May 5, 2017

Mr. John O'Donnell
Chief Executive Officer
Albany International Airport
Administration Building, Suite 200
Albany, NY 12211

Re: Albany International Airport (ALB)
I-87 FHWA/NYSDOT Interchange
Environmental Determination

Dear Mr. O'Donnell:

The Federal Aviation Administration (FAA) has recently approved the adoption of the findings contained in the Environmental Assessment (EA) completed by the Federal Highway Administration (FHWA) and the New York State Department of Transportation (NYSDOT) for the new interchange at Interstate 87 adjacent to Albany International Airport (ALB). The FAA has issued a Finding of No Significant Impact (FONSI) adopting the findings of the FHWA/NYSDOT EA. A copy of the FONSI signed by the FAA Approving Official and the EA signature page signed by the FHWA and NYSDOT are attached.

This Federal environmental approval is a determination by the Approving Official that the requirements imposed by applicable environmental statutes and regulations have been satisfied by a FONSI. However, it is not an approval of any other Federal action relative to the project proposal.

In compliance with Council on Environmental Quality (CEQ) regulations 1501.4(e)(1) and 1506.6, we require that your office make the Final EA with Signature Page and FONSI available to the affected public, and announce such availability through appropriate media in the area. The announcement shall indicate the availability of the document for examination and note the appropriate location of general public access where the document may be found (i.e., your office, local libraries, public buildings, etc.). We request that a copy of such announcement be sent to us when it is issued.

Finally, your attention is directed to the mitigating measures that were made a condition of approval of the FONSI. Please be reminded that these measures must be taken by the airport sponsor in order to meet the terms of the EA/FONSI.
Please contact our office if you have any questions.

Sincerely,

Signed

Sukhbir Gill
Assistant Manager, NYADO

Enclosures (2)
Location
Albany International Airport (ALB)
Colonie, Albany County, NY

Proposed Federal Action
The proposed federal action is a land release of 12.13 acres from the Albany County Airport Authority to New York State Department of Transportation for the construction of new highway exit ramps, to complement the existing Interstate 87 Exit 4 interchange, which connects I-87 to Albany-Shaker Road adjacent to Albany International Airport, and an associated Pen and Ink Change to the Albany International Airport Layout Plan (ALP).

Project Description/Background
Starting in the late 1970’s and continuing into the early 1990’s, a number of studies assessed existing and future traffic operations in the Wolf Road/Albany International Airport area. As a result of these studies, the Exit 3/4 Wolf Road/Airport Interchange project was added to Capital District Transportation Committee (CDTC’s) 1992-97 Transportation Improvement Plan (TIP) in March 1992, and subsequently the 2013-2018 TIP. The project also was added to the NYSDOT's capital program.

In 2011, FHWA determined that the proposal to build a new Exit 3 while retaining the complete Exit 4 did not meet interchange spacing requirements and could not be approved. As a result of this determination, the remaining potential alternatives were modified to incorporate removal of the existing Exit 4 ramps to eliminate duplicate movements and the project name was updated to I-87 Exit 4 Access Improvements.

NYSDOT, in partnership with FHWA, prepared a Draft Design Report/Draft Environmental Impact Statement (DDR/DEIS) to identify and evaluate the impacts or the Project. During development of the DDR/DEIS, the Diamond Alternative was dismissed from consideration due to environmental impacts, and the Flyover Alternative was chosen as the Proposed Action.

The Albany County Airport Authority has requested permission from the FAA to release 12.13 acres of land to the New York State Department of Transportation for construction of the Flyover Alternative. The parcels to be released are identified for uses including residential, parking lot, vacant commercial, air transport, and vacant farmland. The majority of the acreage to be released consists of vacant farmland.

Pursuant to Federal Aviation Administration (FAA) Order 1050.1F, "Environmental Impacts: Policies and Procedures," the FAA may adopt, in whole or in part, the draft or final EA or the EA portion of another agency’s EA/FONSI. The FAA must conduct an
independent evaluation of the information contained in the EA, and if appropriate, issue its own FONSI. For the purposes of this land release, the FAA is evaluating and adopting the Final Environmental Assessment dated August 2014 for the Interstate 87 Exit 4 Access Improvements, created by the Federal Highway Administration and the New York State Department of Transportation.

**Purpose and Need**
The purpose of the land release is to improve access between I-87 and the Albany International Airport, and between I-87 and Wolf Road; to improve safety and traffic operations at Exit 4; to address bridge structural deficiencies on the I-87 bridges over Albany-Shaker Road; and to improve system connectivity between the existing pedestrian/bicycle facilities on Wolf Road and the facilities constructed as part of the Albany/Watervliet-Shaker Road project. The need for the land release is demonstrated through the poor levels of service at the intersections, and the number of the intersections that have a crash rate exceeding the statewide average crash rate for similar transportation facilities.

**Alternatives**
**No Action** - The No-Build alternative provides for the continued maintenance of the existing highway by the NYSDOT maintenance forces with no capital funds being expended. No land would need to be released from the Albany County Airport Authority to New York State Department of Transportation. This alternative does not meet the project's Purpose and Need.

**Proposed Action – Land Release to Allow Construction of Flyover Alternative** - This is the selected alternative. This alternative involves the release of 12.13 acres of land owned by the Albany County Airport Authority for the construction of new Exit 4 ramps to complement the existing Exit 4 interchange. This land release will make possible these portions of the project:

- Replacement of the I-87 bridges over Albany-Shaker Road and reconstruction of the bridge approaches on I-87 northbound and southbound.
- Construction of a new bridge to carry the Flyover Ramp from I-87 northbound to a point on Albany-Shaker Road, west of the Desmond Hotel.
- Reconfigure the existing I-87 northbound exit ramp to provide right-turn only access to Wolf Road southbound.
- Pavement widening for additional turn lanes on Albany-Shaker Road.
- Construction of a new intersection on Albany-Shaker Road at the connector road approximately 1,000 ft. west of Old Wolf Road.
- Replacement of the existing Exit 5 southbound entrance ramp with a new direct ramp connection from Watervliet-Shaker Road to I-87 southbound.
Discussion
The impacts of the proposed federal action on air quality, noise and compatible land use, water resources, biological resources, transportation and circulation, visual resources, cultural resources, socioeconomics, environmental justice and protection of children, hazardous materials and wastes, and cumulative impacts were evaluated in the NYSDOT/FHWA Final EIS. It is the FAA’s finding that the proposed action will not have any significant environmental impacts on any of the above noted resource categories. The following sections highlight the impacts in each category related to the land release.

Air Quality
The land release and associated construction will not result in any aviation-related changes in air quality. Cumulative construction-related air quality impacts are expected to be negligible since airborne dust levels will be controlled through wetting of soil surfaces, and covering of trucks and other dust sources. These requirements will be included as part of the specifications of the construction contract.

Noise and Compatible Land Use
The land release and associated construction will not result in any aviation-related changes in noise, so no noise analysis was completed.

Water Resources

Wetlands
Some project activities on the land released to NYSDOT will have impacts to wetlands.

An Executive Order 11990 Wetland Finding has been approved by FHWA stating and supporting that (1) there are no practicable alternatives to construction in the wetland(s), and (2) the proposed action includes all practicable measures to minimize harm to the wetland(s) which may result from such use.

The Flyover Alternative would result in a direct loss of 1.74 acres of wetlands though construction of the new ramps, some of which will occur in the land release area, but has been designed to avoid and minimize impacts to all wetlands, regardless of type, size, or quality, to the extent practicable. These design elements (adjusting the alignment, steepening the side slopes and reducing all stream crossing lengths to the greatest extent possible) minimized wetland impact by 0.37 acres.

US Army Corps of Engineers (USACE) Section 404 Individual Permit will be required to authorize impacts to federally-jurisdictional wetlands. For those wetlands that are mapped as NYS Department of Environmental Conservation (NYSDEC) Freshwater Wetlands, a NYSDEC Article 24 permit will also be required to authorize impacts within the wetland boundary and the 100-foot adjacent area. NYSDOT will obtain the permits prior to commencement of project activities and will adhere to any conditions or requirements.
Upon completion of the project, all areas experiencing temporary or indirect wetland disturbance will be re-graded and seeded with an appropriate emergent or forested wetland seed mix.

Compensatory wetland mitigation will be performed to offset unavoidable impacts to the NYS State freshwater wetland and federal wetland. Mitigation measures will consist of wetland creation on one or more sites located within the Shaker Creek watershed.

**Surface Waters**

The proposed project activities will result in impacts to Waters of the U.S., some of which will occur in the land release area. As a result of the total amount of impact, it is expected that this work will be authorized under a USACE Section 404 Individual Permit. The permit will be applied for during final design. Mitigation will be required to compensate for unavoidable impacts. Work will not commence until the permit is acquired, and will adhere to any conditions set forth by the permit requirements.

A Project Specific Individual Section 401 Water Quality Certification will be required for this project since a USACE Section 404 Individual Permit is anticipated.

Stream mitigation measures will be further evaluated as the project design progresses; selected measures will be included in the USACE/NYSDEC Joint Permit Application package, which will be prepared during final design.

**Biological Resources**

A preliminary list of threatened and endangered species was generated based on the project boundaries. The list includes the Karner blue butterfly (*Lycaeides melissa samuelis*), Indiana bat (*Myotis sodalis*), bog turtle (*Clemmys [=Glyptemys] muhlenbergii*), and northern long-eared bat (*Myotis septentrionalis*).

Based on coordination with USFWS and on-site investigations on airport property, this project was determined to have no effect on the Karner blue butterfly, Indiana bat, and bog turtle. Based on an inventory of existing habitat, publically available information regarding the northern long-eared bat, and consideration of potential impacts it has been determined that this project will not jeopardize the continued existence of the Federally-proposed endangered northern long-eared bat. In order to protect the northern long-eared bat from project-related impacts (i.e. tree removals), the USFWS requires that if any trees need to be removed, the cutting must be accomplished only from November 1 through March 31. Any additional mitigation measures appropriate to the project will be further assessed and coordinated with the USFWS as the project progresses.

**Cultural Resources**

NYSDOT and FHWA identified historic properties within the area of potential effects (APE) and evaluated the project's effects on those properties in consultation with the New York State Historic Preservation Office (SHPO) and three federally-recognized tribes: the
Stockbridge-Munsee Community Band of Mohican Indians, the Delaware Tribe, and the Saint Regis Mohawk Tribe. Based on a preliminary assessment of effects for the Flyover Alternative, NYSDOT identified potential adverse effects to the Engel Farm Precontact Archaeological Site, determined eligible for listing in the National Register of Historic Places and identified as having cultural significance to the Mohican, Mohawk, and Delaware Tribes.

Documentation for an Adverse Effect finding for the Project was prepared pursuant to 36 CFR 800.11(e), and provided to the SHPO and all three Tribal Nations in December 2013. The SHPO concurred with this finding in writing on December 9, 2013. A Memorandum of Agreement (MOA) was developed by NYDOT and FHWA in consultation with the SHPO, and provided for review and comment by the three Tribal Nations, who were invited to sign the MOA as Concurring Parties. As stipulated in the MOA, NYDIT and FHWA will conduct Data Recovery of the Engel Farm Site, and the production of a stand-alone regional synthesis report providing an overview of archaeological resources in the Albany Pine Bush area.

Section 4(f) resources within the Project Area include the Ann Lee Pond Nature and Historic Preserve, but these areas are not part of the land release. The Project will avoid the use of land from the Ann Lee Pond Nature and Historic Preserve.

**Socioeconomics, Environmental Justice and Protection of Children**

Implementation of the proposed projects would not result in a significant impact to regional or local socioeconomic characteristics.

**Hazardous Materials and Wastes**

A Hazardous Waste/Contaminated Materials Site Screening for this project was performed in accordance with NYSDOT's standards in order to determine whether or not any recognized environmental conditions are present in the land release area. Site-specific remediation plans will be developed as warranted.

**Cumulative Impacts**

Construction impacts would be temporary and confined to areas within or immediately adjacent to the installation boundary. While the potential exists for cumulative environmental impacts to occur with regard to air quality and noise, cumulative impacts are anticipated to be less than significant.

**Public Involvement**

The DDR/DEIS was circulated on February 7, 2014 for public and agency review and a public hearing was held on February 25, 2014. Comments on the DDR/DEIS were received through April 1, 2014. The comments received during the DEIS public comment period were considered, and the Final EIS (FEIS) was prepared. FAA is satisfied that the public involvement efforts meet the requirements of the National Environmental Policy Act and FAA Order 1050.1F.
Mitigation Measures
The NYSDOT and FHWA will coordinate with permitting agencies, as well as Cooperating Agencies, to ensure that design, construction and maintenance of mitigation measures are performed in accordance with permit requirements and best management practices. The NYSDOT, in consultation with the FHWA, will ensure the enactment of the mitigation measures described below using quality assurance reviews built into Departmental design and construction oversight processes.

- In order to protect the Indiana bat from project-related impacts (i.e. tree removals) which may occur in the land release areas, the USFWS requires that if any trees need to be removed, the cutting of trees at these sites must be accomplished only from November 1 through March 31
- Compensatory wetland mitigation will be performed to offset unavoidable impacts to the NYS State freshwater wetland and federal wetlands. Mitigation measures will consist of wetland creation on one or more sites located within the Shaker Creek watershed. Mitigation plans will be developed during the design and permitting phases.
- Stream mitigation measures will be further evaluated as the project design progresses; selected measures will be included in the USACE/NYSDEC Joint Permit Application package, which will be prepared during final design.
- Construction contract provisions shall contain the provisions of AC 150/5370-10A, "Standards for specifying construction of Airports" item P-156, temporary air, water pollution, soil erosion and siltation control and AC 150/5320-5B, "Airport Drainage."
- All necessary permits for construction of the proposed action shall be obtained prior to construction.

CONCLUSION AND APPROVAL:
I have carefully and thoroughly considered the facts contained in the attached Final Environmental Assessment. Based on that information, I find the proposed Federal action is consistent with existing national environmental policies and objectives of Section 101 (a) of the National Environmental Policy Act of 1969 (NEPA) and other applicable environmental requirements. I also find the proposed Federal action will not significantly affect the quality of the human environment or include any condition requiring any consultation pursuant to section 102(2) (C) of NEPA. As a result, FAA will not prepare an EIS for this action.

Recommended:  
Jonathan Z. DeLaune  
Environmental Protection Specialist,  
New York ADO  
5/3/2017
Approved:  
Sukhbir Gill  
Assistant Manager  
New York ADO  

Disapproved:  
Sukhbir Gill  
Assistant Manager  
New York ADO  

Date
Project Identification Number (PIN): 1721.51
Interstate 87 (I-87) Exit 4 Access Improvements
Town of Colonie, Albany County, New York

1 DECISION

This Joint National Environmental Policy Act (NEPA) / State Environmental Quality Review Act (SEQRA) Record of Decision and SEQRA Findings Statement (Joint ROD and Findings Statement) documents the Federal Highway Administration’s (FHWA) and the New York State Department of Transportation’s (NYSDOT) findings and decision to proceed with the proposed action as described in the Final Environmental Impact Statement (FEIS) (#FHWA-NY-EIS-14-01-D) for the Interstate 87 (I-87) Exit 4 Access Improvements ("the Project").

This Joint ROD and Findings Statement is prepared in accordance with the National Environmental Policy Act (NEPA; 42 USC § 4321 et seq.), the Council on Environmental Quality (CEQ) regulations implementing NEPA 40 CFR Parts 1500 to 1508 and FHWA’s regulations implementing NEPA 23 CFR Part 771.

This Joint ROD and Findings Statement is also prepared in accordance with NYSDOT’s Procedures for the Implementation of SEQRA (17 NYCRR Part 15). NYSDOT has given consideration to the facts and conclusions relied upon in the Federal FEIS and determined that the requirements of Article 8, Section 8-0109 of the New York Environmental Conservation Law (ECL) and implementing regulations have been met.

FHWA and NYSDOT have selected the Flyover Alternative for the Project. This alternative is fully described in Chapter 3, “Alternatives,” of the FEIS. The FEIS is available via the Project web site at: www.dot.ny.gov/i87exit4.

2 PROJECT LOCATION

The proposed project lies entirely within the Town of Colonie, Albany County, in New York State. It involves access improvements between I-87, Wolf Road, and the Albany International Airport. The project study area includes I-87 between Sand Creek Road and Exit 5 (RM 871 1108 2029), Wolf Road (known as Old Wolf Road) between the Exit 4 SB Exit Ramp and Albany-Shaker Road, Wolf Road between Albany-Shaker Road and Cerone Commercial Drive, and Albany-Shaker Road between Wolf Road and Meeting House Road. A total of approximately 8.0 miles of roadway within the Town of Colonie, Albany County are included in the project study area.

3 PROJECT NEED, PURPOSE, AND OBJECTIVES

The primary needs for the Project are to improve traffic and safety operations in the I-87 Exit 4 area (demonstrated through the poor levels of service at intersections and number of intersections with crash rates which exceed the statewide average crash rate for similar transportation facilities in the Exit 4 area); improve access between I-87, the Airport, and Wolf Road (demonstrated through the existing inefficient traffic movements required to navigate through the Exit 4 area); address bridge structural deficiencies on the I-87 bridges over Albany-Shaker Road (exhibited by the low sufficiency ratings of the bridges
indicating that the bridges are in need of repair); and remove discontinuities in the pedestrian/bicycle network (shown by gaps in the existing networks along Wolf Road and Albany-Shaker Road).

The purpose of the proposed project is to improve access between I-87 and the Albany International Airport and between I-87 and Wolf Road; improve safety and traffic operations at Exit 4; address bridge structural deficiencies on the I-87 bridges over Albany-Shaker Road; and to improve system connectivity between the existing pedestrian/bicycle facilities on Wolf Road and the facilities constructed as part of the Albany/Watervliet-Shaker Road project.

The following Primary Project Objectives were developed to recognize the overall goal of improving mobility and economic development for the Capital District:

1) Improve access between I-87 and the Albany International Airport without precluding future, long-term I-87 mainline improvements, and without impacting I-87 mainline operations between Exit 2 and Exit 5.

2) Improve access between I-87 and Wolf Road without precluding future, long-term I-87 mainline improvements, and without impacting I-87 mainline operations between Exit 2 and Exit 5.

3) Improve intersection operating conditions in the existing Exit 4 area and address safety concerns in the areas that exceed the statewide average accident crash rate for similar transportation facilities.

4) Eliminate the structural deficiencies associated with the I-87 northbound and southbound bridges over Albany-Shaker Road by providing bridges with a 50-year minimum service life.

In addition to the Primary Project Objectives, the following Secondary Objective was considered during the evaluation of design alternatives.

1) Improve system connectivity between the existing pedestrian/bicycle facilities on Wolf Road and the facilities constructed as part of the Albany/Watervliet-Shaker Road project.

The following considerations were also included in the evaluation of alternatives.

1) Impacts to existing sensitive environmental features in the project area.
2) Impacts to active agricultural land in the project area.
3) Impacts to viable commercial enterprises and other social and economic features in the project area.
4) Project cost.

4 PROJECT BACKGROUND

Starting in the late 1970's and continuing into the early 1990's, a number of studies assessed existing and future traffic operations in the Wolf Road/Albany International Airport area. As a result of these studies, the Exit 3/4 Wolf Road/Airport Interchange project was added to Capital District Transportation Committee (CDTC's) 1992-97 Transportation Improvement Plan (TIP) in March 1992. Both Phase I and Phase II of this project are currently included as Project No. A240 on the 2013-2018 TIP, with Phase II listed on the TIP agreement as being post TIP funded{1}. The project also was added to the NYSDOT's capital program.

{1}This project will be constructed in two phases with Phase I (I-87 Bridges over Albany-Shaker Road) let in 2014 and Phase II (Reconfigured Exit 4 Interchange and other access improvements) anticipated to be let in Fiscal Year 2019/2020.
A draft Expanded Project Proposal (EPP) was developed in February 2002. Based on comments on the draft EPP, the project objectives were refined to include measures of effectiveness (MOE) that would allow all design alternatives to be consistently and objectively measured with respect to fulfilling the project objectives. A Conceptual Alternative Screening document was developed to describe the features of nineteen alternatives and to summarize the screening of each alternative.

A Notice of Intent (NOI) to prepare an EIS was published in the July 16, 2007 Federal Register to inform agencies and the public of the beginning of the National Environmental Policy Act (NEPA) process for the Project.

A draft NEPA Project Scoping Report (PSR) was developed in July 2008. Based on comments from the Cooperating and Participating Agencies on the draft PSR, the purpose and need and range of alternatives were clarified and justification for eliminating alternatives was refined to be more specific. The revised PSR was distributed to the Cooperating and Participating Agencies in January 2009 and a meeting with the agencies held to review the document on April 2, 2009, whereby four potential build alternatives were selected for further evaluation: Upgrade Alternative, Diamond Alternative, Flyover Alternative, and Single Point Urban Interchange (SPUI) Alternative.

In 2011, FHWA determined that the proposal to build a new Exit 3 while retaining the complete Exit 4 did not meet interchange spacing requirements and could not be approved. As a result of this determination, the remaining potential alternatives were modified to incorporate removal of the existing Exit 4 ramps to eliminate duplicate movements and the project name was updated to I-87 Exit 4 Access Improvements. The Upgrade Alternative and SPUI Alternative were dismissed from further consideration since they did not meet the project’s Purpose and Need, leaving only the Diamond Alternative and Flyover Alternative.

NYSDOT, in partnership with FHWA, prepared a Draft Design Report/Draft Environmental Impact Statement (DDR/DEIS) to identify and evaluate the impacts of the Project. During development of the DDR/DEIS, the Diamond Alternative was dismissed from consideration due to environmental impacts. The DDR/DEIS was circulated on February 7, 2014 for public and agency review and a public hearing was held on February 25, 2014. Comments on the DDR/DEIS were received through April 1, 2014.

Approximately 100 people attended the Public Hearing, at which 8 individuals provided oral comments. During the comment period on the DEIS, FHWA and NYSDOT received 21 written comments (letters and e-mails) from elected officials, public agencies, interested groups, and individuals. The comments received during the DEIS comment period are provided in the FEIS in Appendix O - Summary and Analysis of Comments Received.

Comments received on the DEIS ranged from suggestions to build a cloverleaf interchange to suggestions to include paving of Old Wolf Road in the project. Two businesses were concerned about traffic accessing their businesses. A detailed summary of the comments and responses is included in Appendix O of the FEIS.

The comments received during the DEIS public comment period were considered, and the Final EIS (FEIS) was prepared.

Per Section 6002 of SAFETEA-LU, NYSDOT and FHWA prepared and adhered to a Coordination Plan (included in Appendix E of the FEIS) that describes the process and communication methods used to
disseminate information about the Project, as well as to solicit and consider input from the public and other agencies. The Coordination Plan was posted on the Project website, and updated during the EIS process.

The agencies identified in the Coordination Plan were responsible for identifying, as early as practicable, any issues of concern regarding the project's potential environmental impacts that could substantially delay or prevent an agency from granting a permit or other approval and for providing input into the Project purpose and need, range of alternatives, and methodologies. The following agencies participated as Cooperating Agencies for the I-87 Exit 4 Access Improvements:

- US Army Corps Of Engineers
- US Environmental Protection Agency
- US Fish And Wildlife Service
- Federal Aviation Administration
- NYS Department Of Environmental Conservation
- NYS Department Of Agriculture And Markets
- State Historic Preservation Office (SHPO) / NYS Office Of Parks, Recreation, And Historic Preservation (NYSOPRHP)

The following agencies were invited to participate as Participating Agencies for the Project:

- New York State Thruway Authority (NYSTA)
- NYS Department of Agriculture and Markets
- US National Resource Conservation Service
- Capital District Transportation Committee
- Albany County Executive Office
- Town of Colonie
- Village of Colonie
- City of Albany
- Albany County Airport Authority
- Capital District Transportation Authority

The following Tribal Nations were invited and participated as concurring tribal nations for the MOA prepared as part of the Section 106 process:

- Saint Regis Mohawk Tribe
- Stockbridge-Munsee Community Band of Mohican Indians
- Delaware Tribe

The Project website (www.dot.ny.gov/i87exit4) was established during the scoping phase of the project and has been maintained and updated regularly throughout the EIS process. Information on the website has included the project description and status, the Project Coordination Plan, meeting notifications and materials, and the FEIS, DEIS and Project Scoping Report documents.
5 ALTERNATIVES CONSIDERED

5.1 NO BUILD ALTERNATIVE

The No-Build alternative provides for the continued maintenance of the existing highway by the NYSDOT maintenance forces with no capital funds being expended. This alternative does not meet the project’s Purpose and Need, but serves as the baseline condition against which the potential benefits and effects of the Build Alternative are evaluated.

5.2 ALTERNATIVES ELIMINATED (DID NOT MEET PROJECT’S PURPOSE AND NEED)

Upgrade Alternative

The Upgrade Alternative would provide additional capacity along the existing roadway network in the Exit 4 area. This alternative would include reconstruction of the existing roadways in the Exit 4 area and the following improvements:

- Replacement of the I-87 bridges over Albany-Shaker Road and reconstruction of the bridge approaches on I-87 northbound and southbound,
- Pavement widening for additional travel lanes, turn lanes, and medians on Albany-Shaker Road, Wolf Road, and Old Wolf Road,
- Pavement widening to accommodate an additional travel lane on the Exit 4 southbound entrance ramp,
- Pavement widening to lengthen the deceleration lane for the Exit 4 northbound exit ramp,
- Construction of an auxiliary lane on I-87 northbound between the existing Exit 4 northbound entrance ramp and the existing Exit 5 northbound exit ramp,
- Replacement of traffic signals at the following locations:
  - Wolf Road / Exit 4 northbound exit ramp
  - Albany-Shaker Road / Wolf Road / Exit 4 northbound entrance ramp
  - Albany-Shaker Road / Old Wolf Road

The Upgrade Alternative did not meet the project’s Purpose and Need and was not considered further in the EIS for the following reasons:

- The high number of accidents at the Old Wolf Road & Exit 4 southbound exit ramp intersection and along the Collector-Distributor (C-D) road would not be fully addressed;
- The potential for queues to extend onto the I-87 southbound mainline from Old Wolf Road during the morning peak hour would not be eliminated;
- Travel time for major routes would only be reduced by 10%; and
- Several movements at key intersections within the study area would continue to operate below LOS D.

Single Point Urban Interchange (SPUI) Alternative

The SPUI Alternative will provide a new Exit 4 interchange at Albany-Shaker Road to replace the existing Exit 4 ramps. This alternative will include the following improvements:

- Construction of Exit 4 SPUI ramps between I-87 and Albany-Shaker Road,
National Environmental Policy Act and New York State Environmental Quality Review Act

JOINT RECORD OF DECISION / FINDINGS STATEMENT
Federal Highway Administration and New York State Department of Transportation

- Reconstruction of Wolf Road between Ulenski Drive and Albany-Shaker Road to accommodate shifting of the Wolf Road / Albany-Shaker Road intersection 350 ft. east of its existing location,
- Reconstruction of the Exit 5 southbound entrance ramp,
- Removal of access between Old Wolf Road and Albany-Shaker Road through construction of a cul-de-sac on Old Wolf Road approximately 700 ft. north of its existing intersection with Albany-Shaker Road,
- Replacement of the I-87 bridges over Albany-Shaker Road at Exit 4 and reconstruction of the bridge approaches on I-87 northbound and southbound,
- Pavement widening for additional travel lanes, turn lanes, and medians on Albany-Shaker Road,
- Removal of the existing Exit 4 northbound exit ramp, northbound entrance ramp, southbound exit ramp, and southbound entrance ramp,
- Construction of an auxiliary lane on I-87 northbound between the existing Exit 4 northbound entrance ramp and the existing Exit 5 northbound exit ramp, and
- Replacement / installation of traffic signals at the following locations:
  - Albany-Shaker Road / Wolf Road
  - Albany-Shaker Road / SPUI Ramps

The SPUI Alternative did not meet the project's Purpose and Need and was not considered further in the EIS for the following reasons:

- An estimated total cost of $81.9 M;
- 3.7 acres of wetland impacts;
- Impacts to 23 properties, including 2 commercial displacements;
- Relocation of the Albany-Shaker Road / Wolf Road intersection to the east is required; and
- Elimination of the connection between Old Wolf Road and Albany-Shaker Road is required in order to accommodate the SPUI, which would impact access for the Town of Colonie Police Department and businesses on Old Wolf Road.

5.3 ALTERNATIVES THAT MEET THE PROJECT'S PURPOSE AND NEED

Diamond Alternative
The Diamond Alternative would include replacement of the existing Exit 4 ramps through construction of a full-access, grade-separated diamond interchange approximately 3,200 ft. south of the I-87 / Albany-Shaker Road crossing, which would connect to Wolf Road and Albany-Shaker Road via a new connector road. Key elements of this alternative would include:

- Construction of a new connector road between Wolf Road, at Metro Park Road, and Albany-Shaker Road, approximately 1,000 ft. west of Old Wolf Road.
- Construction of new Exit 4 interchange ramps to connect I-87 to the connector road.
- Replacement of the I-87 bridges over Albany-Shaker Road and reconstruction of the bridge approaches on I-87 northbound and southbound.
- Construction of a new bridge to carry the connector road over I-87 northbound and southbound.
- Reconstruction of 3,900 ft. of I-87 northbound at the new interchange ramp to shift the mainline into the existing median and avoid impacts to the existing overhead electric utility line.
- Pavement widening for additional turn lanes on Wolf Road and Albany-Shaker Road.
- Construction of a new intersection on Albany-Shaker Road at the connector road approximately 1,000 ft. west of Old Wolf Road.
- Removal of the existing Exit 4 northbound exit ramp, northbound entrance ramp, southbound exit ramp, and southbound entrance ramp.
National Environmental Policy Act and New York State Environmental Quality Review Act

JOINT RECORD OF DECISION / FINDINGS STATEMENT
Federal Highway Administration and New York State Department of Transportation

- Removal of the C-D road between the existing Exit 5 southbound entrance ramp and Exit 4 southbound exit ramp.
- Replacement of the existing Exit 5 southbound entrance ramp with a new direct ramp connection from Watervliet-Shaker Road to I-87 southbound.

This alternative improves operating conditions at the majority of the intersections in the I-87 Exit 4 area and reduces the travel time for major routes by 20%. This alternative also addresses safety concerns by diverting traffic away from the existing intersections that have crash rates which exceed the statewide average for similar facilities.

This alternative includes impacts to 24 properties, which includes 2 commercial displacements and the displacement of 1 residence.

This alternative meets the project's Purpose and Need.

Flyover Alternative

This alternative includes construction of new Exit 4 ramps to complement the existing Exit 4 interchange. Improvements include construction of new ramps to connect I-87 NB and SB to Albany-Shaker Road approximately 1,000 ft. west of the Albany-Shaker Road / Old Wolf Road intersection and a new ramp to connect Albany-Shaker Road, approximately 1,000 ft. west of the Albany-Shaker Road / Old Wolf Road intersection, to I-87 SB. Key elements of this alternative include:

- Replacement of the I-87 bridges over Albany-Shaker Road and reconstruction of the bridge approaches on I-87 northbound and southbound.
- Construction of a new bridge to carry the Flyover Ramp from I-87 northbound to a point on Albany-Shaker Road, west of the Desmond Hotel.
- Reconfigure the existing I-87 northbound exit ramp to provide right-turn only access to Wolf Road southbound.
- Pavement widening for additional turn lanes on Wolf Road and Albany-Shaker Road.
- Construction of a new intersection on Albany-Shaker Road at the connector road approximately 1,000 ft. west of Old Wolf Road.
- Removal of the C-D road between the existing Exit 5 southbound entrance ramp and Exit 4 southbound exit ramp.
- Replacement of the existing Exit 5 southbound entrance ramp with a new direct ramp connection from Watervliet-Shaker Road to I-87 southbound.
- Pavement widening on I-87 northbound to construct an auxiliary lane between the existing Exit 4 northbound Exit Ramp and Exit 5 NB Exit Ramp

This alternative improves operating conditions at the majority of the intersections in the I-87 Exit 4 area and reduces the travel time for major routes by 25%. This alternative also addresses safety concerns by diverting traffic away from the existing intersections that have crash rates which exceed the statewide average for similar facilities.

This alternative includes impacts to 15 properties, including 1 full acquisition which also involves displacement of 1 residence.

This alternative meets the project's Purpose and Need.
5.4 ENVIRONMENTALLY PREFERRED ALTERNATIVE

As shown above, both the Diamond and Flyover Alternatives met the project's Purpose and Need. However, based on the considerations listed in Section 3 of this ROD, the Flyover Alternative was found to be the only reasonable alternative. Listed below are the specific considerations used to make this determination:

1) Sensitive Environmental Features: The Diamond Alternative results in nearly three times the wetland impacts than the Flyover Alternative (4.76 acres compared to 1.74 acres respectively). The Flyover impacts significantly less forested wetland – 0.07 acres of palustrine forest wetland compared to the Diamond Alternative which would impact 1.67 acres of palustrine forest wetland. In addition, the Flyover Alternative impacts a fewer number of the wetland areas that are part of the Shaker Creek/Ann Lee Pond wetland/stream complex. The Flyover Alternative includes an Adverse Effect to a Section 106 Resource while the Diamond Alternative does not have a similar impact. The Flyover Alternative's Section 106 impact is proposed to be fully mitigated with a Data Recovery Plan and a signed MOA that included extensive participation with three Tribal Nations. Based on a comparison of Sensitive Environmental Features, the Flyover is clearly the Least Environmentally Damaging Alternative.

2) Active Agricultural Land: The Diamond Alternative has Direct Impacts to 21.9 acres of farmland while the Flyover Alternative impacts only 15.2 acres.

3) Social and Economic Impacts: The Diamond Alternative permanently displaces 2 active commercial businesses which include a gas station/mini-mart and a construction contracting business. The Flyover Alternative has no commercial relocations. Both the Diamond and Flyover Alternatives require one residential relocation.

4) Project Cost: The Diamond Alternative has a construction cost which is 57% higher than the Flyover Alternative ($74.61 million compared to $47.59 million respectively). The Diamond Alternative results in the addition of more than twice as many lane-miles of new roadway compared to the Flyover Alternative (3.39 lane-miles vs. 1.27 lane-miles respectively). The Diamond Alternative also adds an additional 37,500 sq. ft. of bridge deck area to be maintained than the Flyover. Future roadway maintenance costs directly correlate to the number of roadway lane-miles and bridge deck area.

The Council on Environmental Quality (CEQ) regulations state that the agency, in issuing its ROD, shall specify the alternative or alternatives which are considered environmentally preferable. The guidance issued by CEQ indicates that the environmentally preferred alternative is the one that meets the project purpose and need and causes the least harm to the natural and physical environment. For this Project, based on the scoping and EIS process, the Flyover Alternative, as described above, is deemed the environmentally preferred alternative. As discussed in the following sections, the decision to select the Flyover Alternative is based on a thorough and careful consideration of all potential effects, mitigation of adverse effects, and best satisfying the purpose, objectives, and need of the Project.

6 FACTORS IN THE DECISION MAKING PROCESS, INCLUDING MEASURES TO MINIMIZE HARM
The environmental effects of the Flyover Alternative were carefully evaluated and weighed along with social and economic factors and the ability of the Flyover Alternative to meet the purpose and need of the Project. The Flyover Alternative would address the following deficiencies as compared to the No Build Alternative:

- Improving access between I-87 and the Albany International Airport without precluding future, long-term I-87 mainline improvements, and without impacting I-87 mainline operations between Exit 2 and Exit 5;
- Improving access between I-87 and Wolf Road without precluding future, long-term I-87 mainline improvements and without impacting I-87 mainline operations between Exits 2 and 5;
- Improving intersection operating conditions in the existing Exit 4 area and addressing safety concerns in the areas that exceed the statewide average accident crash rate for similar transportation facilities; and
- Eliminating the structural deficiencies associated with the I-87 northbound and southbound bridges over Albany-Shaker Road by providing bridges with a 50-year minimum service life.

The economic, social and environmental benefits of the Flyover Alternative were weighed against its effects in the analyses set forth in this section.

The environmental record for the Project includes the DEIS and Draft Section 4(f) Evaluation and the FEIS and Final Section 4(f) Evaluation. These documents, incorporated here by reference, constitute the statements required by NEPA (42 USC 4321 et seq) and 23 CFR Part 771, and NYSDOT's Procedures for the Implementation of SEQRA (17 NYCRR Part 15).

Consistent with NEPA and SEQRA, the FEIS identifies and provides discussion of:

- The social, economic, and environmental effects of the Project;
- Measures to mitigate the adverse effects of the Project;
- The adverse environmental effects that cannot be avoided;
- Alternatives to the Project; and
- Irreversible and irretrievable effects on the environment that may be involved with the Project should it be implemented.

The FEIS fully assessed the potential social, economic, and environmental effects from construction and operation of the Flyover Alternative. FHWA and other federal agencies have promulgated specific methodologies and criteria to assess potential environmental effects under NEPA, which were followed in completion of the technical analyses in the EIS. Where specific criteria are not provided by federal agencies, the FEIS relied on NYSDOT's The Environmental Manual (TEM) procedures and guidance.

The FEIS reveals that the Flyover Alternative would not result in any unmitigated substantial adverse environmental effects.

The potential effects of the Flyover Alternative are summarized below.

**Right-of-Way**

The Flyover Alternative results in right-of-way impacts to 15 properties; which includes full acquisition of one (1) property involving displacement of one (1) residential home. NYSDOT will provide acquisition and relocation assistance in accordance with the Uniform Relocation Assistance and Real
National Environmental Policy Act and New York State Environmental Quality Review Act

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Property Acquisition Policies Act of 1970 as amended or as may be amended, as authorized by Section 30 of New York' Highway Law and implementing Rules and Regulations (Part 101, Title 17, NYCRR).

Wetlands
An Executive Order 11990 Wetland Finding has been approved by FHWA stating and supporting that (1) there are no practicable alternatives to construction in the wetland(s), and (2) the proposed action includes all practicable measures to minimize harm to the wetland(s) which may result from such use. An approved EO 11990 Wetland Finding is included in the FEIS.

The Flyover Alternative would result in a direct loss of 1.74 acres of wetlands. The Flyover Alternative has been designed to avoid and minimize impacts to all wetlands, regardless of type, size, or quality, to the extent practicable. Specific minimization efforts include locating the northbound exit ramp and Exit 5 southbound entrance ramp to avoid impacts to Wetlands J and VX. These design elements minimized wetland impact by 0.37 acres.

A US Army Corps of Engineers (USACE) Section 404 Individual Permit will be required to authorize impacts to federally-jurisdictional wetlands. For those wetlands that are mapped as NYS Department of Environmental Conservation (NYSDEC) Freshwater Wetlands, a NYSDEC Article 24 permit will also be required to authorize impacts within the wetland boundary and the 100-foot adjacent area. This project will be constructed in two (2) phases: Phase I includes only the replacement of the I-87 bridges over Albany-Shaker Road; Phase II includes all other work. Permanent wetland impacts associated with Phase I are estimated to be less than one half acre and will be permitted under a Nationwide Permit #14. Phase II will require a Section 404 Individual Permit from the USACE. The permits will be obtained during the final design phase of the project. It has been determined that the proposed activities for Phase II will require a Project Specific 401 Water Quality Certification (WQC), pursuant to 15 NYCRR 608, Protection of Waters. It is anticipated that the Phase I work will meet the general conditions of the Nationwide permit and, therefore, will be covered under the Blanket Water Quality Certification included in the Nationwide Permit #14. NYSDOT will obtain the permit prior to commencement of project activities and will adhere to any conditions or requirements. The public will have the opportunity to comment through both the NYSDEC Section 401 Water Quality Certification and the USACE Section 404 Individual Permit process.

Potential indirect impacts are also likely to occur as a result of increased runoff from the additional impervious area and the introduction of roadway de-icing salts and other toxicants present in highway runoff such as motor oil to enter the wetlands adjacent to the new portions of roadway. Indirect impacts will be minimized to the extent possible by utilizing appropriate erosion and sediment control measures during construction as well as post-construction management practices focused on water quality and quantity. Temporary impacts may occur as a result of grading efforts. Upon completion of the project, all areas experiencing temporary wetland disturbance will be re-graded and seeded with an appropriate emergent or forested wetland seed mix.

All appropriate measures will be taken to avoid and minimize any impacts. Avoidance and minimization techniques that have been incorporated into the project include adjusting the alignment, steepening the side slopes and reducing all stream crossing lengths to the greatest extent possible.

Compensatory wetland mitigation will be performed to offset unavoidable impacts to the NYS State freshwater wetland and federal wetlands. Mitigation measures will consist of wetland creation on one or more sites located within the Shaker Creek watershed. Mitigation plans will be developed during the design and permitting phases. For the purposes of comparing alternatives for this FEIS, several mitigation sites have been identified and screened for site suitability criteria that include soil type, proximity to surface water features, proximity to wildlife habitat/open spaces, vegetative cover type, size,
and presence of existing wetlands (Exhibit 4.4.1 h of the FDR/FEIS). There are several other factors that will also dictate the suitability of the site but these require more in-depth assessment such as the depth to groundwater and groundwater elevation fluctuation, subsurface conditions, threatened and endangered species habitat, and historic and pre-historic cultural resources.

Wetland mitigation will be required for the Flyover Alternative due to the amount of wetland impact, which is 1.74 acres. The impacted wetlands consist of 0.07 acres of forested wetlands, 1.43 acres of emergent wetlands, and 0.14 acres of wet meadow, and 0.10 acres of shallow open water. Based on typically accepted replacement ratio guidance from USACE, a total of 1.81 acres of compensatory wetland creation is proposed for the Flyover Alternative, broken down as follows:

- Emergent/wet meadow impact/shallow open water = 1.67 acres @ 1:1 replacement = 1.67 acres compensation
- Forested wetland impact = 0.07 acre @ 2:1 replacement = 0.14 acre compensation

The goal for wetland mitigation will be to replace or enhance the functions and values (or functions and benefits for State wetlands) of the existing wetlands impacted by the project. Those functions include floodflow alteration or the ability of wetlands to alter/decrease peak storm flow, sediment/toxicant retention, nutrient removal, and wildlife habitat. Of the listed functions, flood storage is a primary concern within the Shaker Creek Watershed due to the extent of past development. Mitigation will consist of measures to meet each of these functions and values/benefits.

Wetland Mitigation Area 13, as shown in FEIS Exhibit 4.4.1.i, is approximately 34 acres and consists of 2 privately owned parcels owned by ET Person LLC and has been identified as the preferred area for mitigating wetland impacts. To mitigate impacts from the Flyover Alternative, approximately 16.60 acres will be acquired from 1 parcel at Wetland Mitigation Area 13. Mitigation objectives that would best be met on this parcel would be to restore wetland areas that have been filled in over time by previous owners of the property and to provide protection in perpetuity to this highly sensitive area. The restored wetland areas would ensure no net loss of wetlands within the project area. NYSDOT met in the field with NYSDEC on October 7, 2013 and with USACE on November 5, 2013 to review the preferred wetland mitigation area and discuss its feasibility and potential for wetland mitigation. Correspondence with NYSDEC and USACE regarding the wetland mitigation site is included in Appendix B of the EIS and a draft mitigation plan is shown in Exhibit 4.4.1.i of the FEIS. In order to avoid creating breeding areas for waterfowl due to the mitigation area's proximity to the airport, no ponds will be created as part of the wetland mitigation plan. The details of the wetland mitigation plan will be developed during project design and permitting.

It is anticipated that a post wetland monitoring plan will be required for the proposed wetland creation areas. If a wetland monitoring plan is required, coordination with the USACE will determine the frequency of the reports and the information required.

Surface Waterbodies and Watercourses
The proposed project activities will result in impacts to Waters of the U.S. As a result of the total amount of impact, it is expected that this work will be authorized under a USACE Section 404 Individual Permit. The permit will be applied for during final design. Mitigation will be required to compensate for unavoidable impacts. Work will not commence until the permit is acquired, and will adhere to any conditions set forth by the permit requirements.
A Project Specific Individual Section 401 Water Quality Certification will be required for this project since a USACE Section 404 Individual Permit is anticipated. The public will have an opportunity to comment through the permit process.

Section 404 (b)(1) Guidelines of the Clean Water Act (CWA) state in part that, "...no discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential impacts of the discharge on the aquatic ecosystem.” Efforts have been made during the preliminary design phase to avoid and minimize impacts to surface waters under both build alternatives. This includes adjustment of vertical alignments and steepening of side slopes to minimize embankment areas and minimize the length of culvert extensions to the maximum extent practicable. Additionally, hydrologic connections have been maintained. Measures to further reduce impacts will continue to be assessed and utilized as appropriate as the design progresses.

The NYSDOT Soil Erosion and Sediment Control standards and NYSDEC technical standards will be adhered to during the design and construction of the Project. To the extent possible new structures will provide a natural bottom to help preserve aquatic habitat and provide a means of safe access for wildlife.

Regulatory Guidance letter No. 02-02 states that stream functions lost due to unavoidable stream impacts must be mitigated. Compensatory mitigation for impacts to streams will primarily include enhancement of degraded stream channels. Out of kind mitigation, as defined by the USACE, will be considered for impacts to streams within the project area. The Flyover Alternative will impact Shaker Creek and one of its unnamed tributaries. Stream mitigation options include, but are not limited to, establishment of a buffer zone to protect aquatic resources, stream habitat enhancement along non-impacted streams, restoration of previously channelized streams, stabilization of eroding banks, and planting of vegetative barriers along wildlife corridors.

Based on evidence of prior disturbances to water courses in or near the project study area (PSA), it appears that there may be a number of opportunities to provide stream mitigation using the aforementioned options, or a combination thereof. Specific examples include opportunities associated with Ditch J which is a watercourse that has been previously straightened and channelized; this channel could be restored. There is a channelized section of Shaker Creek, located outside the PSA, between Wetland SX and the delineated section of Shaker Creek, upstream of Wetland J; opportunities for restoration may be feasible. Additionally, channelized watercourses are associated with Wetlands CC/CCX and RR/RRX; the watercourses could be restored and given shrub riparian zones. Overall, these watercourses and others within the project area are important ecological components to the Shaker Creek/Ann Lee Pond stream/wetland complex, and any ecological improvements (e.g., restoration or enhancement) to these features would benefit the watershed by restoring aquatic habitat and improving water quality functions. Additionally, it may be feasible to incorporate stream mitigation measures into the wetland mitigation site designs, depending on selected locations and suitability.

Stream mitigation measures will be further evaluated as the project design progresses; selected measures will be included in the USACE/NYSDEC Joint Permit Application package, which will be prepared during final design.

Stormwater Management
The project is considered to be a re-development project and will be designed in accordance with the criteria presented in the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity (GP-0-10-001), New York State Standards for Erosion and Sediment Control, Chapter 9: Redevelopment Projects of the Stormwater Management Design Manual (August 2010), Appendix B of Chapter 8 of the New York State Department of
National Environmental Policy Act and New York State Environmental Quality Review Act

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Although located within the Town of Colonie, which is subject to regulated Municipal Separate Stormwater Sewer Systems (MS4s) control, the NYSDOT will maintain ownership of the post construction stormwater management areas, and NYSDOT will be responsible for long-term inspection and maintenance of these stormwater practices.

A Stormwater Pollution Prevention Plan (SWPPP) with the appropriate sediment and erosion control measures will be developed. Temporary and permanent stormwater management practices will be required based on the total amount of disturbance and changes in the total impervious area.

The following erosion and sediment control practices will be considered during final design:

- Temporary surface stabilization
- Check Dams
- Drainage Pipe Inlet/Outlet Stabilization
- Construction Entrance
- Tree/Vegetation Protection Barrier
- Silt Fence
- Surface Stabilization
- Dust Control

In accordance with the governing regulations, the increase in peak flows will be mitigated such that the proposed mitigated condition peak runoff rates will be no greater than the existing condition rates for each of the design storm events.

In addition to Water Quality Volume Requirements, NYSDEC has recently implemented a Runoff Reduction Volume (RRV) Requirement. This analysis will be completed for the Project during final design.

Two methods to treat stormwater from the project corridor will be used to adequately provide water quality treatment and peak flow mitigation for the entire project area. These include open channel, dry swales with check dams, to provide water quality treatment, and extended detention basins which ultimately discharge into Shaker Creek, to provide water quality and water quantity treatment. Due to the linear nature of the project and site limitation due to the high groundwater table and location of existing wetland and farmland areas, the majority of the stormwater runoff will be treated in dry swales constructed in the roadway embankment with check dams which will also serve to convey runoff to the extended detention basins.

Soil erosion plans and details will also be developed during the advance detail design phases of the project in accordance with Section 209 Soil Erosion and Sediment Control of the NYSDOT Standard Specifications in order to satisfy the requirements of the SWPPP. These plans and details will include both temporary and permanent measures to prevent soil erosion and provide fences, seeding, mulching, and stabilized construction access points. These measures will serve to minimize the potential for pollutants from the proposed project to reach Shaker Creek.

During construction, precautions will be taken to prevent contamination of Shaker Creek by silt, sediment, fuels, solvents, lubricants, or any other pollutants. Promptly after construction, care will be taken to stabilize all disturbed areas. Vegetated pipe outlet locations will be utilized, as well as plantings
in removed old roadbed locations to allow water to percolate prior to entering Shaker Creek. Green infrastructure practices will be implemented as conditions permit.

**General Ecology and Wildlife Resources**

Coordination with the NYSDEC and the United States Fish and Wildlife Service (USFWS) is required for federal aid or permitted construction projects. The details of the agency reviews and copies of the associated correspondence are provided in Appendix B of the FDR/FEIS. A preliminary list of threatened and endangered species was generated based on the PSA boundaries. The list includes the Karner blue butterfly (*Lycaeides melissa samuelis*), Indiana bat (*Myotis sodalis*), bog turtle (*Clemmys [=Glyptemys] muhlenbergii*), and northern long-eared bat (*Myotis septentrionalis*).

In accordance with prior recommendations from the USFWS, the project site was investigated for the occurrence of wild lupine and potential Karner blue butterfly habitat during June 2009. The on-site successional old field and mowed roadside/pathway ecological communities observed during the field reconnaissance may potentially offer limited habitat for wild lupine and consequently the Karner blue butterfly. However, the presence of invasive species throughout these communities reduces the potential for the occurrence of wild lupine. It should be noted that wild lupine was not observed within the project limits. Due to the limited potential for preferred habitat and the probable absence of wild lupine, it appears that project-related impacts will have no effect upon the Federally-listed endangered Karner blue butterfly.

A preliminary search was conducted for trees (standing dead or dying) and snags suitable for Indiana bat (*Myotis sodalis*) summer roosting habitat in wooded areas that would be directly affected by the Flyover Alternative. However, upon receipt of updated information from the USFWS and FHWA it has been determined that this project will have no effect upon the Federally-listed endangered Indiana bat, and as such, neither further review in the form of a Biological Assessment nor mitigation measures are necessary.

Based on an investigation of the on-site shallow emergent marsh wetland communities, taking into account soils characteristics, dominant plant community, source of hydrology, and land use, suitable bog turtle habitat is not present. Therefore, it has been determined that project-related impacts will have no effect upon the Federally-listed threatened bog turtle.

Based on an inventory of existing habitat, publically available information regarding the northern long-eared bat, and consideration of potential impacts it has been determined that this project will not jeopardize the continued existence of the Federally-proposed endangered northern long-eared bat. In order to protect the northern long-eared bat from project-related impacts (i.e. tree removals), the USFWS requires that if any trees need to be removed, the cutting must be accomplished only from November 1 through March 31. Any additional mitigation measures appropriate to the project will be further assessed and coordinated with the USFWS as the project progresses.

Based on initial coordination with the NYSDEC and USFWS, assessment of ecological communities within the study area, consideration of habitat requirements for identified species, and anticipated impacts, it has been determined that the project will not have no effect upon any state- or Federally-listed threatened or endangered species and will not jeopardize the continued existence of the Federally-proposed endangered northern long-eared bat.

Executive Order 13112 aims to: (1) prevent the introduction of invasive species; (2) provide for their control; and (3) minimize the economic, ecological, and human health impacts that invasive species cause. Under Executive Order 13112, federal agencies cannot authorize, fund or carry out actions that it
believe are likely to cause or promote the introductions or spread of invasive species in the United States or elsewhere unless all reasonable measures to minimize risk of harm have been analyzed and considered.

Proposed project activities will disturb areas observed to contain invasive species. As such, environmental performance commitments and management practices will be utilized on-site to minimize the potential introduction or spread of any invasive species due to disturbances caused by the proposed project. These environmental performance commitments will include installing temporary erosion and sediment control practices to limit the spread of invasive species by acting as a barrier to reproductive methods and mulching and seeding disturbed areas with native species as soon as possible after initial construction to limit the opportunity for any invasive species to become established or spread. Additionally, construction equipment access and movement will be limited within the project area and all equipment used during construction will be inspected and cleaned prior to entering and leaving the site as a control to spreading any invasive species. Furthermore, any invasive species spoil will be properly disposed of and all mulch used on-site will be weed-free.

Existing roadside vegetation consists primarily of mowed roadside/pathways and maintained lawn areas. Efforts will be made to replace wildlife-supporting vegetation that is removed during proposed construction activities.

**Historic and Cultural Resources**

The project was reviewed under Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulation, 36 CFR Part 800: Protection of Historic Properties. NYSDOT and FHWA identified historic properties within the area of potential effects (APE) and evaluated the project’s effects on those properties in consultation with the New York State Historic Preservation Office (SHPO) and three federally-recognized tribes: the Stockbridge-Munsee Community Band of Mohican Indians, the Delaware Tribe, and the Saint Regis Mohawk Tribe. Based on a preliminary assessment of effects for the Flyover Alternative, NYSDOT identified potential adverse effects to the Engel Farm Precontact Archaeological Site, determined eligible for listing in the National Register of Historic Places under Criterion D, “the property has yielded, or may be likely to yield, information important in prehistory or history” (36 CFR 60.4(d)). The site was also identified as having cultural significance to the Mohican, Mohawk, and Delaware Tribes.

NYSDOT hosted a series of meetings and conferences calls with the Tribal Nations, SHPO, and FHWA, with the objective of seeking ways to avoid, minimize, or mitigate adverse effects on the Engel Farm Site under the Flyover Alternative. As an outcome of consultation, NYSDOT and FHWA concluded that proposed minimization measures would not ensure protection of the site from adverse effects. Documentation for an Adverse Effect finding for the Project was prepared pursuant to 36 CFR 800.11(e), and provided to the SHPO and all three Tribal Nations in December 2013. The SHPO concurred with this finding in writing on December 9, 2013. Prior to making a determination, FHWA reached out to consult with the three Tribal Nations. With the understanding that all were in agreement with the finding, FHWA concurred with an Adverse Effect for the Project on January 16, 2014, and notified the Advisory Council of Historic Preservation (ACHP). Based on the required information provided by FHWA, the ACHP declined to participate in consultation.

NYSDOT and FHWA continued consultation with the SHPO and the Mohican, Mohawk, and Delaware tribes to develop mitigation for the resolution of the Project’s adverse effects. All parties agreed that Data Recovery would be an appropriate treatment for the National Register eligible archaeological site, due to its potential to provide information about site organization, landscape use, and cultural context within the Albany Pine Bush region. A Memorandum of Agreement (MOA) was developed by NYSDOT and FHWA in consultation with the SHPO, and provided for review and comment by the three Tribal Nations, who were invited to sign the MOA as Concurring Parties. As stipulated in the MOA, mitigation includes Data Recovery of the Engel Farm Site, and the production of a stand-alone regional synthesis report providing an overview of archaeological resources in the Albany Pine Bush area. A copy of the MOA, signed by NYSDOT, SHPO, and FHWA, has
been sent to the ACHP for filing. The Saint Regis Mohawk Tribe and the Stockbridge-Munsee Community Band of Mohican Indians signed the MOA as Concurring Parties. The Delaware Tribe declined to sign the MOA as a Concurring Party. The Section 106 process is completed with the execution and implementation of the MOA, included in Appendix H of the FEIS.

Air Quality
During construction, temporary air quality impacts will be minimized to the maximum extent practicable. Construction activities can temporarily degrade air quality by way of dust generation due to movement of soil, particulate emissions associated with construction equipment operating with diesel fuel, increased emissions from construction worker vehicles or traffic diversions and detours.

Airborne dust levels will be controlled through wetting of soil surfaces, covering of trucks and other dust sources. These requirements will be included as part of the specifications of the construction contract.

This project will not have any substantial traffic diversions or detours.

Noise
A noise analysis was performed in accordance with 23 CFR Part 772 and NYSDOT’s Noise Analysis Policy and Procedures (contained in Chapter 4.4.18 of The Environmental Manual). The noise modeling for this Project was performed using the FHWA Traffic Noise Model (TNM). The FHWA TNM represents the most up-to-date noise prediction model.

Due to impacts at Receivers R6 and R7, abatement analysis was performed for the Flyover Alternative. Four (4) noise abatement techniques were reviewed for this project: traffic management techniques, alternative highway locations, noise barriers, and acquisition of real property to serve as a buffer zone. The major source of noise impacting receptors at Receiver R6 is traffic on I-87, the main alignment of which is not being substantially altered under the Flyover Alternative. Therefore, traffic management techniques and alternative highway locations are not considered feasible. Likewise, acquisition of real estate to serve as a buffer would require the relocation of a number of existing residences along I-87.

Noise barriers including walls and berms were considered for abatement on this project. I-87 ranges from 5 ft. to 15 ft. above the surrounding residences in the vicinity of the impacted residences. As such, a berm sheltering the impacted residents in this area would require an unfeasible amount of area to construct. Thus, noise walls were considered.

Based on the studies performed thus far, abatement in the form of a 10 to 24 foot high noise barrier is recommended along the east side of I-87 between Albany-Shaker Road and Watervliet-Shaker Road for a length of approximately 2,200 to 2,300 feet. These initial indications of likely recommended abatement are based upon a preliminary design for a barrier that will reduce the noise level by ≥5 dBA for 35 receptors. The actual height and length of the barrier will be optimized during final design.

A public information meeting for the proposed noise barrier was held on August 22, 2013, and input was solicited from the benefited receptors. Responses were received from 58% of the benefited receptors with 80% of the responses in favor of constructing the proposed noise barriers. Since a clear majority of the benefited receptors that responded are in favor of the recommended noise barrier, the barrier will be constructed during the second phase of the project’s construction unless conditions change substantially during the final design phase.

Asbestos
An asbestos screening for this project, including a review of as-built record plans and a site visit, was performed in accordance with the NYSDOT’s TEM. Suspect asbestos-containing materials (ACM) that
could potentially be impacted as a result of the proposed project were observed on the two bridge structures. A full asbestos assessment, including sampling and analysis, of all ACMs at the bridges will be performed prior to construction activities. If asbestos is determined to be present at the bridges, an Asbestos Special Note and Specification will be prepared by NYSDOT personnel or a consultant with an Asbestos Designer License.

**Hazardous Waste and Contaminated Materials**
A Hazardous Waste/Contaminated Materials Site Screening for this project was performed in accordance with NYSDOT's TEM in order to determine whether or not any recognized environmental conditions (RECs) are present in the PSA.

Potential RECs identified in the Hazardous Waste and Contaminated Materials Screening and considered for acquisition may warrant remediation. Additional investigations will be performed, as required, to assess potential impacts to the sites. Site-specific remediation plans will be developed as warranted.

**Construction Effects**
Several short-term impacts may be caused by the construction activities for the Flyover Alternative. The anticipated construction impacts include noise, air, and surface water impacts and traffic interruptions during construction operations. These impacts may include traffic delays due to lane closures, dust and noise from earthwork and construction equipment, and water quality impacts due to runoff from the construction areas. It is anticipated that Phase I (I-87 over Albany-Shaker Road bridge replacement) construction operations will have a duration of 2 years; while Phase II (interchange ramps) construction operations will have a duration of 3 years. Construction related impacts will be minimized through a variety of measures included in the contract documents.

The use of temporary and long-term closures will be needed during construction. These lane closures may result in delays to the traveling public. To minimize effects to businesses, access to existing businesses will be maintained for the duration of construction. Traffic delays will be minimized through the development of detailed Work Zone Traffic Control and Construction Sequencing Plans. These plans will require coordination with adjacent property and business owners in the surrounding area to minimize the potential effects of the construction. They will also specify restrictions on the time and length of lane closures and restrictions on lane closures during non-construction hours to minimize impacts to the traveling public on both I-87 and the local roadway system. In addition, existing pedestrian and bicycle accommodations will be maintained along the local roadways during construction.

During construction, re-fueling of construction vehicles could result in fuel spills. Although the size of the spill would dictate the specific response actions required, the following measures would be incorporated into the contract documents to minimize impacts of fuel and other types of spills:

- An appropriate absorbent will be kept in a staging area and spread on all areas where fuel has been spilled.
- The NYSDEC will be contacted immediately. All clean-up procedures will strictly adhere to requirements.
- Contaminated material will be excavated and temporarily stockpiled on impermeable plastic.
- All fuel/chemical storage areas will be over impermeable ground.
- Contaminated materials will be removed from the site and disposed of in accordance with NYSDEC regulations.

To minimize the effects of the construction on air quality and noise, dust control measures, and requirements for mufflers on all equipment exhaust systems will be included in the construction specifications.
Although construction noise is unavoidable in its entirety, it can be abated and controlled. Abatement measures will be incorporated into the contract documents to reduce construction noise and perceived impacts in the project area. For a project of this type, the following example mitigation strategies are available:

**Source Control:**
- Use properly designed and well-maintained mufflers in all internal combustion engines, engine enclosures, and intake silencers.
- Perform regular equipment maintenance and use new equipment subject to new product noise emission standards.

**Site Control:**
- Place stationary equipment as far away as possible from particularly sensitive receptors.
- Choose strategic sites for waste disposal.
- Coordinate work operations to coincide with time periods when people are least likely to be affected.
- Limit work hours (i.e., limited nighttime operations).
- Eliminate "tailgate banging."
- Reduce backing-up procedures for equipment with backup alarms. Replace backup alarms with strobes where acceptable per OSHA and other regulations.
- Construct proposed noise barrier(s) prior to performing any other construction operations.

**Community Awareness:**
- Notify the public of construction operations prior to starting construction.
- Establish methods to handle complaints.

Water quality impacts will be minimized through the development of Soil Erosion and Water Pollution Control Plans and Details, and a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP will identify measures to avoid or minimize impacts to surface waters and groundwater at the project site both during and after construction activities. The goal of the SWPPP is to minimize runoff and replicate pre-construction hydrology. Soil erosion control measures will be used during construction, including the installation of silt fence, check dams, drainage structure inlet protection, sediment traps and the stabilization of construction entrances. Temporary disturbance areas will be reseeded and stabilized following construction.

Public outreach and agency coordination will be conducted during construction to notify motorists of the status of ongoing work and upcoming work. Notification to stakeholders and motorists will be distributed via the project website; 511NY, variable message signs (VMS), and AM band highway advisory radio (HAR).

### 7 SECTION 4(f)

Section 4(f) of the Department of Transportation Act of 1966 applies to the transportation use of parks and recreational areas of national, state, or local significance that are both publicly owned and open to the public; publicly owned wildlife and waterfowl refuges of national, state, or local significance that are open to the public to the extent that public access does not interfere with the primary purpose of the refuge; and historic sites of national, state, or local significance in public or private ownership regardless of whether they are open to the public.
National Environmental Policy Act and New York State Environmental Quality Review Act

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Section 4(f) resources within the Project Area include the Ann Lee Pond Nature and Historic Preserve. The Project will avoid the use of land from the Ann Lee Pond Nature and Historic Preserve.

Under the provisions of 23 CFR 774.13(b), the Engel Farm Precontact Archaeological Site is not subject to Section 4(f) approval. Through Section 106 consultation, it was determined that the National Register eligible site is important chiefly through what can be learned by data recovery, and has minimal value for preservation in place. The SHPO has concurred with this conclusion.

8 MONITORING OR ENFORCEMENT PROGRAM

The NYSDOT, in consultation with the FHWA, will ensure the enactment of the mitigation measures described above using quality assurance reviews built into Departmental design and construction oversight processes. The NYSDOT and FHWA will coordinate with permitting agencies, as well as Cooperating Agencies, to ensure that design, construction and maintenance of mitigation measures are performed in accordance with permit requirements and best management practices. Refer to Section 1.4 and Section 4.1.2 of the FDR/FEIS for a detailed list of anticipated permits, approvals and coordination.

9 CONCLUSION

Having carefully considered the environmental record noted above, the written and oral comments offered by other agencies and the public on this record, and the written responses to the comments received, the FHWA and NYSDOT have determined that:

(1) adequate opportunity was afforded for the presentation of views by all parties with a substantive economic, social, or environmental interest;
(2) fair consideration has been given to the preservation and enhancement of the environment and to the interests of the communities in which the Flyover Alternative is located; and
(3) all reasonable steps have been taken to minimize adverse environmental effects of the Flyover Alternative, and where adverse effects remain, there exists no reasonable alternative to avoid or further mitigate such effects.

On the basis of the careful evaluation and weighing of environmental effects with social, economic and other considerations and the I-87 Exit 4 Access Improvement FEIS and this Joint ROD and Findings Statement as well as the written and oral comments offered by the public and public agencies, the FHWA determined in accordance with 23 CFR 771.105 and the NYSDOT certifies in accordance with 17 NYCRR Part 15, that:

• The requirements of 23 CFR 771 and ECL Section 8-0109 have been met as the DEIS and FEIS were duly prepared under NEPA, and the FEIS is sufficient to make the findings under 17 NYCRR Part 15.9 as permitted by 17 NYCRR Part 15.6;
• Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided;
• Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the action to be directly undertaken, funded or permitted by the department is an alternative which minimizes or avoids adverse environmental effects to the maximum extent practicable, including the effects disclosed in the environmental impact statement;
The Project, to the fullest extent possible, incorporates all environmental investigations, reviews, and consultations in a single coordinated process;

- Compliance with all applicable environmental requirements is reflected in the environmental document required under NEPA, and as applicable, SEQRA; and
- Public involvement and a systematic interdisciplinary approach were essential parts of the development process for the Project.
National Environmental Policy Act and New York State Environmental Quality Review Act

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Signatories:

Federal Highway Administration

[Signature]
Division Administrator

September 15, 2019
Date

NYS Department of Transportation

[Signature]
Director, Office of Design

8/28/14
Date