permitting of this project.

The considerable scale of this project — a cost of nearly \$400 million for the Preferred Alternative — calls for a thorough review under NEPA. The EA, however, uses the same year (2017) for the project's design year and its opening year and thus fails to fully examine the utility and impact of the different project alternatives. Many stakeholders have voiced concern over this limited planning horizon. For example, the City of Charlotte, the metropolitan area directly served by this project, has urged that "[t]raffic analysis for this long-lasting project should be prepared for (at least) the same time frame as the air quality conformity (2035), not just for the design year (2017)." EA at E-63. Similarly, the Technical Coordinating Committee for the Mecklenburg-Union Metropolitan Planning Organization, the MPO with jurisdiction over the Project, has also pressed for a further-reaching analysis, cautioning:

The 2017 analysis year for the environmental document does not offer the ability to judge the performance, impacts, and transportation value return on investment over the potential 50 year concession period of the current procurement proposal. The need for additional investments in the corridor and the impact of the proposed project on the ability to deliver these investments should be evaluated. [EA at E-6.]

1  
cont

We urge the Transportation Agencies to revise the EA to analyze the project beyond 2017. The revised EA should then be made available for public review and comment to assist in the decision-making process. Only then can it be determined if a more comprehensive Environmental Impact Statement ("EIS") need be prepared for the project.

## I. BASIC NEPA REQUIREMENTS

The National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.* embodies a broad national commitment to protecting and promoting environmental quality. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989). NEPA implements this commitment by focusing government and public attention on the environmental effects of a proposed agency action, ensuring that important environmental consequences will not be overlooked or underestimated only to be discovered after resources have been committed or the die otherwise cast. *Id.*

Public participation and transparency are crucial aspects of the NEPA process. *See* 40 C.F.R. § 1500.2(d) (requiring agencies to "[e]ncourage and facilitate public involvement in decisions which affect the quality of the human environment"); *Id.* § 1506.6(a) (requiring agencies to "[m]ake diligent efforts to involve the public in preparing and implementing their NEPA procedures"); *Id.* § 1506.6(d) (requiring agencies to "[s]olicit information from the public"). By requiring agencies to make public the environmental impact of its actions, NEPA "ensures that the public and government agencies will be able to analyze and comment on the action's environmental implications." *Nat'l Audubon Soc. v. Dep't of the Navy*, 422 F.3d 174, 184 (4th Cir. 2005).

The Council on Environmental Quality ("CEQ") is the primary source of regulations implementing NEPA. *See* 40 C.F.R. § 1500.1 *et seq.* Individual agencies, including FHWA, have their own implementing regulations as well. *See* 23 C.F.R. § 771.101 *et seq.* Both FHWA and CEQ NEPA regulations prescribe the level of environmental review, and the resulting document, based on the type of agency action. For "[a]ctions in which the significance of the environmental impact is not clearly established," FHWA must "prepar[e] an EA to determine the appropriate environmental document required." *Id.* § 771.115(c); *see also* 40 C.F.R. § 1501.4(a)-(b).

An EA should provide "sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact" and facilitate compliance with NEPA whether or not an EIS is necessary. *Id.* § 1508.9. If the agency determines in the EA that no EIS is necessary because the proposed project "will not have a significant effect on the human environment," it reports this decision by issuing a finding of no significant impact ("FONSI"). *Id.* § 1508.13.

An EA must include brief discussions of the needs that will be met by the proposal, alternatives to the proposed action, and the environmental impacts of the proposal and its alternatives. *Id.* § 1508.9(b). These effects<sup>1</sup> include "ecological . . . , aesthetic, historic, cultural, economic, social, [and] health [effects], whether direct, indirect, or cumulative." *Id.* §§ 1508.8;

<sup>1</sup> "Effects and impacts as used in [the NEPA] regulations are synonymous." 40 C.F.R. § 1508.8.

1508.25(c). Direct effects are those effects “caused by the action and occur at the same time and place.” *Id.* § 1508.8(a). Indirect effects are those effects “caused by the [agency] action and . . . later in time or farther removed in distance, but . . . still reasonably foreseeable” and “may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate.” *Id.* § 1508.8(b). Cumulative effects are environmental impacts which “result[] from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.” *Id.* § 1508.7. Additionally, “[c]umulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” *Id.*

## II. DESIGN YEAR

When a transportation agency initiates the planning stages for a project, it establishes the project’s “design year.” The design year is “the future year used to estimate the probable traffic volume for which a highway is designed.”<sup>2</sup> Setting an appropriate design year is critical, since it factors heavily into the scoping process required by NEPA. See 40 C.F.R. § 1501.7.

Here, NCDOT’s planning horizon for the project extends only four years from the present day, and moreover, uses the same date for the project’s opening year and its design year. The EA was published in July 2013, and the project’s opening and design years are both 2017. EA at 4. NCDOT asserts that such a short planning horizon is justified “[b]ecause the project is designed to address an immediate need.” *Id.* This planning horizon, however, is inconsistent with standard practice and insufficient to satisfy the purposes of NEPA. Without analyzing the impact and efficacy of the project in the years after it opens in 2017, NCDOT has no reasonable measure to select the best alternative, or to analyze the impacts of the project. NEPA’s purpose is thus frustrated and its requirements rendered irrelevant.

### A. Courts Have Found Insufficient Time Horizons to Violate NEPA

Federal courts have been clear that agencies must analyze the impacts and alternatives of a specified project over a sufficient period of time in order to satisfy the requirements of NEPA. After all, “the basic thrust of an agency’s responsibilities under NEPA is to predict the environmental effects of proposed action before the action is taken and those effects fully known.” *Scientists’ Inst. for Pub. Info., Inc. v. Atomic Energy Comm’n*, 481 F.2d 1079, 1092 (D.C. Cir. 1973).

For example, in *Northern Plains Resource Council v. Surface Transportation Board*, 668 F.3d 1067 (9th Cir. 2011), the Ninth Circuit struck down the agency’s planning horizon. In that case, the Surface Transportation Board limited its cumulative impacts analysis to projects that would be constructed within a five-year period, though NEPA documents for other projects in the area provided very specific information indicating overlap. *Id.* at 1079. The Ninth Circuit

found that the other NEPA documents provided very clear evidence of foreseeable future projects and specific impacts that the agency should have considered. *Id.*

Similarly, in *Potomac Alliance v. U.S. Nuclear Regulatory Commission*, 682 F.2d 1030 (D.C. Cir. 1982), the D.C. Circuit rejected the agency’s horizon. In *Potomac Alliance*, the agency amended the operating license for a nuclear power plant to allow additional storage of spent fuel assemblies at the site. *Id.* at 1032-33. In its EA accompanying that action, released in 1979, the agency considered environmental effects only until the year 2011. *Id.* at 1033-34. The court rejected this planning horizon because the agency did not consider the possibility that the spent fuel assemblies would remain in on-site storage pools after that time. *Id.* at 1035-36 (“The NRC, therefore, can justify truncating its environmental assessment at the year 2011 only if it has found that no reasonably foreseeable contingency exists under which the spent fuel assemblies will remain in the pool beyond that time. Because the agency has not even attempted to make such a showing, we can only conclude that the approval of VEPCO’s amendment violated NEPA.”).

The D.C. Circuit in *Concerned About Trident v. Rumsfeld*, 555 F.2d 817 (D.C. Cir. 1976), again struck down an EIS because the agency’s seven-year planning horizon was deficient. In that case, the agency released its Final EIS in 1974 that included a forecasting of the agency’s actions until only 1981. *Id.* at 822, 829. The agency argued “that because [the proposed facility] will begin operating in 1981, and most of the civilian and military employees will be on the job at the [project site] by that time, that almost all significant effects will have occurred by 1981.” *Id.* at 829-30. The court squarely rejected this contention — “absent an agency’s inability to predict any farther into the future, a forecasting of only 7 years of the impacts from such a major facility . . . fails to ensure that the environment will be preserved and enhanced for the present generation, much less for our descendants.” *Id.* at 830.

### B. Standard Guidance Recommends Longer Planning Periods

Federal and State guidance documents require agencies implementing NEPA to study impacts and alternatives well into the future. For example, FHWA guidance for preparation of environmental documents for highway projects identifies a number of “typical direct effects that have their basis in travel and/or land use forecasting.” *FHWA Guidance* at 19. These direct effects that should be forecasted include those relating to congestion/delay, travel choices, revenue (e.g. toll revenue), and environmental/social effects such as air quality, traffic diversion, noise, and “[t]ravel benefits for different socioeconomic groups.” *Id.* The FHWA guidance also speaks to indirect and cumulative effects such as land use changes. Generally, “[f]or transportation investments that are regionally important in scale, such as new or substantially improved highway facilities, it is more likely that the future land use patterns will be different if the alternative is built.” *Id.* at 26. As such, FHWA recommends the use of 20 to 30-year time horizons for long-range transportation planning purposes to satisfy NEPA’s effects forecasting requirements. See *id.* at 4, 61.

More general CEQ guidance directs the agency, “[i]n determining how far into the future to analyze cumulative effects, [to] consider the time frame of the project-specific analysis. If the effects of the proposed action are projected to last five years, this time frame may be the most

<sup>2</sup> *Interim Guidance on the Application of Travel and Land Use Forecasting in NEPA*, FHWA, 33, 61 (March 2010), available at [http://environment.fhwa.dot.gov/projdev/4\\_travel\\_landuse/travel\\_landuse\\_rpt.pdf](http://environment.fhwa.dot.gov/projdev/4_travel_landuse/travel_landuse_rpt.pdf) [hereinafter *FHWA Guidance*].

appropriate for the cumulative effects analysis.<sup>13</sup> Here, it cannot be said that the project's effects are projected to last only four years, that is, from 2013 to 2017. As such, this is an "instance[]" when the time frame of the project-specific analysis [should] be expanded to encompass cumulative effects occurring farther into the future." *Id.*

NCDOT also offers guidance intended to provide agency planners "with a tool to help in the identification, analysis and assessment of indirect and cumulative effects of transportation projects" in the preparation of NEPA documents, including environmental assessments.<sup>4</sup> Preparers of environmental documents are instructed to establish a time frame "short enough in duration to anticipate reasonably foreseeable events, but . . . long enough in duration to capture the development and relocation effects that may only transpire over the course of several business cycles." *Id.* at Vol. II, p. III-7.<sup>5</sup> Thus, "[m]ost indirect/cumulative effects studies set a time horizon equal to the design life of a project, usually twenty to twenty-five years." *NCDOT Guidance* at Vol. II, p. III-7.

Guidance put forth by the Center for Environmental Excellence of the American Association of State Highway and Transportation Officials ("AASHTO")<sup>6</sup> also recognizes longer planning horizons for road projects and toll projects in particular. AASHTO's Guidance on indirect and cumulative impacts asserts that "[t]he time frame for the indirect effects assessment should be long enough to include reasonably foreseeable events," typically, 20-25 years.<sup>7</sup> Specifically, AASHTO assumes designation of a design year 20-25 years into the future for NEPA compliance for toll roads or lanes.<sup>8</sup> Additionally, the AASHTO toll guidance recognizes traffic diversion as a probable consequence of tolled lanes. *See id.* at 7. AASHTO recommends "present[ation of] data (level of service, traffic volumes, etc.) at selected points on the local road network, in addition to presenting traffic data showing operations on the toll road itself." *Id.*

### C. Planning Horizons in EAs for Other Road Projects

Our research has uncovered no instances of such a brief planning horizon for a transportation EA in North Carolina or any other state. Under the standard practice for recent, publicly-available EAs for NCDOT road projects, planners have typically identified a design

year twenty to thirty years in the future — in accordance with state and federal guidance. In fact, the shortest planning horizon was twenty years, while the longest was forty-seven years. To cite a specific example, the widening of I-85 northeast of Charlotte, a very similar project to this one, used a design year thirty-five years into the future. Examples of other EAs for road widening projects in North Carolina are listed below.

- The EA for the I-85 widening project in Rowan and Davidson Counties (TIP I-2304A), released in November 2000, used 2035 as its design year.<sup>9</sup>
- The EA for the Triangle Parkway (now part of the Triangle Expressway) in the Research Triangle area (TIP U-4763), released in February 2008, had a design year of 2030.<sup>10</sup>
- The EA for the Macy Grove Road Improvements Project in Kernersville (STIP U-2800 and U-4734), released in September 2010, utilized 2030 and 2035 as design years.<sup>11</sup>
- The EA for the Pea Island Long-Term Improvements, Bonner Bridge Replacement Project Phase IIa in Dare County (STIP B-2500A), released in February 2013, used a design year of 2060.<sup>12</sup>
- The EA for the I-95 Planning and Finance Study for the entire I-95 corridor in North Carolina (STIP I-5133), released in January 2012, identified 2040 as its design year and utilized a 25-year planning period.<sup>13</sup>
- The EA for the rehabilitation of FDR 597 in Montgomery County (Project NC PHF 49-1(3)), released in January 2009, utilized 2030 as its design year.<sup>14</sup>
- The Traffic Capacity Analysis Report accompanying the EA for the Stantonsburg Road/Tenth Street Connector in Greenville (TIP U-3315), released in April 2008, utilized a 2030 design year.<sup>15</sup>

<sup>9</sup> *Administrative Action Environmental Assessment: I-85*, NCDOT (2000), at 1, available at <https://connect.ncdot.gov/letting/Design%20Build%20Program/I-2304AC/Environmental%20Assessment%20Signed%20200011.pdf>.

<sup>10</sup> *Administrative Action Environmental Assessment: Triangle Parkway*, NCTA (2008), at 5-21, available at <http://www.ncdot.gov/projects/triangleexpressway/TriangleParkway/download/Triangle-Parkway-Environmental-Assessment-Text.pdf>.

<sup>11</sup> *U-4734 & U-2800 Environmental Assessment*, NCDOT (2010), at 11, 37, available at [http://www.ncdot.gov/projects/macygrover/download/U2800U4734\\_EA\\_Summary\\_Sections\\_1to7.pdf](http://www.ncdot.gov/projects/macygrover/download/U2800U4734_EA_Summary_Sections_1to7.pdf).

<sup>12</sup> *Bonner Bridge Replacement EA, Phase IIa – Pea Island Inlet*, NCDOT (2013), at A-47, C-7, available at [http://www.ncdot.gov/projects/bonnerbridgephase2/download/B2500PhaseIIaEA\\_Pea\\_Island\\_Inlet.pdf](http://www.ncdot.gov/projects/bonnerbridgephase2/download/B2500PhaseIIaEA_Pea_Island_Inlet.pdf).

<sup>13</sup> *I-95 Planning and Finance Study Environmental Assessment*, NCDOT (2012), at 1-8 to 1-20 [hereinafter *I-95 EA*], available at [http://www.driving95.com/assets/pdfs/MeetingMaterials/EnvAssessment2012/001\\_Ch1\\_PurposeAndNeedForImprovements.pdf](http://www.driving95.com/assets/pdfs/MeetingMaterials/EnvAssessment2012/001_Ch1_PurposeAndNeedForImprovements.pdf).

<sup>14</sup> *Environmental Assessment, Uwharrie National Forest* (2009), at p. 3-80, available at [http://www.efl.fwa.dot.gov/files/projects/environment/UwharrieEA\\_0109.pdf](http://www.efl.fwa.dot.gov/files/projects/environment/UwharrieEA_0109.pdf).

<sup>15</sup> *Capacity Analysis Report – TIP Project U-3315*, NCDOT (2008), at ES-1, available at [http://www.greenvillenc.gov/uploadedfiles/Departments/Public\\_Works\\_Dept/TenthStreetConnector/traffic\\_capacity\\_report.pdf](http://www.greenvillenc.gov/uploadedfiles/Departments/Public_Works_Dept/TenthStreetConnector/traffic_capacity_report.pdf).

- The EA for the East End Connector in Durham (TIP U-0071), released in October 2009, used a design year of 2035.<sup>16</sup>
- The EA for the Research Parkway in Winston-Salem (TIP U-4918), released in October 2009, utilized a design year of 2030.<sup>17</sup>

Similarly, other states have consistently required longer planning horizons to analyze alternatives and impacts in their EAs for road widening projects. Examples of EAs for road widening projects in other states are listed below.

#### Arizona

- The EA for the I-10/State Route 303L widening and interchanges (303 MA 003 H5621 01L) in Maricopa County, Arizona, released in March 2009, had a design year of 2030.<sup>18</sup>

#### California

- The EA for the Route 219 Widening Project (10-STA-219) in Stanislaus County, California, released in March 2003, utilized a 20-year horizon.<sup>19</sup>

#### Georgia

- The EA for the I-75 Managed Lanes Project (CSNHS-009-00(156)(157)) in Henry and Clayton Counties, Georgia, released in March 2013, utilized a design year of 2035.<sup>20</sup>

#### Illinois

- The EA for the Illinois Route 13 widening and improvement in Williamson County, Illinois, released in July 2008, used a design year of 2030.<sup>21</sup>

#### Maryland

- The EA for Alternatives 6A/B and 7A/B of the I-270/US 15 Multi-Modal project in Montgomery and Frederick Counties, Maryland, released in May 2009, used 2030 as its design year.<sup>22</sup>

<sup>16</sup> *East End Connector*, NCDOT (2009), at 1-8, available at <http://www.ncdot.gov/projects/eastendconnector/download/environmental.pdf>.

<sup>17</sup> *Research Parkway EA*, NCDOT (2009), at 11, available at [http://www.cityofws.org/portals/0/pdf/transportation/forms-reports/projects/research\\_parkway\\_ea\\_main.pdf](http://www.cityofws.org/portals/0/pdf/transportation/forms-reports/projects/research_parkway_ea_main.pdf).

<sup>18</sup> *Final EA State Route 303L (I-10 to US 60) Maricopa County, Arizona*, Arizona DOT (2009), at 46, available at [http://www.azdot.gov/highways/EPG/EPG\\_Common/PDF/EAs/303\\_Interstate\\_10\\_to\\_US60/Final\\_EA\\_Text.pdf](http://www.azdot.gov/highways/EPG/EPG_Common/PDF/EAs/303_Interstate_10_to_US60/Final_EA_Text.pdf).

<sup>19</sup> *State Route 219 Widening Project, Environmental Assessment/Initial Study*, California DOT (2003), at 11, 13, available at [www.dot.ca.gov/dist10/media/docs/219full.pdf](http://www.dot.ca.gov/dist10/media/docs/219full.pdf).

<sup>20</sup> *FEA and FONSI for Georgia Project, Clayton and Henry Counties I-75 Managed Lanes*, Georgia DOT (2013), at 5, 7, available at <http://www.dot.ga.gov/travelingeorgia/expresslanes/I75expresslanes/Documents/Final-EA.pdf>.

<sup>21</sup> *Ill. Route 13 (FAP 331) from East of Davidson Street in Carterville to West of Halfway Road in Marion-Williamson County, Illinois, EA*, Illinois DOT (2008), at 4-5, available at [http://www.dot.il.gov/IL13/docs/EA\\_IL13.pdf](http://www.dot.il.gov/IL13/docs/EA_IL13.pdf).

<sup>22</sup> *Administrative Action Environmental Assessment/Alternatives Analysis: I-270/US 15 Multi-Modal Corridor Study*, FHWA, SHA, and MTA (2009), at IV-76, available at [http://www.i270multimodalstudy.com/images/stories/documents/aa\\_ea/10\\_AA\\_EA\\_Chapter\\_4\\_052809.pdf](http://www.i270multimodalstudy.com/images/stories/documents/aa_ea/10_AA_EA_Chapter_4_052809.pdf).

#### Mississippi

- The draft EA for the I-55 widening and improvements (IM-0055-02(218)) in Hinds County, Mississippi, released in August 2013, used the design year 2040.<sup>23</sup>

#### Missouri

- The EA for the widening and improvement of the Callaway County Connector (J5P2161) in Callaway County, Missouri, released in October 2012, used 2037 as a design year.<sup>24</sup>

#### New Jersey

- The EA for the widening of the University Heights Connector in Essex County, New Jersey, released in December 2002, utilized 2025 as a design year.<sup>25</sup>

#### South Carolina

- The EA for the I-20 Widening Project in Richland County, South Carolina, released in July, 2010, used a design year of 2029.<sup>26</sup>
- The analysis for the I-26 Introduction of HOV/HOT Lanes in the Charleston region, South Carolina, released in November 2008, uses design years of 2020 and 2030.<sup>27</sup>

#### Tennessee

- The EA for the widening of State Route 18 in Madison and Hardeman Counties, Tennessee, released in August 2009, used a base year of 2011 and a design year of 2031 for its traffic volume, air quality, and noise projections.<sup>28</sup>

#### Texas

- The EA for the I-35 North Section Express Managed Lanes Project in Denton County, Texas, released in August 2011, used a design year of 2030.<sup>29</sup>

<sup>23</sup> *Draft EA for Presentation at a Public Hearing, I-55 from Copiah County Line South of Terry, MS to McDowell Rd. in Jackson, MS*, Mississippi DOT (2013), at 1, available at <http://sp.mdot.ms.gov/Environmental/District%203%20and%205/Current%20Projects/I-55%20Improvements%20--%20Copiah-Hinds%20County%20line%20to%20McDowell%20Rd/Public%20Hearing%20Materials%20--%20September%2013%202012/I-55%20Draft%20Environmental%20Assessment.pdf>.

<sup>24</sup> *Callaway County Connector (Callaway County, Missouri) EA*, US DOT, FHWA, and Missouri DOT (2012), at 1-5, available at [http://www.modot.org/central/major\\_projects/documents/CallawayCountyConnectorDraftEA18Oct2012.pdf](http://www.modot.org/central/major_projects/documents/CallawayCountyConnectorDraftEA18Oct2012.pdf).

<sup>25</sup> *University Heights Connector, First St. Improvements between Sussex Ave. and W. Market St.—EA/Draft Section 4(f) Evaluation*, New Jersey DOT (2002), at V-29, available at [http://www.state.nj.us/transportation/commuter/roads/universityhts/pdf/ea\\_sec4f.pdf](http://www.state.nj.us/transportation/commuter/roads/universityhts/pdf/ea_sec4f.pdf).

<sup>26</sup> *Widening of I-20 from I-77 to just east of Spears Creek Church Road Richland County, South Carolina, Environmental Assessment*, US DOT, FHWA, and SC DOT (2010), at 16, available at <http://www.scdot.org/inside/i-20/documentation.aspx>.

<sup>27</sup> *Analysis of I-26 Corridor for the Introduction of HOV/HOT Lanes Berkeley-Charleston-Dorchester Region*, South Carolina DOT (2008), at 17, 18, available at [http://www.scdot.org/mce/pdfs/deis/appendices/appendix\\_j-i-26corridorhovanalysis.pdf](http://www.scdot.org/mce/pdfs/deis/appendices/appendix_j-i-26corridorhovanalysis.pdf).

<sup>28</sup> *State Route 18 from State Route 100 to State Route 5 (U.S. 45), Madison and Hardeman Counties, Tennessee, Environmental Assessment*, Tennessee DOT (2009), at 3, 123, 127, available at [http://www.tdot.state.tn.us/sr18us45/docs/SR18EA\\_081709.pdf](http://www.tdot.state.tn.us/sr18us45/docs/SR18EA_081709.pdf).

<sup>29</sup> *EA for IH 35E North Section From: FM 2181 To: US 380 Denton County, Texas*, US DOT, FHWA, and Texas DOT (2011), at 14, available at <http://www.keepitmovingdallas.com/sites/default/files/docs/IH%2035E%20North%20EA%20--%20SFP.pdf>.



## Virginia

- The EA for the I-95 Express Lanes Project (0095-96A-107) in the City of Alexandria, Prince William and Stafford Counties, Virginia, released in September 2011, utilized a design year of 2035.<sup>30</sup>

## Washington

- The EA for SR 520, Medina to SR 202: Eastside Transit and HOV Project in King County, Washington, released December 2009, used 2030 as its design year.<sup>31</sup>
- The EA for I-405 Renton to Bellevue Project ST 169 to I-90 in King County, Washington, released March 2006, used 2030 as its design year.<sup>32</sup>

**D. The EA is Insufficient to Satisfy NEPA**

The planning horizon for the proposed widening of I-77 is particularly important. The project is the state's first Public Private Partnership and will require the state to surrender some control over infrastructure in a way previously unprecedented. The project is also both extremely costly and highly controversial. This makes the public NEPA process, designed to inform the public about the environmental consequences of the proposal critically important. By looking out only to 2017, the EA denies the public the opportunity to determine whether the project truly will meet a legitimate purpose and need, which alternative solution will be the best fit, and what the direct, indirect and cumulative impacts of the project will be.

The EA recognizes the very real possibility that the project will go forward only as a Public-Private Partnership ("P3"). EA at 5. Transportation planners in the state have acknowledged that the "project will serve as a model for similar public-private partnerships to finance highway expansions elsewhere across the state given limited public dollars."<sup>33</sup> Additionally, by the very nature of a P3 agreement, the state will be locked in to a 50-year contract. As part of the P3 agreement, the state will surrender some control of its infrastructure and must determine if that is the wisest choice for the next 50 years. By only looking out four years into the future the EA makes it impossible for the public to fully evaluate whether it is wise to sign a 50-year contract and what that contract should look like.

The failure to look out beyond 2017 and the general rushed, threadbare nature of the EA violate a number of NEPA's important provisions.

<sup>30</sup> EA I-95 HOT Lanes Project, Virginia DOT (2011), at 4, 5, available at <http://www.vamegaprojects.com/about-megaprojects/i-95-hov-hot-lanes/#documents>.

<sup>31</sup> SR 520, Medina to SR 202: Eastside Transit and HOV Project King County, Washington, Environmental Assessment, FHWA and Washington DOT (2009), at Appendix M 10, available at [http://www.wsdot.wa.gov/NR/rdonlyres/A3598AC8-4717-4801-99A3-C7B4D6C4F1B7/0/AppxM\\_Energy.pdf](http://www.wsdot.wa.gov/NR/rdonlyres/A3598AC8-4717-4801-99A3-C7B4D6C4F1B7/0/AppxM_Energy.pdf).

<sup>32</sup> I-405, SR 169 to I-90, Renton to Bellevue Project Environmental Assessment, FHWA and Washington DOT (2006), at 5.8-1, available at [http://www.wsdot.wa.gov/NR/rdonlyres/4BCDC25E-E36E-495B-9933-1D948B144437/19054/0081\\_Chapter58\\_AirQuality.pdf](http://www.wsdot.wa.gov/NR/rdonlyres/4BCDC25E-E36E-495B-9933-1D948B144437/19054/0081_Chapter58_AirQuality.pdf).

<sup>33</sup> Joe Marusak, I-77 toll lanes approved despite angry crowd's objections, *CharlotteObserver.com* (May 22, 2013), <http://www.charlotteobserver.com/2013/05/22/4057474/crowd-shouts-down-charlotte-area.html#storylink=cpy>.

## 1) Purpose and Need

NEPA requires an agency to prepare a statement of purpose and need for its proposed action. See 40 C.F.R. § 1502.13; *Nat. Res. Def. Council v. U.S. Forest Serv.*, 634 F. Supp. 2d 1045, 1058-60 (E.D. Cal. 2007) (evaluating agency's statement of purpose and need in an EA). "The purpose and need statement . . . defines the goals of the project to allow for the review of an appropriate range of alternatives." *Stop the Pipeline v. White*, 233 F. Supp. 2d 957, 971 (S.D. Ohio 2002) (citing *Citizens Against Burlington v. Busey IV*, 938 F.2d 190, 195-96 (D.C. Cir. 1991)).

An agency is not permitted "to contrive a purpose so slender as to define competing 'reasonable alternatives' out of consideration." *Simmons v. U.S. Army Corps of Eng'rs*, 120 F.3d 664, 666 (7th Cir. 1997). The EA for the I-77 project does just that. The project's statement of purpose and need explains that the project "is designed to address [the] immediate need" of "travel time reliability from Uptown Charlotte to the Lake Norman area, the opening and design years are both proposed for 2017." EA at 4. By doing so, the transportation agencies not only attempt to limit consideration of alternatives to its pre-determined decision to add toll lanes to I-77, but it also attempt to prevent any consideration of the environmental impacts of the project beyond those that are immediate.

While an agency is given wide latitude with defining a project's purpose and need, it may not use the statement to utterly subvert NEPA. Under the current EA, the agency, the public, and the resource agencies have no way of assessing how the project will impact the environment — i.e. the very purpose of the NEPA scheme. A statement of purpose and need should properly influence the selection of *alternatives*, but nowhere in NEPA regulations is it suggested that the purpose and need should in any way define or limit the consideration of *impacts*. NEPA requires consideration of all environmental impacts of a project regardless of a project's purpose.

## 2) Alternatives Analysis

The limited time horizon and improperly narrow statement of purpose and need prevent the rigorous comparison of alternatives required by NEPA. By not looking out past the opening year the EA fails to offer a meaningful comparison of both the different "build" alternatives presented and other "no build" alternatives. The limited forecasts of future growth and traffic also prevent a meaningful comparison of combinations of those alternatives.

## i. Build Alternatives

The EA presents three alternative solutions for expanding I-77: (1) Build Alternative 1, which would convert the existing HOV lanes within the project limits to HOT lanes and include construction of an additional HOT lane in each direction from I-277 to I-85; (2) Build Alternative 2, which would also convert the existing HOV lanes within the project limits to HOT lanes and include construction of two additional HOT lanes in each direction from I-277 to I-85; and (3) Build Alternative 3, which would include two HOT lanes in each direction from I-85 north to Catawba Avenue, and one HOT lane in each direction from Catawba Avenue north to NC 150.

The EA purports to analyze and compare traffic conditions and impacts from these three alternatives and a “no build” alternative, EA at 18-22. But these comparisons are greatly limited by the short forecast horizon. It is widely recognized that there is often a significant “ramp-up” period for traffic volumes to reach their full potential following the opening of a new toll facility.<sup>34</sup> This period can often last for several years. *Id.* at 6. As explained above, the EA provides the agencies with no way to meaningfully compare these alternatives beyond the opening year 2017. Such a minimal window of data necessarily curtails any considered alternatives analysis.

#### ii. Non Highway Alternatives

By failing to look at traffic forecasts and land use patterns beyond the opening year of the project, the EA also fails to consider important alternatives to widening I-77. These include the expansion of commuter rail in the corridor, and low cost solutions such as “Transportation Demand Management” and “Transportation System Management.”

##### a) Commuter rail

The limited time horizon fails to consider the alternative offered by planned rail expansions along the I-77 corridor, particularly the proposed Red Line Regional Rail project. The Red Line project is an initiative to upgrade an existing section of the Norfolk Southern Railroad “O” Line in the North Corridor of the Charlotte metropolitan area.<sup>35</sup> The project will upgrade the 25-mile section of track running south from Mooresville to Charlotte, paralleling the section of I-77 slated for widening, with potential future extension north from Mooresville to Statesville. *Id.*

The Charlotte Area Transit System (“CATS”) has described the Red Line as “a major regional economic development initiative” intended to significantly improve the movement of goods and passengers. *Id.* In addition to the expanded freight opportunities offered by expanding the rail line, the Red Line expansion will also serve commuters living in the communities north of Charlotte but working in the city. *Id.* As such, the rail line expansion is expected to result in significant growth at several stations along this corridor, providing access to 83,000 jobs and supporting as much as \$9.2 billion in high density mixed-use transit-oriented development by 2025.<sup>36</sup> Experts have concluded that the rail expansion is expected to attract 23,000 unique jobs to the area.<sup>37</sup>

<sup>34</sup> See, e.g., Transportation Research Board, *Estimating Toll Road Demand and Revenue*, NCHRP SYNTHESIS 364, available at [http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp\\_syn\\_364.pdf](http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_syn_364.pdf).

<sup>35</sup> *Red Line Regional Rail*, Charlotte Area Transit System, <http://charmeck.org/city/charlotte/cats/planning/RedLineRegionalRail/Pages/default.aspx>.

<sup>36</sup> *Red Line North Corridor Fast Facts*, Charlotte Area Transit System (2009), available at <http://charmeck.org/city/charlotte/cats/planning/red/redoverview/Documents/RedFastFacts.pdf>.

<sup>37</sup> *Red Line Regional Rail Q&A*, Red Line Regional Rail at F-3, <http://redlineregionalrail.org/qa/#f> [hereinafter “Red Line Q&A”].

Planning for this expanded passenger rail service is well underway. For example, the Charlotte Metropolitan Transit Commission has established a Transit Funding Working Group tasked with addressing funding solutions for this and other transit projects.<sup>38</sup> This group has developed a slate of concrete proposals to fund the project despite the post-recession economy.<sup>39</sup> In addition, nine participating government stakeholders have developed the Redline Regional Rail Task Force to plan for the project.<sup>40</sup>

The new service is projected to have approximately 5,000 commuters ride the trains daily to or from Charlotte by 2030, the vast majority of which would otherwise travel by single-occupancy vehicle along I-77.<sup>41</sup> However, the EA fails to consider this foreseeable project as either a stand-alone alternative or as an alternative to be considered in conjunction with other improvements.

##### b) Transportation System Management and Transportation Demand Management

The limited forecasts significantly hinder the EA’s alternatives analysis in other ways. NCDOT is required by federal guidance to incorporate Transportation System Management (“TSM”) and Transportation Demand Management (“TDM”) alternatives into its alternatives analysis.<sup>42</sup> The EA gives such options no mention.

Without proper traffic forecasting, NCDOT could not (and did not) assess TSM and TDM as alternatives to road widening. TSM measures “typically consist of low-cost, minor transportation improvements to increase the capacity of an existing facility” and maximize its efficiency.<sup>43</sup> Specific TSM strategies include “incident management, traffic signal timing, ramp metering, [and] road weather management.”<sup>44</sup> Ride sharing, for example, is representative of a TSM measure and would be entirely feasible for relieving congestion on I-77 in the project area.<sup>45</sup> TSM has been touted by FHWA as “offer[ing] the potential to provide an integrated program to optimize the performance of existing infrastructure through the implementation of specific systems and services that preserve capacity and improve reliability and safety.”<sup>46</sup> Furthermore, TSM strategies “are extremely cost effective (and low cost) with relatively short lead times.” *Id.*

<sup>38</sup> *MTC Transit Funding Working Group*, Charlotte Area Transit System, <http://charmeck.org/city/charlotte/cats/about/CATBoard/tfwg/Pages/default.aspx>.

<sup>39</sup> Steve Harrison, *Group suggests new transit tax, private help*, CharlotteObserver.com (May 6, 2013), <http://www.charlotteobserver.com/2013/05/06/4025745/group-suggests-new-transit-tax.html>.

<sup>40</sup> *Home*, Red Line Regional Rail, <http://redlineregionalrail.org/>.

<sup>41</sup> *Red Line Project Overview*, Charlotte Area Transit System, <http://charmeck.org/city/charlotte/cats/planning/red/redoverview/Pages/default.aspx>.

<sup>42</sup> See *FHWA Technical Advisory T 6640.8A*, FHWA (1987), available at <http://environment.fhwa.dot.gov/projdev/impTA6640.asp> [hereinafter “T 6640.8A”].

<sup>43</sup> *Draft Environmental Impact Statement*, Monroe Connector/Bypass, NCDOT 2-7 (March 2009) [hereinafter *Monroe EIS*], [http://www.ncdot.gov/projects/munroeconnector/download/monroe\\_DEIS\\_Alternatives.pdf](http://www.ncdot.gov/projects/munroeconnector/download/monroe_DEIS_Alternatives.pdf).

<sup>44</sup> For a graphic displaying five other examples of successful TSM strategies already implemented by state DOTs, see *FHWA, TSM Guidance* at 8.

<sup>45</sup> See T 6640.8A.

<sup>46</sup> *Primer: Creating an Effective Program to Advance Transportation System Management and Operations*, FHWA 6 (Jan. 2012), <http://ops.fhwa.dot.gov/publications/fhwahop12003/fhwahop12003.pdf> [hereinafter “FHWA, TSM Guidance”].

TDM measures are directed at changing driver behavior and do not involve major capital improvements. *Monroe EIS* at 2-5. FHWA supports implementation of TDM measures, since "more can be done with technology and existing assets and programs by making a strategic commitment to actively manage the transportation system," thus "creat[ing] an environment where the occurrence and effects of problems can be reduced."<sup>47</sup> Several state and local transportation agencies have implemented urban-area TDM strategies, including those in Washington, Minnesota, and San Francisco. *Id.* Ramp metering, where traffic signals regulate the number of vehicles entering or exiting a controlled-access highway, is an example of a TDM measure and one which has produced significant safety and congestion benefits in other metro areas.<sup>48</sup>

### 3) Impacts Analysis

NEPA regulations require environmental assessments to discuss "the environmental impacts of the proposed action and alternatives." 40 C.F.R. § 1508.9(b). These effects include "ecological . . . , aesthetic, historic, cultural, economic, social, [and] health [effects], whether direct, indirect, or cumulative." *Id.* § 1508.8. The EA's limited analysis fails to adequately discuss these impacts.

#### i) Direct Effects

The construction of major new highway capacity has a number of direct effects on the environment including impacts to air quality, water quality, wildlife habitat and environmental justice populations. These impacts are given a cursory treatment in the EA. By limiting the review period to merely the design year 2017, the EA addresses the direct impacts of only construction itself, and avoids taking a hard look the direct impacts of greatly expanded capacity along this portion of I-77.

#### a) Air Quality

Increased highway capacity and the associated increase in vehicle traffic can result in a variety of air quality impacts, including increased levels of benzene, 1,3-butadiene, formaldehyde, acetaldehyde, acrolein, polycyclic organic matter, naphthalene, and diesel particulate matter. EPA,<sup>49</sup> The limited planning horizon necessarily frustrates a full evaluation of the Project's direct air quality impacts. As the EA recognizes, the Project is planned for an area within the Metrolina nonattainment area for ozone and the Charlotte nonattainment area for carbon monoxide (CO). EA at 31. The EA concludes that the Project is "not anticipated to create any adverse effects on the air quality of the Mecklenburg and Iredell County nonattainment and maintenance areas," EA at 60; however, such a conclusion is insufficient when it is based on traffic projections ending at the Project's opening year.

<sup>47</sup> *Active Transportation and Demand Management*, FHWA (June 2012), <http://www.ops.fhwa.dot.gov/publications/fhwahop12032/fhwahop12032.pdf>.

<sup>48</sup> *See Ramp Metering*, FHWA Office of Operations, <http://www.ops.fhwa.dot.gov/bn/resources/rampmetering.pdf>.

<sup>49</sup> *Mobile Source Air Toxics*, available at <http://www.epa.gov/otaq/toxics.htm>.

6 As explained above, the EA has not attempted to project traffic impacts beyond 2017. The result of this limited review is that the EA necessarily cannot evaluate the Project's impacts on mobile source emissions, such as particulate matter. Nor can the EA fully assess the Project's impacts on ozone or CO nonattainment without a clear picture of traffic patterns beyond the design year. But as the EPA recognizes, mobile sources are one of the largest sources of tropospheric ozone precursor emissions.<sup>50</sup> The EA's limited traffic projections, therefore, unavoidably obstruct a full review of the Project's direct air quality impacts.

#### b) Water Quality

The EA also fails to fully analyze the Project's direct impacts on water quality. The EA does acknowledge some of the immediate impacts of construction activities on area waterways, noting that the preferred alternative would potentially impact 3,237 linear feet of these streams, with the primary impacts focused on Dillons Twins Lakes and Irwin Creek, which both cross I-77 in its current form through existing culverts. The EA also recognizes that Irwin Creek is identified in the North Carolina 2012 Final 303(d) list as impaired for aquatic life due to standard violations of copper, lead, and zinc. EA at 43, 68. However, the EA does not discuss the overall water quality impacts that might occur from extending the culverts of Dillons Twins Lakes and Irwin Creek.

7 Nor does the document identify any mitigation measures that will be taken with regard to these impacts. Rather, the document states that mitigation will be considered after the publication of a FONSI. This scheme is backwards. For the agencies to find that there will be no significant impact on water quality they must necessarily first identify how such impacts will be mitigated. *See, e.g., Dine Citizens Against Ruining our Env't v. Klein*, 747 F. Supp. 2d 1234, 1258 (D. Colo. 2010).

In some cases (such as the vicinity of Oaklawn Avenue and in the vicinity of Newland Road), it appears that new or widened roadways will be in or on Irwin Creek, which currently parallels the highway for long sections. There is no discussion about whether the creek bank will be moved or how the impact of the improvements will be mitigated.

7 cont  
8 Further, the EA's limited planning horizon prevents any real evaluation of the Project's overall impacts on water quality in the Catawba River watershed. As outlined above, the EA's analysis doesn't extend beyond the Project's opening year, unavoidably preventing full analysis. As such, the EA cannot evaluate the impacts of any such traffic on water quality in the study area. For example, any increase in traffic in future years that might result from the expansion project could have severe impacts on run-off and water quality. Similarly, as discussed below, the EA fails to consider the induced land use impacts that will be occasioned by adding the additional highway capacity. New growth spurred by the project could likely lead to an increase in impervious surfaces and associated run-off resulting in significant degradation of water quality.

<sup>50</sup> EPA, *Mobile Source Air Toxics*, available at <http://www.epa.gov/otaq/toxics.htm>.



### c) Environmental Justice

The EA also fails to take a hard look at the Project's environmental justice impacts beyond 2017. As the EA recognizes, Executive Order 12898 mandates that Environmental Justice principles be "fully evaluate[d]" for all transportation studies, programs, policies and activities. EA at 50. As such, the EA must identify and address any disproportionately high and adverse human health or environmental effects on minority and low-income populations occasioned by the Project. However, the limited time horizon necessarily inhibits such a complete evaluation. Though the EA recognizes the immediate impacts of building Project, namely residential relocations and periodic traffic delays due to construction, EA at 50, it fails to fully evaluate noise and traffic impacts on environmental justice communities resulting from the increased capacity along I-77.

For example, the EA recognizes that the Project will run through several environmental justice communities, EA at 50-51, but fails directly address the Project's specific noise impacts on these communities in particular. Further, the limited traffic forecast significantly hinders the EA's evaluation of noise impacts on these communities beyond the opening year. The EA recognizes that the Build Alternatives will have increased noise impacts as compared to the No-Build, EA at 55, but fails to quantify these noise impacts beyond 2017. As noted above, by so limiting the EA's planning horizon, the EA necessarily fails to evaluate any traffic impacts beyond those immediately resulting from the project's expanded capacity. As such, the EA has no means of identifying or fully evaluating the resulting noise impacts that may occur over time.

Similarly, the EA suggests that low-income drivers who cannot afford to use the new HOT lanes may still benefit from them, as users of the "general purpose lanes may benefit from capacity that becomes available as [non high occupancy vehicles] choose to pay the toll and move to the HOT lanes." EA at 51 (emphasis added). But the EA has not projected the Project's impacts on I-77 traffic beyond the opening year 2017; as such, the EA has not even attempted to "fully evaluate" the extent of the impact the Project may have on the general purpose lanes. The EA cannot extrapolate or infer such an impact; instead, such conclusions must be made after a full evaluation of the Project's impacts beyond the opening year. It may well be that the additional capacity makes the general purpose lanes *more* congested rather than less.<sup>51</sup> If that happens, no benefit will be provided for those drivers who are unable to afford tolls.

### ii) Indirect Effects

Indirect effects are those effects "caused by the [agency] action and . . . later in time or farther removed in distance, but . . . still reasonably foreseeable" and "may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate." *Id.* § 1508.8(b).

An indirect effects forecast of only four years violates NEPA. In this instance, NCDOT contravenes its own guidance — guidance through which the project was evaluated — on indirect effects. EA at 72. The EA specifically states that "[t]he project has been evaluated

<sup>51</sup> See, e.g., Garden Parkway DEIS at C-5 – C-9, available at [http://www.ncdot.gov/projects/gardenparkway/download/gardenpkwy\\_deis\\_AppendixC\\_SupportTrafficInfo.pdf](http://www.ncdot.gov/projects/gardenparkway/download/gardenpkwy_deis_AppendixC_SupportTrafficInfo.pdf).

through application of the Indirect and Cumulative Impact (ICI) Pre-Screening Procedure as set for in the [NCDOT Guidance]." *Id.* Yet the NCDOT Guidance states that "[t]he time frame should be . . . long enough in duration to capture the development and relocation effects that may only transpire over the course of several business cycles." NCDOT Guidance at III-7. In fact, most such analyses set a time horizon of "twenty to twenty-five years." *Id.*

The term "business cycle" has been described as "a cycle consist[ing] of expansions occurring at about the same time in many economic activities, followed by similarly general recessions, contractions, and revivals which merge into the expansion phase of the next cycle; this sequence of changes is recurrent but not periodic; in duration business cycles vary from more than one year to ten or twelve years."<sup>52</sup> A time horizon of only four years is insufficient to capture the ups and downs of several business cycles, and is far short of the recommended twenty to twenty-five years. By failing to analyze induced growth attributable to the highway expansion the EA fails to consider important indirect impacts to water quality, air quality and habitat and other environmental considerations.

Another deficiency of the impacts analysis is its failure to address impacts on secondary roads. When a free, pre-existing route becomes a toll road, a significant portion of traffic will divert to secondary roads to avoid paying the toll. This diversion will cause more congestion and lower levels of service, as well as increased human and environmental impacts, for the suddenly popular secondary roads.

Faced with a similar situation, NCDOT took this phenomenon into account in the EA for the I-95 Widening and Tolling project. See I-95 EA at 1-19 to 1-20. The agency specifically predicted and analyzed traffic volumes and levels of service on secondary roads likely to be used as tollroad alternatives based on its No Action, Build Non-Toll, and Build Toll Alternatives. See *id.* Here, there is no such analysis.

### iii) Cumulative Impacts

The EA concludes that the project has a low potential to result in cumulative impacts, EA at 72; however, the EA's cursory planning horizon and narrow focus necessarily limited the projects NCDOT considered in its cumulative impacts analysis. Below we list several of the major projects directly connected to the I-77 HOT Lanes project, the cumulative effects of which NCDOT must evaluate before the EA will comply with NEPA.

### a) Area Road Projects

The EA fails to consider the cumulative impacts of several other NCDOT road projects planned for the same area. For example, the EA does not address NCDOT's planned completion

<sup>52</sup> Arthur F. Burns & Wesley C. Mitchell, *Measuring Business Cycles* 3 (1946); see also *Lewis G. Hutchens Non-Mairal Trust v. C.I.R.*, T.C. Memo. 1993-600 (U.S. Tax Ct. 1993) (five-year cycle for the truck suspension market); *In re Prussia Assocs.*, 322 B.R. 572, 593 (Bankr. E.D. Pa. 2005) (seven years for the hotel industry); *MovieLab, Inc. v. United States*, 494 F.2d 693, 695 (Cl. Ct. 1974) (nine years for the movie production industry); *New York v. U.S. EPA*, 413 F.3d 3, 26 (D.C. Cir. 2005) (ten years for major emitters under EPA's New Source Review standards).

11 cont of the Charlotte Outer Loop, which will connect a newly widened I-77 with I-85. NCDOT is currently taking specific steps to finalize the Charlotte Outer Loop, including:

- Building the final 5.7 miles of I-485, which will run from west of N.C. 115 to west of I-85 and link I-77 to I-85 (TIP No. R-2248E);
- Converting the existing I-485/I-85 interchange to a turbine interchange (TIP No. R-2123CE); and
- Widening approximately seven miles of I-85 from four to eight lanes from south of Bruton Smith Boulevard/Concord Mills Boulevard to north of N.C. 73 in Cabarrus County (TIP No. I-3803B). The project also includes converting Poplar Tent Road and N.C. 73 to a superstreet design.<sup>53</sup>

The EA should have analyzed the impact of this project as it is slated to be completed by June 2014, well within the study period. Further, the EA must also consider the long term cumulative impacts of an expanded I-77 coupled with a new direct connection between I-77 to I-85 along Charlotte's northern rim.

As explained above, an EA must analyze the cumulative impacts of the project and "any past, present, and reasonably foreseeable future actions." See 40 C.F.R. § 1508.7. Here, the Charlotte Outer Loop projects are ongoing, and their completion is reasonably foreseeable. Projecting future traffic patterns associated with such road projects is not excessively speculative; in fact, it is exactly what NCDOT has done for practically every other NEPA review, as outlined above. As these projects together have the ability to facilitate movement from the communities north of metropolitan Charlotte, such as Huntersville and Cornelius, to the Mallard Creek and Highland Creek neighborhoods in North Charlotte, it is necessary that the agencies evaluate the cumulative impacts of these projects.

Similarly, the EA fails to fully address two additional interstate road projects in the study: STIP I-4750A and I-4750B. The EA acknowledges these projects, EA at 6, 13, but does not include them in the cumulative impacts discussion. Both projects are listed in the developmental program for the current STIP, with anticipated right-of-way acquisition beginning in FY 2017 and construction beginning in FY 2020 for I-4750A, and construction and right-of-way acquisition for I-4750B in future years.<sup>54</sup> However, the EA's abbreviated planning horizon cuts short any analysis of the cumulative impacts of these projects. Again, NEPA requires that the agencies consider the incremental impact of the I-77 HOT Lanes expansion coupled with these reasonably foreseeable projects outlined in the STIP.

#### i. Ballpark Neighborhood Development

The EA also fails to consider the long term cumulative growth impacts of many major Charlotte-area projects planned for completion around the project's southern terminus. For

example, the EA does not evaluate the cumulative impact associated with the new Charlotte Knights baseball stadium in uptown Charlotte, known as BB&T Stadium. Though I-77 is the primary arterial feeding the area from the north, the EA makes no mention of the massive growth expected to develop over the next several years as a result of BB&T Stadium.

The new stadium itself, scheduled for completion in time for the 2014 baseball season, is expected to be a major draw to a relatively underdeveloped area of uptown Charlotte's Third Ward neighborhood.<sup>55</sup> National ballpark consultants conservatively estimate that the stadium, which will seat 10,000 fans per game, should draw at least 600,000 fans annually to the neighborhood just for baseball games.<sup>56</sup> The stadium will also host concerts, festivals, corporate, and community events throughout the year, bringing even more people to the neighborhood.<sup>57</sup>

The new stadium is also expected to drive economic development in Third Ward, the area of uptown bordering I-77, over the next several years. For example, in its first year the stadium is expected to have an economic impact of more than \$65 million, and is expected to add more than 700 additional jobs to the area due to increased economic activity in the neighborhood.<sup>58</sup> In fact, the Charlotte planning community has noted that one of BB&T Stadium's "primary objectives" is to serve as "a catalyst for urban development," and the Third Ward site was selected in part for the location's ability to spur such growth.<sup>59</sup>

The Charlotte Center City 2020 Vision Plan recognizes the growth potential of the Third Ward site, calling for development of a new "ballpark neighborhood." *Vision Plan* at 121-25, The Plan explained that the stadium "will set the stage for revitalization in the Ballpark Neighborhood Focus Area." *Id.* at 119. The city intends that the area will develop so as to serve as a new employment center with mixed-use office and commercial development and include a swath of new high-density residential units. *Id.* at 121.

In fact, multiple plans are in the works to capitalize on the major increase in economic activity in this area of uptown Charlotte. Plan Charlotte describes several planned developments, such as a proposed mixed-use building along the Fourth Street outfield and facing home plate, including a hotel and other commercial destinations; construction of Mecklenburg County's

<sup>55</sup> *Charlotte Center City 2020 Vision Plan*, City of Charlotte, Mecklenburg County, Charlotte City Center Partners 121 (October 2011) [hereinafter "*Vision Plan*"], [http://files.charlottecentercity.org/2020/Charlotte2020VisionPlan\\_All.pdf](http://files.charlottecentercity.org/2020/Charlotte2020VisionPlan_All.pdf) (area currently "includes vacant land and several parking lots in the heart of Third Ward").

<sup>56</sup> Erik Spanberg, *Charlotte Knights mark rise of uptown stadium*, Charlotte Business Journal (March 12, 2013), [http://www.bizjournals.com/charlotte/blog/queen\\_city\\_agenda/2013/03/knights-mark-rise-of-uptown-stadium.html?page=all](http://www.bizjournals.com/charlotte/blog/queen_city_agenda/2013/03/knights-mark-rise-of-uptown-stadium.html?page=all); 10 things to know about Charlotte Knights new stadium in uptown, WSOCTV.com, <http://www.wsocvtv.com/gallery/news/local/test-slideshow/g7jF/#3068675>.

<sup>57</sup> Mike A. Crespo, *Uptown Ballpark*, Greater Charlotte Biz (Aug. 2012), <http://greatercharlottebiz.com/article.asp?id=1378>; 10 things to know about Charlotte Knights new stadium in uptown, WSOCTV.com, <http://www.wsocvtv.com/gallery/news/local/test-slideshow/g7jF/#3068675>.

<sup>58</sup> Elizabeth Thomas & Ben Thompson, *Knights plan hotel, parking as uptown ballpark rises*, WCNC.com (Feb. 27, 2013), <http://www.wcnc.com/sports/Charlotte-Knights-will-play-ball-in-Uptown-April-14-193645571.html>.

<sup>59</sup> Marley Carroll, *Stadium could be spectacular city amenity*, PlanCharlotte (June 7, 2012), <http://plancharlotte.org/story/supporting-uptown-charlotte-knights-baseball-stadium>.

<sup>53</sup> *I-485 Charlotte Outer Loop*, NCDOT, <http://www.ncdot.gov/projects/charlottesvilleouterloop/>.

<sup>54</sup> NCDOT, current STIP (June 2013), available at [https://connect.ncdot.gov/projects/planning/Planning%20Document%20Library/LIVE\\_STIP\\_2013\\_06.pdf](https://connect.ncdot.gov/projects/planning/Planning%20Document%20Library/LIVE_STIP_2013_06.pdf).

Romare Bearden Park; Queens University of Charlotte's plans to take over the Federal Courthouse building; and a long-planned development site along the south side of Third Street between Tryon and Church Street.<sup>60</sup> Several other large mixed-use and residential developments are planned for the neighborhood as well.<sup>61</sup> Proponents expect that the new BB&T Stadium will function much like other new downtown stadiums, such as the Durham Bulls Athletic Park in Durham, North Carolina, which sparked economic development and helped revitalize the city's downtown.<sup>62</sup>

12 [ NEPA requires the EA consider the project's incremental impact when added to an ongoing project of such large scale and close proximity. However, the EA fails to acknowledge the new stadium or its associated growth in any form. The EA fails to consider whether I-77's increased capacity as a result of the widening project will function to accelerate or heighten economic development in the Third Ward, though sources such as Charlotte's 2020 Vision Plan specifically acknowledge that increased transportation linkages are key to the neighborhood's development.<sup>63</sup> Further, the project's truncated planning horizon prevents any analysis of the project's potential long term synergistic effect in enhancing development of the Ballpark Neighborhood specifically or Third Ward in general.

#### ii) Charlotte Gateway Station

12 [ Another major project expected to drive growth in the area of uptown Charlotte immediately served by the I-77 HOT lanes project, yet noticeably absent from the EA's cumulative impacts analysis, is the planned Gateway Station. The station, also slated for construction in the new Ballpark Neighborhood,<sup>64</sup> will serve multiple modes, incorporating commuter intercity passenger rail; local, regional and intercity bus; rental cars; bicycles and pedestrians.<sup>65</sup> NCDOT expects the new station to handle over 500,000 passengers annually by 2015. *Id.*

The City has highlighted the Gateway Station's potential to spur economic development, calling the project "one of the most exciting city-building opportunities for Charlotte."<sup>66</sup> Promoters estimate that the project could generate more than \$1 billion in private investment, with the project serving as a major piece of the city's plan to maximize transit-oriented development opportunities.<sup>67</sup>

<sup>60</sup> Marley Carroll, *Stadium could be spectacular city amenity*, PlanCharlotte (June 7, 2012), <http://plancharlotte.org/story/supporting-uptown-charlotte-knights-baseball-stadium>.

<sup>61</sup> Caitlin McCabe, *New uptown apartment complex planned next to baseball stadium*, CharlotteObserver.com (July 3, 2013), <http://www.charlotteobserver.com/2013/07/03/4146633/new-uptown-apartment-complex-planned.html>.

<sup>62</sup> Mike A. Crespo, *Uptown Ballpark*, Greater Charlotte Biz (Aug. 2012), <http://greatercharlottebiz.com/article.asp?id=1378>.

<sup>63</sup> *Vision Plan* at 123.

<sup>64</sup> *Vision Plan* at 122.

<sup>65</sup> Charlotte Station, NCDOT Rail Division, <http://www.bytrain.org/istation/icharlotte.html>.

<sup>66</sup> *Vision Plan* at 103.

<sup>67</sup> North Carolina Department of Transportation Engages Hines as Master Developer of Gateway Station, Hines.com (Nov. 12, 2012), <http://www.hines.com/press/releases/11-12-12.aspx>.

Surely such a large-scale transportation project is likely to have a cumulative impact when developed at the same time and serving the same community as the I-77 HOT Lanes project. And the Gateway Station project is certainly reasonably foreseeable; after several years of development, planning for the project has become quite concrete. NCDOT has continued to move forward with the project, having selected the complex's master developer over eight months ago.<sup>68</sup>

#### iii) Langtree at the Lake Development

An important aspect of an environmental document's impacts assessment is its consideration of uncertainties with respect to land use changes. The document should "identify all the indirect effects that are known, and make a good faith effort to explain the effects that are not known but are 'reasonably foreseeable,'" since "people [and agencies] make judgments based upon reasonably foreseeable occurrences."<sup>69</sup> It follows that NCDOT should address large-scale developments that are under construction in the project area. *See id.* ("The agency cannot ignore . . . uncertain, but probable, effects of its decisions.").

12 [ The EA also failed to consider the cumulative impacts of another major project in the region — the Langtree at the Lake development in southern Mooresville. The \$2 billion mixed use development will be located on 380 acres and will essentially surround Exit 31 of I-77, with two miles of interstate frontage.<sup>70</sup> According to an Iredell County transportation planner, the massive project will be characterized by a "town center" with "over 600 dwelling units, a hotel, restaurant, deli, entertainment complex, parking deck, and other assorted establishments."<sup>71</sup>

Despite the Langtree development's enormous scale, it is absent from the EA's impacts analysis, although NCDOT was well aware of the project. The agency devoted a slide to the Langtree development in an internal powerpoint presentation on the I-77 HOT Lanes project. *See NCDOT January 2013 Presentation*. More importantly, the agency received comments on the project during the EA comment period. *See EA Appendix E*, p. E-119. Yet NCDOT's only response to an Iredell County transportation planner's request of NCDOT to "consider [the Langtree development] when composing the environmental and other relevant documents for the

<sup>68</sup> *Id.*; Michelle Boudin, *Gateway Station could make CLT a 'world-class city'*, WCNC.com (March 11, 2013), <http://www.wcnc.com/news/neighborhood-news/uptown-firstward-fourthward/Gateway-Station-could-make-CLT-a-world-class-city-177040061.html>.

<sup>69</sup> *NEPA's Forty Most Asked Questions*, CEQ, at Question 18, <http://ceq.hss.doc.gov/nepa/regs/40/11-19.HTM#18> (citing 40 C.F.R. § 1508.8(b)).

<sup>70</sup> Joe Marusak, *Langtree lands restaurant, retail tenants*, CharlotteObserver.com (July 1, 2012), <http://www.charlotteobserver.com/2012/06/30/3355606/langtree-announces-14-restaurants.html> *see also* I-77 HOT Lanes, NCDOT 11 (January 2013) <https://connect.ncdot.gov/letting/Design%20Build%20Program/I-77%20High%20Occupancy%20Tol%20Lanes/I-77%20Public-Private%20Partnership%20Project.pdf> [hereinafter "NCDOT January 2013 Presentation"] (providing information regarding the development and including a map of the site relative to I-77 and Exit 31).

<sup>71</sup> *EA Appendix E*, p. E-119; *see also NCDOT January 2013 Presentation* at 11 (stating that the development will have "300 luxury apartments [totaling] 50,000 square feet[,] 50,000 square feet of retail[,] and a 12 story skyscraper with 200,000 square feet of retail, office, hotel, [and] residential" space under a subheading entitled "Economic Growth").

I-77 HOT lanes project" in a comment letter received on February 11, 2013, was to say "[c]omment noted." See EA Appendix E, p. E-61 to E-62, E-119. Failure to address the reasonably certain Langtree development and its cumulative effects on the project is another deficiency in the EA which is further exacerbated by the EA's truncated planning horizon.

#### E. NC Policies and Procedures for HOT-Lanes

The addition of HOT-lanes to I-77 is novel in a number of respects, heightening the need for proper forecasting in the alternatives and impacts analysis. Implementation of the preferred alternative would result in the first HOT-lanes in the state. Additionally, the project will be the first Public Private Partnership in North Carolina. As such, it is crucial that NCDOT has in place its own policies and procedures for moving forward with this project (and possibly other similar ones in the future).


In the EA, NCDOT cites to guidance from "other HOT lane facilities in the country," yet offers no citation as to what that guidance may be, preventing the public and resource agencies from assessing their validity and hindering their ability to offer substantive and informed comments. *See id.* If NCDOT intends to rely on guidance documents from other states, it needs to be clearer in describing the content of those documents and why they are being used, rather than NCDOT conducting its own research on how HOT lanes will affect highways and drivers in North Carolina.

Before proceeding further with implementation of HOT-lanes throughout the state NCDOT should first develop its own policies or procedures. For example, a policy determining which vehicles qualify as HOVs and which should be tolled. Certainly, this is an aspect of the Project about which the public would like to be informed. This issue is especially salient given NCDOT's past difficulties with billing for toll roads.<sup>72</sup>

#### III. CONCLUSION

The EA uses an improperly narrow statement of purpose and need in an attempt to subvert NEPA and narrow the consideration of impacts and alternatives. NEPA cannot be so easily disregarded. We join with the City of Charlotte and MUMPO in asking the agencies to prepare a revised EA that properly considers a full range of alternatives and their impacts over a reasonable time frame. Only then can the agencies properly determine if a full EIS need be prepared.

Sincerely,

  
Kym Hunter,  
Staff Attorney

<sup>72</sup> See Bruce Siceloff, *N.C. Turnpike Authority double bills hundreds of E-ZPass toll road drivers*, NewsObserver.com (Jan. 31, 2013), <http://www.newsobserver.com/2013/01/31/2644222/nc-turnpike-authority-double-bills.html>.

## App B4: Southern Environmental Law Center Comments and Responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
SELC-1	Southern Environmental Law Center	1	Design Year	<p>The EA, however, uses the same year (2017) for the project's design year and its opening year and thus fails to fully examine the utility and impact of the different project alternatives. Many stakeholders have voiced concern over this limited planning horizon. For example, the City of Charlotte, the metropolitan area directly served by this project, has urged that "[t]raffic analysis for this long-lasting project should be prepared for (at least) the same time frame as the air quality conformity (2035), not just for the design year (2017)." EA at E-63. Similarly, the Technical Coordinating Committee for the Mecklenburg-Union Metropolitan Planning Organization, the MPO with jurisdiction over the Project, has also pressed for a further-reaching analysis, cautioning: The 2017 analysis year for the environmental document does not offer the ability to judge the performance, impacts, and transportation value return on investment over the potential 50 year concession period of the current procurement proposal. The need for additional investments in the corridor and the impact of the proposed project on the ability to deliver these investments should be evaluated.</p> <p>We urge the Transportation Agencies to revise the EA to analyze the project beyond 2017. The revised EA should then be made available for public review and comment to assist in the decision-making process. Only then can it be determined if a more comprehensive Environmental Impact Statement ("EIS") need be prepared for the project.</p>	<p>The purpose of the project is to provide immediate travel time reliability within the study area. The purpose for the I-77 HOT lanes project is consistent with the financial objective identified in MUMPO's 2035 LRTP which states to "Make investment decisions for transportation modes that make the most efficient use of limited public resources". This includes actively exploring new sources of revenue and to foster innovative financing and partnership opportunities for project development and implementation.</p> <p>To meet the stated purpose, managed lanes or HOT lanes were evaluated. An added benefit of managed lanes is long term travel time reliability within the study area. The project complies with 23 CFR 450.320. MUMPO's 2035 LRTP and 2012-2018 TIP were amended on May 22, 2013 to include the Project. On May 31, 2013, USDOT made a determination that the amended LRTP and TIP conform to the Clean Air Act.</p> <p>Per FHWA <i>Interim Guidance on the Application of Travel and Land Use Forecasting in NEPA</i> (March 2010) a project may not have to rely on future performance to meet purpose and need, and its "design year" may be shorter to manage current congestion. In addition to the Purpose and Need, the traffic operational analysis utilized a 2017 design year to address the project purpose of providing immediate travel time reliability. The 2017 Design Year only applies to the project's Purpose and Need and traffic operational analysis. Other environmental analyses such as indirect and cumulative effects and air quality consider impacts through 2035.</p>



## App B4: Southern Environmental Law Center Comments and Responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
SELC-1	Southern Environmental Law Center	2	Alternatives Analysis	The project's statement of purpose and need explains that the project "is designed to address [the] immediate need" of "travel time reliability from Uptown Charlotte to the Lake Norman area, the opening and design years are both proposed for 2017." By doing so, the transportation agencies not only attempt to limit consideration of alternatives to its pre-determined decision to add toll lanes to I-77, but it also attempts to prevent any consideration of the environmental impacts of the project beyond those that are immediate.	The I-77 HOT lanes project is being developed to provide long term travel time reliability within the study area. The purpose and need for the project is consistent with MUMPO's 2035 LRTP. While the project incorporates HOT lane concepts, it also expands and improves the facility for greater use of transit and high occupancy vehicles. Incorporation of these travel demand management strategies along with the statutory performance requirements in 23 U.S.C. 166 will not result in significant environmental impacts. While the commenter notes and lists several Environmental Assessments for widening projects across the United States and notes such projects included design years further into the future, the commenter has provided additional evidence that similar projects do not have a significant environmental impact. This project, which incorporates Transportation System Management (TSM) and Transportation Demand Management (TDM) strategies will not result in significant impacts based on the evidence provided by the commenter.
SELC-1	Southern Environmental Law Center	3	Design Year	The limited time horizon and improperly narrow statement of purpose and need prevent the rigorous comparison of alternatives required by NEPA. By not looking out past the opening year the EA fails to offer a meaningful comparison of both the different "build" alternatives presented and other "no build" alternatives. The limited forecasts of future growth and traffic also prevent a meaningful comparison of combinations of those alternatives.	See Responses to Document SELC -1, Comments #1 and #2.
SELC-1	Southern Environmental Law Center	4	Design Year	The limited time horizon fails to consider the alternative offered by planned rail expansions along the I-77 corridor, particularly the proposed Red Line Regional Rail project.	MUMPO's 2035 LRTP states that the North Corridor Red Line project "is slated for revenue service to begin by the 2025 Horizon Year." Current estimates from the Red Line study estimate that the rail line would only remove between 2,000 and 2,500 single occupancy vehicle trips daily from the I-77 corridor ( <a href="http://redlineregionalrail.org/qa/">http://redlineregionalrail.org/qa/</a> ). This represents only approximately 2% of the nearly 110,000 vehicles which on average use I-77 daily, and therefore would not meet the stated Purpose and Need.

## App B4: Southern Environmental Law Center Comments and Responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
SELC-1	Southern Environmental Law Center	5	Alternatives Analysis	NCDOT is required by federal guidance to incorporate Transportation System Management ("TSM") and Transportation Demand Management ("TDM") alternatives into its alternatives analysis. The EA gives such options no mention.	<p>HOT lanes are inherently both a TSM and TDM alternative. According to FHWA's Office of Planning, Environment, &amp; Realty website, "transportation system management (TSM) strategies focus on changing the operation of the transportation system, typically with a primary focus on improving traffic flow and reducing traveler delay" (<a href="http://www.fhwa.dot.gov/environment/air_quality/conformity/research/mpe_benefits/mpe04.cfm">http://www.fhwa.dot.gov/environment/air_quality/conformity/research/mpe_benefits/mpe04.cfm</a>).</p> <p>Transportation demand management (TDM) refers to a set of strategies aimed at reducing the demand for roadway travel, particularly in single occupancy vehicles" (<a href="http://www.fhwa.dot.gov/environment/climate_change/mitigation/resources_and_publications/reference_sourcebook/page05.cfm#s5">www.fhwa.dot.gov/environment/climate_change/mitigation/resources_and_publications/reference_sourcebook/page05.cfm#s5</a>).</p> <p>The construction of our project will encourage and reward carpooling and transit by expanding and improving the existing HOV facilities. Vehicles meeting HOV requirements (three or more passengers), as well as buses and motorcycles will not be charged to use a facility that is mandated to provide specific travel time reliability. When those non-HOV vehicles choose to pay a toll to benefit from the facility that provides travel time reliability, the general purpose lanes receive the benefit of less congestion as well.</p>

## App B4: Southern Environmental Law Center Comments and Responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
SELC-1	Southern Environmental Law Center	6	Design Year	...the EA has not attempted to project traffic impacts beyond 2017. The result of this limited review is that the EA necessarily cannot evaluate the Project's impacts on mobile source emissions, such as particulate matter. Nor can the EA fully assess the Project's impacts on ozone or CO nonattainment without a clear picture of traffic patterns beyond the design year. But as the EPA recognizes, mobile sources are one of the largest sources of tropospheric ozone precursor emissions. The EA's limited traffic projections, therefore, unavoidably obstruct a full review of the Project's direct air quality impacts.	<p>The Environmental Assessment incorporates by reference the findings of the <i>Microscale Carbon Monoxide and Mobile Source Air Toxics Air Quality Analysis</i> (Kimley-Horn and Associates, May 2013). Due to improved emission controls on vehicles, emission rates are expected to decrease in the next 20 years. Taking this into account as well as the projected traffic growth in the area of this project, 2017 was the year chosen for consideration in the CO analysis.</p> <p>Regarding MSATs, the report concludes that due to improvements in emissions technologies, MSAT levels are expected to decrease over time, even with an increase in overall VMT. The MSAT levels for the modeled area are anticipated to decrease by 47 percent between the 2010 base year and the 2017 worst-case build condition. All seven MSATs modeled experience significant decreases in emissions during this period. When comparing these decreases to the vehicle miles traveled, it is evident that despite increases in the VMT, MSAT emissions continue to decrease over time.</p> <p>Regarding National Ambient Air Quality Standards (NAAQS), the USDOT made a conformity determination on the MUMPO 2035 LRTP Amendment/FY 2012-2018 TIP Amendment on May 31, 2013. The current air quality conformity determination for the region for the period through 2035 includes Build Alternative 2 and is consistent with the final conformity rule found in 40 CFR Parts 51 and 93.</p> <p>See also response to Document SELC-1, Comment # 1.</p>
SELC-1	Southern Environmental Law Center	7	Water Quality	...the EA does not discuss the overall water quality impacts that might occur from extending the culverts of Dillons Twins Lakes and Irwin Creek. Nor does the document identify any mitigation measures that will be taken with regard to these impacts. Rather, the document states that mitigation will be considered after the publication of a FONSI. This scheme is backwards. For the agencies to find that there will be no significant impact on water quality they must necessarily first	<p>Potential impacts to jurisdictional resources in the study area are reported in Table 5-4 of the Environmental Assessment. Additional discussion of avoidance and minimization for the Selected Alternative is included in <b>Table 4</b> of this FONSI.</p> <p>Erosion and sediment control BMPs will be implemented in accordance with NCDOT's standard procedures. In addition, a project commitment is included to implement <i>Design Standards in Sensitive Watersheds</i> during the design and construction of this project in and around all watersheds draining to Lake Norman and Byers Creek.</p>



## App B4: Southern Environmental Law Center Comments and Responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
				<p>identify how such impacts will be mitigated.</p> <p>...Further, the EA's limited planning horizon prevents any real evaluation of the Project's overall impacts on water quality in the Catawba River watershed. As outlined above, the EA's analysis doesn't extend beyond the Project's opening year, unavoidably preventing full analysis. As such, the EA cannot evaluate the impacts of any such traffic on water quality in the study area. For example, any increase in traffic in future years that might result from the expansion project could have severe impacts on run-off and water quality.</p>	<p>Permits will be required from the USACE and the NC Division of Water Quality (now named the NC Division of Water Resources) for impacts to jurisdictional resources, as stated in Section 5.4.3 of the Environmental Assessment. These permits will require sequential consideration of avoidance, minimization, and mitigation of impacts.</p> <p>The Environmental Assessment does not say mitigation will be considered after the publication of the FONSI. As stated in Section 5.4.3, "The NCDOT will begin investigating potential on-site stream and wetland mitigation opportunities after approval of the FONSI. If on-site mitigation is not feasible, mitigation will be provided by North Carolina Department of Environment and Natural Resources Ecosystem Enhancement Program (EEP). A final determination regarding mitigation to the Waters of the United States rests with the US Army Corps of Engineers and the NC Division of Water Quality, and compensatory mitigation for impacts will be resolved during the permitting phase."</p> <p>The Environmental Assessment incorporates by reference the <i>Community Impact Assessment &amp; Screening Indirect and Cumulative Effects Assessment</i> (Atkins, May 2013) prepared for the project. The indirect and cumulative effects analysis evaluates effects through the horizon year of 2035. The evaluation includes cultural features, community features, water quality features, and natural habitat features. The cumulative effects analysis evaluates past actions, current activities, and future reasonably foreseeable projects, which included fiscally constrained projects planned in the Long Range Transportation Plan through 2035.</p> <p>The NCDWR, NC Wildlife Resources Commission, and other regulatory agencies have reviewed the EA and found that the Project will use methods to appropriately minimize any negative impacts to water quality and aquatic habitat.</p> <p>See also response to Document SELC-1, Comment #1.</p>

## App B4: Southern Environmental Law Center Comments and Responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
SELC-1	Southern Environmental Law Center	8	Land Use	The EA fails to consider the induced land use impacts that will be occasioned by adding the additional highway capacity. New growth spurred by the project could likely lead to an increase in impervious surfaces and associated run-off resulting in significant degradation of water quality.	<p>The Environmental Assessment incorporates by reference the <i>Community Impact Assessment &amp; Screening Indirect and Cumulative Effects Assessment</i> (Atkins, May 2013) prepared for the project. The indirect and cumulative effects (ICE) analysis evaluates effects through the horizon year of 2035. This evaluation considers future growth in the study area consistent with NCDOT procedures.</p> <p>The ICE concludes that the implementation of the I-77 HOT lanes project, which is largely confined to the existing right of way, would not contribute, in conjunction with past, present, or future projects, to significant adverse cumulative effects on resources in the project study area.</p>
SELC-1	Southern Environmental Law Center	9	Environmental Justice	Though the EA recognizes the immediate impacts of building Project, namely residential relocations and periodic traffic delays due to construction, it fails to fully evaluate noise and traffic impacts on environmental justice communities resulting from the increased capacity along I -77.	<p>Analysis of environmental justice issues is included in Section 5.1.4 of the EA and in <b>Section 5.9</b> of this FONSI. The analysis concludes that there would not be disproportionately high and adverse effects on EJ communities. No indirect impacts to environmental justice populations are anticipated as a result of the tolling aspect of the project.</p> <p>The noise analysis is summarized in Section 5.2.1 of the EA. The analysis evaluated traffic noise for all noise sensitive receptors in the project study area, including those in EJ communities. Noise walls are recommended for numerous neighborhoods along the corridor, including all neighborhoods south of I-85. As summarized in <b>Table 7</b> of this FONSI, approximately 959 noise-sensitive receptors would benefit from 23 preliminary feasible and reasonable noise barriers.</p> <p>From a traffic operations standpoint, there are no impacts to an EJ community that are not also shared by other communities along the corridor; therefore there are no disproportionate impacts to any identified EJ communities. The relocations resulting from the replacement of the Oaklawn Avenue bridge while maintaining the existing bridge during construction avoids traffic operations impacts to the EJ community since access would be maintained.</p>

## App B4: Southern Environmental Law Center Comments and Responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
SELC-1	Southern Environmental Law Center	10	Design Year	<p>A time horizon of only four years is insufficient to capture the ups and downs of several business cycles, and is far short of the recommended twenty to twenty-five years. By failing to analyze induced growth attributable to the highway expansion the EA fails to consider important indirect impacts to water quality, air quality and habitat and other environmental considerations.</p> <p>Another deficiency of the impacts analysis is its failure to address impacts on secondary roads. When a free, pre-existing route becomes a toll road, a significant portion of traffic will divert to secondary roads to avoid paying the toll. This diversion will cause more congestion and lower levels of service, as well as increased human and environmental impacts, for the suddenly popular secondary roads.</p>	<p>See response to Document SELC-1, Comment #1.</p> <p>The proposed project does not remove or convert any existing general purpose lanes to HOT lanes and therefore will not be converting a free pre-existing route into a toll road as stated. The addition of HOT lanes without removing any general purpose lanes is not anticipated to result in any notable diversion of traffic to secondary roads.</p>
SELC-1	Southern Environmental Law Center	11	Cumulative Effects	<p>The EA fails to consider the cumulative impacts of several other NCDOT road projects planned for the same area. For example, the EA does not address NCDOT's planned completion of the Charlotte Outer Loop, which will connect a newly widened 1-77 with 1-85....</p> <p>Similarly, the EA fails to fully address two additional interstate road projects in the study: STIP I-4750A and I-4750B. The EA acknowledges these projects, EA at 6.13, but does not include them in the cumulative impacts discussion.</p>	<p>The Environmental Assessment incorporates by reference the <i>Community Impact Assessment &amp; Screening Indirect and Cumulative Effects Assessment</i> (Atkins, May 2013) prepared for the project. The indirect and cumulative effects (ICE) analysis evaluates effects through the horizon year of 2035 and includes fiscally constrained projects in MUMPO's 2035 LRTP, the 2012-2018 TIP and the NCDOT's 2013-2023 STIP. The ICE concluded that the current design alternatives being developed for the project, which are largely confined to the existing right of way, would not contribute, in conjunction with past, present, or reasonably foreseeable future projects, to significant adverse cumulative effects on resources in the project study area.</p> <p>The completion of the I-485 Outer Loop was included in the traffic analysis prepared for the project, as discussed in Section 3 of the <i>Final Traffic Operations Technical Memorandum</i> (July 2013).</p>

## App B4: Southern Environmental Law Center Comments and Responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
SELC-1	Southern Environmental Law Center	12	Cumulative Effects	<p>NEPA requires the EA consider the project's incremental impact when added to an ongoing project of such large scale and close proximity. However, the EA fails to acknowledge the new [BB&amp;T Ballpark] stadium or its associated growth in any form....</p> <p>Another major project expected to drive growth in the area of uptown Charlotte immediately served by the I-77 HOT lanes project, yet noticeably absent from the EA's cumulative impacts analysis, is the planned Gateway Station....</p> <p>The EA also failed to consider the cumulative impacts of another major project in the region - the Langtree at the Lake development in southern Mooresville.</p>	<p>The Metrolina Regional Transportation Model used the official TAZ level SE data projections available.</p> <p>The Langtree at the Lake mixed use development is discussed in the Known Plans for Development section of the <i>Community Impact Assessment &amp; Indirect And Cumulative Effects Screening Assessment</i> (Atkins, May 2013) prepared for the project which is incorporated by reference into the Environmental Assessment.</p> <p>The new BB&amp;T Ballpark (currently under construction) and the planned Gateway Station are located outside of the Future Land Use Study Area (FLUSA) that was evaluated in the indirect and cumulative effects analysis.</p>
SELC-1	Southern Environmental Law Center	13	Reference Citation	<p>In the EA, NCDOT cites to guidance from "other HOT lane facilities in the country," yet offers no citation as to what that guidance may be, preventing the public and resource agencies from assessing their validity and hindering their ability to offer substantive and informed comments.</p>	<p>This statement is made in the second paragraph of Section 3.4 of the Environmental Assessment, and refers only to HOT access point spacing. As stated earlier in the same paragraph, the open access lengths and spacing between the access area and adjacent ramps are in accordance with the California Department of Transportation (CalTrans) Policy Directive issued on March 23, 2011 regarding managed lane design (<a href="http://www.acec-oc.org/pdf/Caltrans%20PD%2011-02_1.pdf">http://www.acec-oc.org/pdf/Caltrans%20PD%2011-02_1.pdf</a>).</p> <p>Further, state law N.C.G.S. 136-89.199 allows NCDOT to specify the high occupancy requirements or other conditions for use of the HOT lanes, which may include restricting vehicle types from using HOT lanes.</p>

## App B4: Southern Environmental Law Center Comments and Responses

Document No.	Commenter	Comment No.	Topic	Comment	Response
SELC-1	Southern Environmental Law Center	14	NCDOT HOT/HOV Policy	Before proceeding further with implementation of HOT-lanes throughout the state NCDOT should first develop its own policies or procedures. For example, a policy determining which vehicles qualify as HOVs and which should be tolled. Certainly, this is an aspect of the Project about which the public would like to be informed.	<p>NCDOT follows Title 23 U.S.C. 166 that “allows States to toll vehicles for access to HOV lanes only when (1) they do not meet the established occupancy requirements of the lane (e.g., HOV-2 on an HOV-3 facility) or (2) they are ILEV or low emission and energy-efficient vehicles. HOT vehicles must be tolled; the tolling of low emission and energy-efficient vehicles and SOV public transportation vehicles is optional. Motorcycles and bicycles, if allowed, may not be tolled.”</p> <p><a href="http://www.ops.fhwa.dot.gov/freewaymgmt/hovguidance/chapter3.htm">www.ops.fhwa.dot.gov/freewaymgmt/hovguidance/chapter3.htm</a></p> <p>NCDOT chose not to establish an arbitrary HOV requirement at this time, since this is the first HOT project in the State. NCDOT will analyze occupancy requirements on a case-by-case basis. NCDOT has defined the HOV requirements for the proposed project as three or more passengers, as well as buses and motorcycles. Pursuant to FHWA Guidance, all qualified HOV vehicles may use the HOT lanes free of charge. Non-HOV vehicles may choose to use the HOT lanes by paying a toll. State agencies with jurisdiction over HOV facilities hold the sole authority to set occupancy requirements and to implement any of the HOV occupancy exceptions under 23 U.S.C. 166(b).</p> <p>The conversion of the existing HOV lanes was first identified in 2007 as part of the FASTLANES study prepared in cooperation with the City of Charlotte, NCDOT and the South Carolina DOT. As stewards of public investment, the NCDOT is pursuing the conversion of the existing HOV lanes on I-77 to HOT lanes to allow more residents to take advantage of this previous investment. The HOT lanes will allow high occupancy vehicles to use these lanes without charge; however the minimum number of occupants will increase from 2 to 3.</p>

## **Appendix C**

### **Agency Correspondence**

- John Howard email

09/23/13



## **Gibilaro, Carl**

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**From:** Reap, Shelby L <slreap@ncdot.gov>  
**Sent:** Monday, September 23, 2013 1:05 PM  
**To:** Gibilaro, Carl  
**Subject:** FW: Walls

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**From:** Howard, John [mailto:jghoward@ci.charlotte.nc.us]  
**Sent:** Monday, September 23, 2013 10:17 AM  
**To:** Reap, Shelby L  
**Subject:** Walls

Hi Shelby,  
Hope you had a good weekend. I think I owed you a follow up confirmation about the walls. We are not going to bring this before the HDC for a certificate. The walls are outside of the 4<sup>th</sup> Ward boundary even though it is adjacent to it. We believe the Section 106 process is sufficient to address these types of projects.

### **John G. Howard**

Planning Coordinator  
Administrator – Charlotte Historic District Commission  
Charlotte Mecklenburg Planning Department  
600 East 4<sup>th</sup> Street  
Charlotte, NC 28202  
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