IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

GEORGE WISE, MATTHEW PEKAR, UTA MEYER, DAVID MARTINDALE AND ROBERT WALKER **PLAINTIFFS**

Vs.

UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION; and ARKANSAS STATE DEPARTMENT OF TRANSPORTATION **DEFENDANTS**

4:18CV 466-BRW

COMPLAINT FOR DECLARATORY JUDGMENT, FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF

Come the Plaintiffs, George Wise, Matthew Pekar, Uta Meyer, Davis Martindale and Robert Walker, and for their cause of action against the defendants, United States Department of Transportation, Federal Highway Administration, and the Arkansas Department of Transportation, state:

NATURE OF THE CASE

1. This Complaint seeks declaratory and injunctive relief against the Defendants, United States Department of Transportation, Federal Highway Administration (FHWA), and the Arkansas State Transportation Department (ArDOT) (collectively "Defendants") for their failure to comply with the National Environmental Policy Act of 1969 ("NEPA"), 42 U.S.C. §§4321 – 70a; the implementing regulations for NEPA issued by the White House Council on Environmental Quality ("CEQ" and "the CEQ Regulations"), 40 C.F.R. §§1500 – 08; the Department of Transportation Act ("DOTA"), 49 U.S.C. §303; the Federal-Aid Highway Act ("FAHA"), 23 U.S.C. §138; the Safe, Accountable, Flexible, Efficient Transportation Act of 2005 (SAFETA), 109 Pub. L. 59, 119 Stat. 1144 (variously codified), and regulations

implementing those acts, particularly those contained at 40 CFR §1508.4, 23 CFR §771.115 and 23 CFR §771.117.

2. The action arises from the Defendants' commencement of construction for the widening of Interstate Highway 630 (I-630, herein "the I-630 Project") within the City of Little Rock, Arkansas, between the area identified on the western terminus as the Baptist Hospital exit, and on the eastern terminus as University Avenue; the demolition and replacement of all bridges on I-630 between those termini; and other activities more particularly described herein, without having complied with the requirements of NEPA, DOTA, FAHA, SAFETA and their implementing regulations as more particularly described herein. A "Project Location Map" showing the geographic area of the Project is attached hereto as **Exhibit No. 1**.

3. The action of the Defendants in commencing such construction activities was based upon a document entitled "Tier 3 Categorical Exclusion" dated October 4, 2016, issued by the Defendant FHWA and prepared by a contractor, Kimley-Horn and Associates, Inc., of Memphis, Tennessee, in which it is stated that AHTD had determined that the I-630 Project fell within the definition of "the Tier 3 Categorical Exclusion" as defined in a certain Memorandum of Agreement between ArDOT and FHWA on the processing of Categorical Exclusions.

4. A "categorical exclusion" ("CE") is an exemption from the requirements of NEPA and its implementing regulations that the potential for environmental impacts of proposed significant Federal actions by Federal agencies be determined by preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS). Categorical exclusions are those actions which meet the definition contained in 40 CFR 1508.4, and based on past experience with similar actions, do not involve significant environmental impacts. 23 C.F.R. 771.117(a).

5. The I-630 Project does not qualify for the use of a categorical exclusion to exempt it from the requirements of NEPA to assess potential environmental impacts of a proposed Federal action by preparation of an EA or and EIS. In approving the use of a categorical exclusion as a substitute for an EA or EIS, the Defendants failed to adequately determine whether the I-630 Project will likely involve significant air, noise or water quality impacts, whether it will have significant impacts on travel patterns, or will otherwise, either individually or cumulatively, have any significant environmental impacts, as more fully described herein.

6. The Defendants' failure to make the determinations described in the preceding paragraph, and their procedures, findings, conclusions, and actions in approving the CE were arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law (5 U.S.C. §706(2)(A)), as more fully described herein.

7. The Plaintiffs are persons who regularly and consistently use or live in or near I-630, and who will be exceptionally and severely damaged, prejudiced and aggrieved by the implementation of the Project, in that the Project would inflict permanent and irreparable change and damage upon the project area's ecosystem; upon traffic usage and patterns; and adversely affect the ability of the plaintiffs and their members to use I-630 in their daily commutes, and to enjoy their homes and neighborhoods.

8. That upon hearing on the Motion for Temporary Restraining Order filed contemporaneously herewith, the status quo ante should be maintained and Defendants should be temporarily restrained and enjoined from conducting or allowing any work on the I-630 Project that would alter or modify I-630 unless and until such time as a hearing on a permanent injunction may be conducted in this matter; that upon such hearing, a permanent injunction should be issued and the Defendants permanently enjoined until they have fully complied with

the requirements of NEPA and its implementing regulations as described herein.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this action under 28 USC §1331 (Federal Question); 28 USC §1361 (Mandamus); 28 U.S.C. §1651 (Writs); 28 U.S.C. §§2201-02 (Declaratory Judgment Act); and 5 U.S.C. §§701 *et seq*. (Administrative Procedure Act).

10. This Court has a right of review of administrative actions by the Defendant, U.S. Department of Transportation, Federal Highway Administration pursuant to 5 U.S.C. §702, et seq. (Administrative Procedure Act).

11. Venue of this action is proper in this Court under 28 U.S.C. §1391(e), in that a substantial part of the events or omissions giving rise to the claims occurred, and the property that is the subject of the action, is situated in this District and Division.

PARTIES

Plaintiffs

12. The Plaintiff, George Wise, is a resident and citizen of Little Rock, Arkansas. Mr. Wise resides in a residential area in the eastern portion of the City of Little Rock south of I-630, and works in a business in west Little Rock. He commutes daily on I-630 between his residence and place of employment in west Little Rock. His daily commute will be dramatically altered, inconvenience and extended by the alterations to I-630 proposed by the Defendants. He is also concerned about the increases in noise and air pollution and their effects on the human environment, the proliferation of multilane highways through the center of cities, and the negative effect that widening of I-630 will have on the social and economic environment of Little Rock. Having been a long-time resident of the area south of I-630, he is acutely aware of

the impact I-630 has had in dividing the City, and believes that more lanes will only add to the divisiveness.

13. The Plaintiff, Matthew Pekar, is a resident and citizen of Little Rock, Arkansas. Mr. Pekar is a computer programmer who resides in the Quapaw Historic District in downtown Little Rock, and works in facilities on Colonel Glenn Road in southwest Little Rock. His daily commute between his residence and place of employment includes driving on I-630 from its intersection with Main Street to its western terminus at I-430. His daily commute would be dramatically altered, inconvenience and extended by the alterations to I-630 proposed by the Defendants. He is also concerned about the potential for increase in noise and air pollution caused by increase traffic, and the further division on the social and economic environments in Little Rock.

14. The Plaintiff, Uta Meyer, is a resident and citizen of Little Rock, Arkansas. Ms. Meyer resides in a residential area immediately north of the I-630 Project area, and works in an organization located in southeast Little Rock. Her daily commute between her residence and place of employment includes driving on I-630 through the proposed work area to its eastern terminus at I-30. Her daily commute would be dramatically altered, inconvenience and extended by the alterations to I-630 proposed by the Defendants. She is also concerned about the increase in levels of noise and air contamination as a result of increased traffic on I-630 on her health and the health of others in the area.

15. The Plaintiff, David Martindale, is a resident and citizen of Little Rock, Arkansas. Mr. Martindale also resides in a residential area immediately north of the proposed I-630 Project area, and works in a business in west Little Rock. His daily commute between his residence and place of employment includes driving on I-630 through the Project work area to its western

terminus at I-430. His daily commute would be dramatically altered, inconvenience and extended by the alterations to I-630 proposed by the Defendants. He is also concerned about the increase in levels of air contamination as a result of increased traffic on I-630 on his health and the health of others in the area.

16. The Plaintiff, Robert Walker, is a resident and citizen of Little Rock, Arkansas. Mr. Walker resides in a residential area immediately north of the I-630 Project area. He hears the noise from the highway inside and outside of his home. He is concerned that those noise levels will increase significantly during construction of the proposed I-630 Project and thereafter with the increased number of lanes and traffic. He is also concerned that the levels of air contaminants from automobiles using I-630 will significantly increase and impinge upon his health and upon the health of persons in the area, particularly children in a nearby school. Mr. Walker also drives frequently on I-630, in part to obtain medical services, and he is concerned that his driving patters will be dramatically altered, inconvenience and extended by the alterations to I-630 proposed by the Defendants.

Defendants

17. Defendant, United States Department of Transportation, Federal Highway Administration ("FHWA") is an agency of the Executive Department of the United States of America. The FHWA has been delegated responsibility for, among other things, construction, management, administration, regulation and oversight of various highways and transportation facilities and their development and funding, and for conducting environmental assessments and environmental impact statements to determine the impact of proposed highway and transit development on the human environment prior to construction according to the mandates of NEPA, the Department of Transportation Act ("DOTA"), the Federal-Aid Highway Act

("FAHA"), the Federal Transit Act ("FTA"), and the Safe, Accountable, Flexible, Efficient Transportation Act of 2005 (SAFETA),

18. The Arkansas State Transportation Department (formerly named Arkansas State Highway and Transportation Department) is an agency of the State of Arkansas with its principal offices in Little Rock, Pulaski County, Arkansas. ArDOT has the responsibility, among others, to plan, design, construct and maintain highways and roads in the State of Arkansas; to enter into agreements with the FHWA regarding Federal funding for highway construction; and to coordination with other agencies of the state and federal government, including FHWA, having transportation responsibilities (Ark. Code Ann. § 27-1-102).

FACTUAL BACKGROUND

19. Plaintiffs incorporate herein all previous allegations set forth above.

20. During the 1970s, I-630 was constructed in an east-west direction through the City of Little Rock, Arkansas, amid considerable controversy and litigation. (See *Arkansas Community Organization for Reform Now v. Brinegar*, 398 F.Supp. 685 (E.D. Ark. 1975). The highway has, since its construction, consisted of six (6) lanes, three (3) in each direction, with entrance and exit ramps at major street intersections.

21. The Defendants, FHWA and ArDOT now propose to modify I-630 in increments to widen the roadway to eight (8) lanes (four in each direction), replace bridges crossing or overpassing Little Rock city streets and other highways, and adding auxiliary lanes, and storage and turning lanes. The portion of I-630 that is proposed to be so modified immediately by the Defendants is located between the Baptist Hospital exit/entrance (approximately one (1) mile east of the I-630/I-430 interchange), and the intersection of I-630 with University Avenue, a total distance of

approximately 2.2 miles. A Project Location Map showing the extent of the Project is attached to this Complaint as **Exhibit No. 1**.

22. According to a "Tier 3 Categorical Exclusion" document prepared for this project, the work to be performed within the Project Location is more specifically described as:

> Proposed improvements include eight 12-foot wide paved travel lanes (four in each direction) with 10-foot wide shoulders. A fifth auxiliary lane will be added in several locations between successive entrance and exit ramps. All existing bridges within the project limits (Bridge Numbers A5582/B5582, A5583/B5583, and 5584) will be replaced. A new 14-foot wide bicycle and pedestrial bridge will be installed north of bridge A5582. … Storage and turning lanes will be added to the westbound I-630 exit ramps at John Barrow and Rodney Parham Road. Traffic signals will be improved at John Barrow and the westbound Interstate 630 ramps, at Rodney Parham Road and Mississippi Street, and at Rodney Parham Road and the eastbound Interstate 630 ramps. The westbound entrance ramp between University Avenue and Hughes Street will be removed.
> (Tier 3 Categorical Exclusion, October 4, 2016, p. 1)
> Such work is referred to herein as "The Project."

The "Tier 3 Categorical Exclusion dated October 4, 2016 is attached to this Complaint as **Exhibit No. 2**.

23. According to an Information Release from the Defendant ArDOT dated July 13, 2018, work was to commence on construction of the Project on Monday, July 16, 2018, and, according to ArDOT, will have the following immediate impacts on traffic flows, speeds and patterns:

> Eastbound and westbound center and outside lanes within the work zone will be closed between 8:00 p.m. and 6:00 a.m. Monday through Friday to allow the contractor to set temporary barrier walls, place pavement markings, erect safety platforms at the Hughes Street overpass and remove pavement corrugations along the shoulders. One lane of traffic in each direction will remain open, and interstate ramps will remain accessible except the westbound on-ramp from the old Sears parking lot. During the daytime travel peak hours, all six lanes on I-630 will be open to traffic. Neighborhoods adjacent to the interstate will experience noise impacts during nighttime hours.

> Beginning Friday night, July 20, the Hughes Street overpass will be temporarily closed for approximately three months as crews perform bridge demolition and reconstruct the overpass. Detours will direct Hughes Street traffic to Mississippi Avenue to bypass the closure. A detour map is attached.
>
> Within the construction zone, the posted speed will be 50 mph. Nightly lane closures will occur throughout the life of the construction project from Sunday night through Saturday morning 8:00 p.m. to 6:00 a.m., and Saturday night from 8:00 p.m. to midnight.

A copy of the ArDOT Information Release dated July 13, 2018 is attached hereto as **Exhibit No. 3**, consisting of two (2) pages, including a map of a detour through streets of Little Rock that will be caused by the destruction/rebuilding of the Hughes Street overpass.

APPLICABLE LAWS

Administrative Procedure Act

24. 5 U.S.C.A. § 702 provides in relevant part that "A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof."

25. 5 U.S.C. § 706, authorizes a reviewing court to decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of a federal agency action. The court must compel agency action unlawfully withheld or unreasonably delayed. 5 U.S.C. § 706(1). The court must also hold unlawful and set aside agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2).

Declaratory Judgment Act

26. The United States Declaratory Judgment Act, 28 U.S.C.A. § 2201, authorizes a Federal District Court, in a case of actual controversy within its jurisdiction, with certain exceptions not

here relevant, to declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

27. The Plaintiffs seek a declaratory judgment that the categorical exemption used by the Defendants in this case to commence construction of modifications and expansions to I-630 are not applicable to the I-630 Project, and that the Defendants should have prepared an environmental assessment or environmental impact statement on the potential effects of such modifications and expansion.

The National Environmental Policy Act

28. In 1969, Congress, "recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth..., resource exploitation ... and new and expanding technological advances, and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man," enacted NEPA, declaring it to be "the continuing policy of the Federal Government ... to use all practical means and measures ... to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic and other requirements of present and future generations of Americans." (NEPA §101(a), 42 USC §4331(a)).

29. NEPA is our basic national charter for protection of the environment. It establishes policy, sets goals, and provides means for carrying out the policy. Section 102(2) of NEPA contains "action-forcing" provisions to ensure that Federal agencies act according to the letter and spirit of the Act. The President, the Federal agencies and the courts share responsibility for

enforcing the Act so as to achieve the substantive requirements and goals of the Act. 40 CFR §1500.1(a)

30. Among the goals set forth in §101(b) of NEPA are to:

a fulfill the responsibilities of each generation as trustee of the environment for each successive generation;

b. attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

c. preserve important historic, cultural and natural aspects of our national heritage, and maintain wherever possible, an environment which supports diversity and variety of individual choice; and

d. enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

31. To achieve those goals and policies, NEPA requires that all agencies of the Federal Government shall include in every recommendation for or report on major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on:

(i) the environmental impact of the proposed action,

(ii) the adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(NEPA, §102(C), 42 USC §4332(C)).

The CEQ Regulations

32. Pursuant to NEPA and Executive Orders Nos. 11514 and 11991, the White House

Council on Environmental Quality ("CEQ") promulgated regulations implementing and expounding upon the provisions of NEPA requiring that, as the "detailed statement" required by Section 102 of NEPA, all Federal agencies prepare an Environmental Assessment ("EA") and/or an Environmental Impact Statement ("EIS") to determine the potential environmental effects of proposed major Federal actions. Those regulations are promulgated at 40 C.F.R. Part 1500 *et seq*. ("the CEQ Regulations")

33. Under the CEQ regulations, the process of assessing the environmental impact of a proposed major Federal action is normally divided into three major steps (40 C.F.R. §1501.4):

A. Preparation of an **environmental assessment** ("EA"), which is defined as a "concise public document that serves to briefly provide sufficient evidence and analysis for determining whether the proposed Federal action may significantly affect the quality of the human environment; (40 CFR §1508.9). The preparation of an EA may be omitted if the agency decides that the proposed action merits preparation of an EIS. (40 CFR §1501.3, 1501.4).

B. If the EA determines that the proposed federal action will not significantly affect the environment, prepare a Finding of No Significant Impact ("FONSI"), which is defined as a document briefly presenting the reasons why an action will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. (40 CFR §1508.13)

C. If the agency determines that the proposed federal action may significantly affect the environment, commence the scoping process to prepare an **environmental impact statement**. (40 CFR §1501.4)

34. Regulations promulgated by the CEQ address the issue of the scope of a NEPA analysis. Such regulations require, among other things, that all reasonable and feasible alternatives to the proposed action be considered; that the direct, indirect and cumulative effects of a proposed action that may reasonably be anticipated be included in the EA or EIS; that measures to mitigate unavoidable adverse environmental impacts be developed and implemented; and prohibit the

"segmentation" of various components of a planned action into smaller projects to avoid studying the cumulative impacts of the entire action or development. (40 CFR §§ 1508.25, 1508.27(b)(7))

35. Notwithstanding the foregoing provisions, 40 CFR §1508.4 provides for the development by Federal agencies of Categorical Exclusions as exceptions to the more detailed environmental assessment and environmental impact statements described above. That section defines a "categorical exclusion" as:

> "Categorical exclusion" means a category of actions *which do not individually or cumulatively have a significant effect on the human environment* and which have been found to have no such effect in procedures adopted by a federal agency in implementation of these regulations (§1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in §1508.9 even though it is not required to do so. Any procedures under this section shall provide for *extraordinary circumstances* in which a normally excluded action may have a significant environmental effect. (Emphasis added)

36. Further, 40 CFR §1507.3(b), regarding agency procedures for development of their individual procedures to implement the CEQ regulations (including development of categorical exclusions), provides:

> (b) Agency procedures shall comply with these regulations except where compliance would be inconsistent with statutory requirements and shall include:
>
> (1) Those procedures required by §§1501.2(d), 1502.9(c)(3), 1505.1, 1506.6(e), and 1508.4.
>
> (2) Specific criteria for and identification of those typical classes of action:
>
> (i) Which normally do require environmental impact statements.
>
> (ii) Which normally do not require either an environmental impact statement or an environmental assessment (categorical exclusions (§1508.4)).
>
> (iii) Which normally require environmental assessments but not necessarily environmental impact statements.

The FHWA Regulations

37. Pursuant to the requirements of 40 CFR §1507.3(b) (quoted above), the FHWA has developed regulations relevant to categorical exclusions that are embodied in 23 CFR §771.115 and §771.117.

38. 23 CFR §771.115 (Classes of actions) provides:

> There are three classes of actions which prescribe the level of documentation required in the NEPA process.
>
> (a) *Class I (EISs).* Actions that significantly affect the environment require an EIS (40 CFR 1508.27). The following are examples of actions that normally required an EIS:
> (1) A new controlled access freeway.
> (2) A highway project of four or more lanes on a new location.
> (3) Construction or extension of a fixed transit facility (e.g., rapid rail, light rail, commuter rail, bus rapid transit) that will not be located within an existing transportation right-of-way.
> (4) New construction or extension of a separate roadway for buses or high occupancy vehicles not located within an existing highway facility.
>
> (b) *Class II (CEs). Actions that do not individually or cumulatively have a significant environmental effect are excluded from the requirement to prepare an EA or EIS.* A specific list of CEs normally not requiring NEPA documentation is set forth in §771.117(c) for FHWA actions or pursuant to §771.118(c) for FTA actions. When appropriately documented, additional projects may also qualify as CEs pursuant to §771.117(d) for FHWA actions or pursuant to §771.118(d) for FTA actions. (Emphasis added)
>
> (c) *Class III (EAs).* Actions in which the significance of the environmental impact is not clearly established. All actions that are not Class I or II are Class III. All actions in this class require the preparation of an EA to determine the appropriate environmental document required.

39. Plaintiffs claim that the I-630 Project does not meet the criteria for a Class II (CE) as it is an action whose impacts, individually or cumulatively, have a significant environmental effect on the human environment, and meet the requirement to prepare an EA or EIS

40. The foregoing Section 771.115 (b)(CEs) refers to §771.117 for "a specific list of CEs normally not requiring NEPA documentation. Subsection (a) of 771.117 defines to a greater degree of specificity than that contained in 40 CFR 1508.4 of the CEQ Regulation what generally constitutes a categorical exclusion:

> (a) Categorical exclusions (CEs) are actions which meet the definition contained in 40 CFR 1508.4, and, based on past experience with similar actions, do not involve significant environmental impacts. They are actions which: do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; *do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise, either individually or cumulatively, have any significant environmental impacts. (Emphasis added)*

41. Subsection (b) of §771.117 addresses the further restriction upon the use of categorical exclusions for any action that could involve "unusual circumstances." That subsection provides:

> (b) Any action which normally would be classified as a CE but could involve unusual circumstances will require the FHWA, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:
>
> (1) Significant environmental impacts;
> (2) Substantial controversy on environmental grounds;
> (3) Significant impact on properties protected by section 4(f) of the DOT Act or section 106 of the National Historic Preservation Act; or
> (4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

42. Subpart (c) of 771.117 then provides examples of actions that normally meet the criteria for a categorical exclusion and do not require further NEPA procedures, such as an EA or EIS.

There are more than thirty (30) such categorical exclusions. The "Tier 3 Categorical Exclusion" document **(Exhibit 2)** issued by FHWA does not identify which, if any, of the Section 771.117(c) categorical exclusions are relied upon by Defendants to exempt the I-630 Project from the usual requirements for preparation of an environmental assessment or environmental impact statement. It merely refers to a categorical exclusion.

43. The alterations to I-630 proposed by the Defendants do not meet the requirements of the categorical exclusions contained in 23 CFR §771.115 and §771.117, nor have Defendants conducted an environmental assessment or environmental impact statement to determine the potential effect of such proposed alterations. As a result, the actions of the Defendants to perform substantial and significant highway alterations to I-630 without having complied with the requirements of NEPA and its implementing regulations and the regulations of the FHWA, are arbitrary, capricious and not in accordance with law, and should be enjoined.

The ArDOT – FHWA Memorandum of Agreement and
The "Tier 3 Categorical Exclusion" Findings

44. 23 CFR 771.117(g) provides that the FHWA may enter into programmatic agreements with a State, such as the Defendant, ArDOT, to allow a State DOT to make a NEPA Categorical Exclusion certification or determination and approval on FHWA's behalf, for CEs specifically listed in paragraphs (c) and (d) of Section 771.117 and that meet the criteria for a CE under 40 CFR 1508.4, and are identified in the programmatic agreement. Such agreements, however, must be subject to the following conditions:

> ...
> (2) The agreement may not have a term of more than five years, but may be renewed;
> ...

23 CFR 771.117(g)(3)

45. The ArDOT (through its predecessor ADHT) and the FHWA entered into a Memorandum of Agreement (MOA) in November, 2009, providing for the determination by ArDOT of the applicability of categorical exclusions on Federally-funded projects undertaken in the State of Arkansas. A copy of the Memorandum of Agreement is attached to this Complaint as **Exhibit No. 4**.

46. Pursuant to that Memorandum of Agreement, the ArDOT determined that the "Tier 3 Categorical Exclusion" applied to the I-630 Project, and that categorical exclusion determination was approved by FHWA on October 4, 2016 by issuance of the "Tier 3 Categorical Exclusion" document **(Exhibit No. 2)**.

47. However, under 23 CFR 771.117(g)(2), agreements between FHWA and ArDOT such as the Memorandum of Agreement may not have a term of more than five (5) years. The MOA under which ArDOT and the FHWA approved the Tier 3 Level Categorical Exclusion for the I-630 project was executed in November, 2009, and expired in November, 2014 and, upon information and belief of Plaintiffs, has not been renewed. Consequently, such determination occurred two years after the expiration date of the MOA, is invalid and ineffective, and any action taken by the Defendant pursuant thereto is arbitrary, capricious and contrary to law.

LEGAL CLAIMS

Count 1.
The Project Does Not Qualify For a Categorical Exclusion Because It Involves Significant Air, Noise or Water Quality Impacts Or Will Have Significant Impacts on Travel Patterns.

48. Plaintiffs incorporate herein all allegations contained in the previous paragraphs.

Defendants Did Not Adequately Assess Whether Significant Environmental Impacts Would Result From the I-630 Project

49. 23 CFR Section 771.117(a) defines a categorical exclusion as "actions which meet the definition contained in 40 CFR 1508.4 (quoted above, p.13) and, based on past experience with similar actions, *do not involve significant environmental impacts*. They are actions which: … do not involve *significant air, noise or water quality impacts*; *do not have significant impacts on travel patterns*; or do not otherwise, either individually or cumulatively, have any significant environmental impacts." (Emphasis added)

50. To determine whether the proposed action is eligible for a categorical exclusion, a determination must be made by the agency or its delegatee (here, ArDOT) that the proposed project meets the requirements of Section 771.117(a) that the proposed action does not involve significant air, noise or water quality impacts; does not have significant impacts on travel patterns; or does not otherwise, either individually or cumulatively, have any significant environmental impacts. That determination must be adequately explained.

51. When an agency decides to proceed with an action in the absence of an EA or EIS, the agency must adequately explain its decision. *Alaska Center for the Environment v. U.S. Forest Service*, 189 F.3d. 851 (9th Cir. 1999). *Reed v. Antwerp,* 2009 WL 2824771 at headnote 6 (D. Neb. 2009) ("In determining that a categorical exclusion applies, the agency must simply explain its decision in a reasoned manner (citing *Alaska Center for the Environment*, supra)); *Arkansas Nature Alliance, Inc. v. United States Army Corps of Engineers*, 266 F. Supp.2d 876 (E.D. Ark. 2003) (question is whether the threshold decision to proceed without preparation of an EIS is reasonable).

52. As part of the Defendants' "Tier 3 Categorical Exclusion" determination dated October 4, 2016, ArDOT completed a summary "Environmental Impacts Assessment Form" in which it

"assessed" the environmental impacts of the Project by checking boxes on a one-page form, with perfunctory and conclusory comments by the person or persons conducting the assessment on various environmental components. **(See Exhibit 2, Attachment B)** There is no supporting documentation for the assessments contained therein, or the basis for such assessments. Such Assessment is inadequate to satisfy the requirement that the ArDOT took a "hard look" at the potential environmental consequences of the proposed Project. The decision of ArDOT and FHWA to use a categorical exclusion for the I-630 Project was not adequately explained, and is arbitrary and capricious and contrary to law.

53. However, the Environmental Assessment Form did find that "significant' impacts from increased noise from the Project would occur in five (5) "impacted" areas, with noise barriers planned for three of those areas as part of the Project. A Final Noise Study Report prepared for ArDOT by a contractor, Kimley-Horn, stated that eight (8) noise study areas (NSAs) were identified along the Project corridor. Based on projections for traffic volume for the year 2039 peak hours, it was estimated that exterior residential and recreational activities would be impacted out to a distance of approximately 500 feet from the centerline of the nearest travel lane of I-630, depending on terrain and other conditions at the location, and that four (4) of the eight (8) study areas would be adversely impacted and meet the criteria for the establishment of noise barriers. However, the study recommended that noise barriers be constructed at only three of the four impacted areas.

54. Pursuant to 23 CFR Section 771.117(a), the Project does not meet the requirements for a categorical exclusion because the Noise Study conducted by ArDOT shows that the Project will have significant environmental impact from noise along the I-630 corridor; that persons who live within 500 feet of the center line of the closest travel lane of I-630 may be impacted; and that

ArDOT does not plan to take action to mitigate the potential effects of such sound at all areas along the I-630 corridor that may be impacted from noise.

The I-630 Project Will Cause Significant Impacts on Travel Patterns

55. 23 CFR Section 771.117(a) also requires that a categorical exclusion be an "action which does not have significant impacts on travel patterns. There is no mention of potential impacts on travel patterns in the Environmental Impacts Assessment Form prepared by ArDOT to support the Tier 3 Categorical Assessment, and no statement in that Categorical Assessment that the Project will not have a significant impact on travel patterns. To the contrary, the ArDOT's own statements and official documents compel the inescapable conclusion that there will be serious and ongoing disruptions and forced changes to traffic patterns.

56. As noted on Page 8 of this Complaint, ArDOT issued an Information Release on July 13, 2018, announcing the forthcoming commencement of construction on the Project, and stating the changes, restrictions and detours that will result. Without repeating *verbatum* the text of that Information Release set forth earlier herein, those changes can be summarized as follows:

(i) Eastbound and westbound center and outside lanes within the work zone will be closed between *each night* from 8:00 p.m. and 6:00 a.m. Monday through Friday; *one lane* of traffic in each direction will remain open;

(ii) Speed limit will be 50 mph in the construction zone;

(iii) During the daytime travel *peak hours*, all six lanes on I-630 will be open to traffic; (*but see the information re: demolition and replacement of the Hughes Street overpass below*); however, periodic lane closures, in addition to some lane shifts, are expected to happen at off-peak times (see

interview of Danny Straessle with Arkansas Democrat-Gazette, July 2, 2018.

(iv) Neighborhoods adjacent to the interstate will experience noise impacts during nighttime hours. (This is presumably in addition to the impact of increased noise that the ArDOT's Noise Study found would occur as a result of traffic.)

(v) Beginning Friday, July 20, the Hughes Street overpass will be closed for approximately three months for bridge demolition and reconstruction of the overpass.

(vi) **The Bridge demolition/reconstruction will close I-630 to through traffic in that section**. Detours will direct Hughes Street traffic to Mississippi Avenue to bypass the closure. According to the detour map attached to the Information Release, westbound (incoming) traffic on I-630 will be required to exit I-630 at Mississippi Street, go north to West Markham, east along Markham to Hughes, and south on Hughes back to I-630. That process would be reversed for westbound (outgoing) traffic on I-630. (**See Exhibit 3, p.2**, Detour Plan for Hughes Street Bridge Construction.)

ArDOT Did Not Discuss The Disruption of Traffic Patterns From the Closure of Two Other Bridges On I-630

57. The ArDOT Information Release of July 13 only discusses the closure of the Hughes Street overpass. The Project also includes the demolition and replacement of two other bridges within the Project area of I-630. See quotation from the Tier 3 Categorical Exclusion document

issued by FHWA on October 4, 2016. **(Exhibit 2)**. ("All existing bridges within the project limits … will be replaced.") The Information Release issued by ArDOT on July 13, 2018, does not mention the closure of the other two bridges. Assuming that those demolition/replacement projects are conducted in the same manner as the Hughes Street bridge, it is clearly inevitable that there will be major traffic disruptions and changes in traffic patterns throughout the projected two-year life of the Project.

58. Markham, Mississippi, Rodney Parham, Cantrell Road (Highway 10) and other major arteries from west Little Rock to and from downtown Little Rock are already heavily traveled. There is no analysis contained in the Tier 3 Categorical Exclusion document approved by Defendant FHWA, nor any other document prepared by or for the Defendants and reviewed by Plaintiffs that analyzes the effect of the potential impacts of the I-630 Project on traffic patterns, travel time, the capacity of other major streets to handle overflow from I-630, safety hazardous from the diversion of such traffic, or other considerations.

The Impact of Closure of I-630, or Portions Thereof, On Emergency Services Was Not Considered by Defendants

59. An important consideration of the impact of the Project on public health and safety is that the Baptist Medical Center ("the Center") complex is located at the west terminus of the Project, and the CHI St. Vincent medical complex (St. Vincent) is located at the east terminus. Both of these facilities are major medical providers in Arkansas, including the providing of emergency medical services. Those facilities and services are frequently needed on a 24-hour basis.

60. While the Project may not impact routine and emergency medical services at the Center that originate from those parts of Little Rock that are north and south of I-630 and west of the Center, it will severely impact the access of persons needing routine and emergency medical

services from those portions of Little Rock located east of the Center and that would otherwise use I-630 as a rapid and convenient means of accessing the Center.

61. Likewise, persons who may be in need of such care and who are located west of St. Vincent and who would normally use I-630 as a rapid and convenient means of accessing it will be subject to delays and inconvenience in going there.

62. In cases involving emergencies, the loss of time in arriving at either Baptist or St. Vincent could be critical to the patient's survival or recovery. These same considerations were a major factor in Judge J. Smith Henley's decision to not enjoin construction of this same portion of I-630 in his decision in *Arkansas Community Organization for Reform Now v. Brinegar*, 398 F. Supp. 685, 699 (E.D. Ark. 1975).

Indirect and Cumulative Impacts of the I-630 Project, The "30 Corridor" Project And Other Highway Projects In the Little Rock Area Were Not Considered

63. NEPA also requires that, in the assessment of the environmental impacts of proposed Federal actions, the indirect and cumulative impacts of such action in connection with other past, current and future actions be considered. 23 CFR Section 771.117(a) also requires that cumulative impacts of a proposed categorical exclusion be considered.

64. There are other actions occurred or planned in the Little Rock area that could indirectly or cumulatively have impact on the driving public, particularly those persons who customarily use I-630 to commute to work. Those other actions include the proposed "30 Corridor" project that will, if executed according to the schedule announced by the ArDOT and FHWA, be constructed simultaneously with the work planned for the I-630 Project. The 30 Corridor project has particular relevance because I-630 has its eastern terminus at I-30, and traffic issues on one highway impacts traffic on the other. Another proposed highway project that could indirectly or

cumulatively impact the I-630 Project, and vice versa, is the planned reworking and modification of the interchange of I-430 and Highway 10 (Cantrell Road).

65. If the two additional projects mentioned above (30 Corridor and I-430/Highway 10) occur simultaneously with or significantly overlap construction on the I-630 Project, traffic patterns could be affected in that (i) traffic wishing to use Highway 10 as an alternative to I-630 would potentially be delayed or denied access to Highway 10 from I-430 during work on that interchange; and (ii) persons who are able to use I-630 to its intersection with I-30 may be delayed or denied access to I-30 due to work on that interchange.

Count 2.
The Categorical Exclusions Contained in
23 CFR § 771.115 and 771.117 Do Not Apply To the I-630 Project
Because the Project Has the Potential for Significant Environmental Impacts

66. Plaintiffs ratify, affirm and adopt all allegations contained in the previous paragraphs.

67. As noted above, categorical exclusions are intended to be used only in projects that do not involve significant air, noise or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise, either individually or cumulatively, have any significant environmental impacts.

68. In *Arkansas Nature Alliance, Inc. v. U.S. Army Corps of Engineers*, 266 F. Supp.2d 876, 886-887, the Court found it instructive to review the examples provided by the Corps of Engineers in its regulations on use of categorical exclusions and found that the environmental impacts of the project in that case far exceeded the magnitude of the examples contained in the categorical exclusions. Such is the case here. An examination of the list of specific categorical exemptions contained in 23 CFR 771.117(c) illustrates that the type of projects in which categorical exclusions may be used are limited to small projects on the existing roadway or the

facilities that adjoin them, and not to a major increase in the number of lanes, auxiliary lanes and bridge replacements, to name a few of the modifications.

69. The I-630 Project that is the subject of this suit is a part of what is nothing less than a major overhaul of that expressway. The cost of the Project is estimated at $87.4 million. As noted earlier, it will expand the highway from six lanes to eight, with additional fifth auxiliary lanes to be added between successive entrance and exit ramps, amounting in some places to a highway width of 10 lanes. Three bridges will be replaced over which most of the traffic utilizing I-630 passes, causing slowdowns, lane changes and detours. Other storage and turning lanes will be added at various ramps.

70. Defendant ArDOT conducted a study of the potential noise effects of the Project on the residential areas adjacent to the I-630 corridor, and found that there will be significant impacts for persons within 500 feet of the nearest lane, and that noise increases in four of the study areas merited construction of sound barriers.

71. ArDOT apparently did not conduct a study of any of the potential impacts of the Project on air quality in the area. It is scientifically well-established that areas adjacent to expressways and other highly-traveled roads suffer impacts to air quality, and that vulnerable persons, such as children and the elderly, are especially impacted by pollutants from vehicles.

72. In light of these obvious and well-accepted circumstances that support the conclusion that the I-630 Project will have significant environmental impacts, the Defendants do not explain their decision to utilize a categorical exclusion in a reasoned manner. Their failure to make such explanation is arbitrary, capricious and contrary to law.

Count 3.
Unusual Circumstances Exist In This Case
That Prohibit The Use of Categorical Exclusions

73. Plaintiffs ratify, affirm and adopt all allegations contained in the previous paragraphs.

74. Subsection (b) of 23 CFR §771.117 addresses the further restriction upon the use of categorical exclusions for any action that could involve "unusual circumstances." That subsection provides:

> (b) Any action which normally would be classified as a CE but could involve unusual circumstances will require the FHWA, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:
>
> (1) Significant environmental impacts;
> (2) Substantial controversy on environmental grounds.

Both of those unusual circumstances exist in this case.

75. Plaintiffs have previously discussed in detail the significant environmental impacts that are likely to result from the I-630 Project, and the Court is referred to the discussion of those impacts in the foregoing sections. In addition, there is substantial controversy about the Project on environmental grounds.

76. In the "Tier 3 Categorical Exclusion" document, there is an attachment entitled "Public Involvement Synopsis" **(Exhibit 2, Attachment E)**. That Attachment illustrates the public concern about this project on environmental grounds solely from one open-forum public involvement meeting held at a church in Little Rock from 4:00 to 7:00 p.m. on February 3, 2015. According to the meeting synopsis (Table 2), 150 people attended the meeting (including ArDOT and Connecting Arkansas Program staff). A total of 50 comments on the Project were received. Of those, 28 comments were made regarding existing and increased noise resulting

from the Project, and 18 expressed the desire for noise abatement to be included in the Project. Nineteen comments related to the removal of basketball courts currently beneath the I-630 bridge at Kanis Park; 15 of those comments listed Kanis Park and/or the basketball courts as an environmental constraint. (The City is "exploring options" for relocating the basketball courts, but there are no plans for their replacement.) Seven comments were made about concerns during construction, including noise, dust, damage from heavy vehicles and proximity of staging areas to homes. Four comments expressed concern that the Project would increase congestion on other roads in the community.

77. There is no record in the "Tier 3 Categorical Exemption" document of other meetings held by the Defendants to permit the public to express their comments on the proposed Project.

78. It should be noted that the Noise Study prepared for ArDOT was not completed until June, 2016, after the aforementioned public meeting. Nor was there information available to the public regarding closure of portions of I-630 due to bridge demolition/replacement, and detouring of traffic from I-630 through city streets. It is likely that, in view of the knowledge now available to the public regarding the potential for noise, air quality impacts, displacement of community recreational resources, and detours of traffic through city streets due to bridge closings, that the public would be even more vocal and generate more controversy about the Project.

79. In addition, unusual circumstances exist in that the streets to which traffic would go as an alternative to I-630 are already crowded during peak drive times, and the diversion of traffic from I-630 (either from detours or drivers' voluntary decision to use an alternate route) to Markham, Rodney Parham, or Highway 10 (Cantrell) will add to the congestion and present

safety hazards. There is no indication that either ArDOT or FHWA assessed the impact of diversion of traffic from I-630 to those or other streets.

WHEREFORE, Plaintiffs pray that the Court grant the following relief:

A. Issue a Temporary Restraining Order directing the Defendants to cease and desist any work that they or their contractors may be performing on the I-630 Project, and to maintain the status quo in the Project area subject to further order of the Court;

B. After reasonable time for briefing and response, conduct a hearing on Plaintiffs' Motion for Preliminary and Permanent Injunction; and

C. Issue an Order permanently enjoining further construction on or development of the I-630 Project until the Defendants have assessed the environmental impacts of the Project in accordance with the requirements of NEPA and other applicable laws and regulations.

Respectfully submitted,

WILLIAMS & ANDERSON PLC

By: _____

Richard H. Mays (AR Bar No. 61043)
Heather Zachary (AR Bar No. 2004216)
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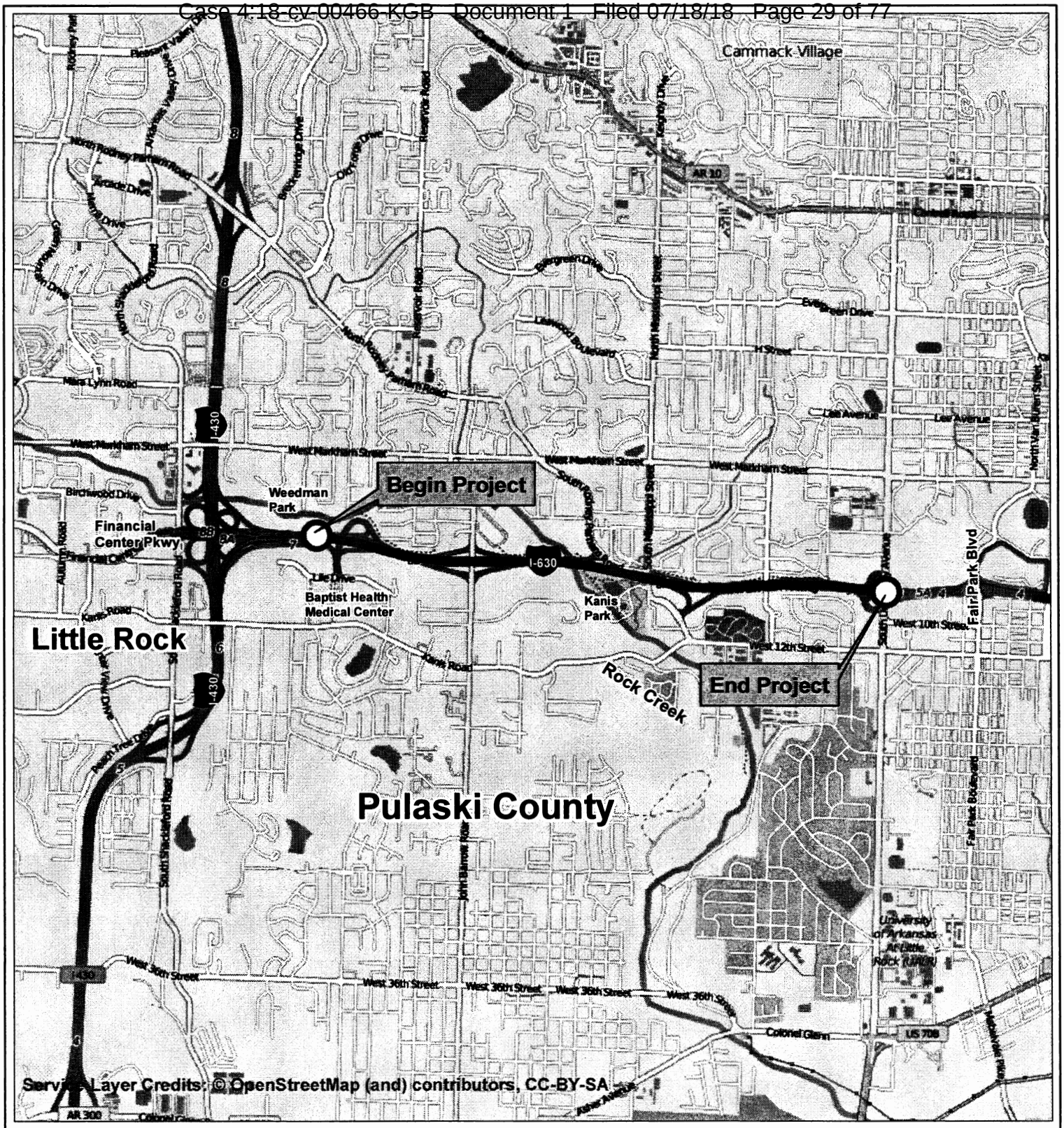
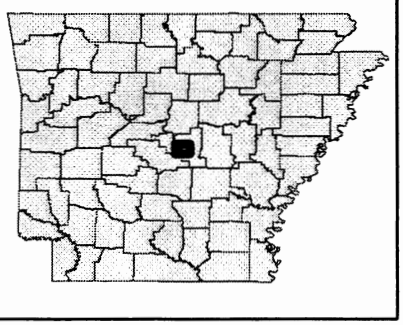




AHTD Job CA0608
Project Location

0 1,000 2,000 4,000 Feet

Legend

Project Corridor

EXHIBIT

tabbies

1

TIER 3 CATEGORICAL EXCLUSION

AHTD JOB NUMBER CA0608
FAP NUMBER ACNHPP-630-1(1)4
Baptist Hospital-University Ave. (Widening)
Pulaski County, Arkansas

Submitted Pursuant to 42 U.S.C. 4332(2)
By the
U.S. Department of Transportation
Federal Highway Administration
and the
Arkansas State Highway and Transportation Department

Prepared by
Kimley-Horn and Associates, Inc.
Memphis, TN

October 4, 2016

10/7/2016
Date of Approval

Randal Looney
Environmental Specialist
Federal Highway Administration

EXHIBIT
tabbies
2

The AHTD Environmental Division has reviewed the referenced project and it falls within the definition of the Tier 3 Categorical Exclusion as defined by the AHTD and Federal Highway Administration (FHWA) Memorandum of Agreement on the processing of Categorical Exclusions.

The Interstate 630 corridor in Little Rock, Arkansas has currently exceeded its capacity, resulting in safety issues, congested driving conditions and failing levels-of-service. The purpose of this project is to improve the overall safety, level-of-service and address future growth by widening Interstate 630 from Baptist Hospital to University Avenue. Total length of the project is approximately 2.5 miles. A project location map is included in Attachment A.

The existing roadway consists of six 12-foot wide paved travel lanes with 10-foot wide paved shoulders. A diamond interchange is present at John Barrow Road, a semi-direct interchange is present at Rodney Parham Road, and a partial cloverleaf interchange is present at University Avenue. All ramps consist of a single lane. There are existing traffic signals at the intersections of John Barrow and the westbound Interstate 630 ramps, at Rodney Parham Road and Mississippi Street, and at Rodney Parham Road and the eastbound Interstate 630 ramps. Existing right of way width varies, ranging from 220 to 400 feet.

Proposed improvements include eight 12-foot wide paved travel lanes (four in each direction) with 10-foot wide shoulders. A fifth auxiliary lane will be added in several locations between successive entrance and exit ramps. All existing bridges within the project limits (Bridge Numbers A5582/B5582, A5583/B5583, and 5584) will be replaced. A new 14-foot wide bicycle and pedestrian bridge will be installed north of bridge A5582. All proposed structures have a concrete deck on steel beams with multiple spans on multi-column bents. Information about the existing bridge structures to be replaced is provided in Table 1 (Attachment D). Information regarding the proposed structures is provided in Table 2 (Attachment D). Storage and turning lanes will be added to the westbound I-630 exit ramps at John Barrow and Rodney Parham Road. Traffic signals will be improved at John Barrow and the westbound Interstate 630 ramps, at Rodney Parham Road and Mississippi Street, and at Rodney Parham Road and the eastbound Interstate 630 ramps. The westbound entrance ramp between University Avenue and Hughes Street will be removed. An Interchange Justification Report outlining these proposed changes was approved by FHWA on March 2, 2015.

No additional permanent right of way will be required for this project. Approximately 0.2 acre temporary construction easement (TCE) will be required in Kanis Park at the Rodney Parham Road interchange and approximately 0.1 acre TCE will be required where the westbound entrance ramp will be removed.

Design data for this project is as follows:

Design Year	Average Daily Traffic	Percent Trucks	Design Speed
2019	119,000	2	60 mph
2039	141,000	2	60 mph

Noise predictions have been made for this project utilizing the FHWA's Traffic Noise Model 2.5 (TNM 2.5) procedures. The model results indicate that five of the study areas will experience an increase in noise levels beyond the threshold required for noise abatement. Noise barriers were found to be warranted in four of the study areas.

A Noise Neighborhood Meeting was held on November 3, 2015 in the project area and was attended by 41 people, including AHTD staff. The meeting consisted of display boards, video presentations, and a PowerPoint presentation outlining the noise study process and results. Attendees were provided an opportunity to ask questions and were given comment cards to provide written feedback. A total of 13 comments were received.

The noise study was revised to address the issues raised in the initial meeting. Additional traffic counts were obtained to verify the existing counts at several locations. Traffic lane distributions in the model were adjusted to better reflect current and proposed conditions, and the model was further adjusted to use the higher of the AM or PM traffic counts at each individual Noise Study Area, rather than using the AM volume for the entire corridor.

A second Noise Neighborhood Meeting was held on July 26, 2016 and was attended by 65 people, including AHTD staff. The meeting consisted of display boards, video presentations, and a PowerPoint presentation outlining the noise study process, results, and a discussion of differences from the original meeting. Attendees were provided an opportunity to ask questions and were given comment cards to provide written feedback.

During both Neighborhood Noise Meetings, residents who were benefitted by the proposed noise barriers were provided an opportunity to vote on the addition of the barriers to the project. Votes were also accepted after the meeting for residents who were unable to attend. Multiple barrier options for Noise Study Areas 4, 5 and 6, including walls and berms, were approved by the public vote with more than 50% voting "affirmative" in each case. The wall options provide benefits to a greater number of residents, minimize the impact to existing walking trails and trees, provide aesthetic consistency for the corridor, and allow continued use of the existing right-of-way by the public. For these reasons, noise walls were selected over berms for these study areas. There will be a minor impact to the viewshed from the roadway and from residential and

business locations. The barrier options for Noise Study Area 8 were not approved by the public and will not be constructed.

There are no relocatees, prime farmland, wetlands, cultural resources, or endangered species impacts associated with this project. USFWS coordination is included in the appendices. Field inspections found no evidence of existing underground storage tanks or hazardous waste deposits. There are no Executive Order 12898 Environmental Justice issues involved with this project. Cultural resources clearance is included in Attachment C.

There are five streams located within the project corridor: Rock Creek and four unnamed tributaries to Rock Creek. Rock Creek will be temporarily impacted for approximately 215 linear feet during construction of the new roadway structure and pedestrian bridge. The temporary impacts are due to the construction of work roads, removal of existing piers, and installation of new bridge piers in the creek. A 30-foot wide temporary work road will be constructed on the north side of the proposed bridges and a 20-foot wide temporary work road will be constructed on the south side. Two of the tributaries will experience no impacts, and the other two will have a combined permanent impact of approximately 1,130 linear feet. The permanent impacts to the tributaries are due to the extension of existing box culverts in the channels.

Coordination with the U.S. Army Corps of Engineers (USACE) is ongoing, but it is expected that a Section 404 permit for Approved Categorical Exclusions as defined in Federal Register 77 (34) 10183 – 10290 will be required. A Short Term Activity Authorization issued by ADEQ will be obtained prior to the commencement of construction.

Pulaski County participates in the National Flood Insurance Program. All of the floodplain encroachments within this highway construction project will be designed to comply with the county's local flood damage prevention ordinance. The project lies within both Zone A and Zone AE Special Flood Hazard Areas, and a permit will be required from Pulaski County. The final project design will be reviewed to confirm that the design is adequate and that the potential risk to life and property are minimized. Adjacent properties should not be impacted nor have a greater flood risk than existed before construction of the project. None of the encroachments will constitute a significant floodplain encroachment or a significant risk to property or life.

There are six resources within the project corridor that are eligible for protection under Section 4(f) guidelines: Weedman Park, Henderson Middle School Athletic Field, Kanis Park, War Memorial Golf Course, the Little Rock Zoo, and Fair Park/War Memorial Park. Of these, only Kanis Park is physically impacted by the proposed construction.

A bicycle/pedestrian path that runs through Kanis Park will be temporarily closed during construction for safety concerns. Approximately 0.2 acre of the park near the path will be temporarily impacted. This impact to the Park has been determined to be a *de minimis* impact. The *de minimis* Section 4(f) documentation is included in Attachment F.

The basketball court under Interstate 630 and adjacent to Kanis Park will be removed and relocated at the expense of the City of Little Rock per a previous agreement with AHTD. This facility is not a protected Section 4(f) resource.

A Public Involvement Meeting was held on February 3, 2015. A total of 50 comments were received at the meeting. A synopsis of the meeting and a summary of comments and responses is included in the attachments.

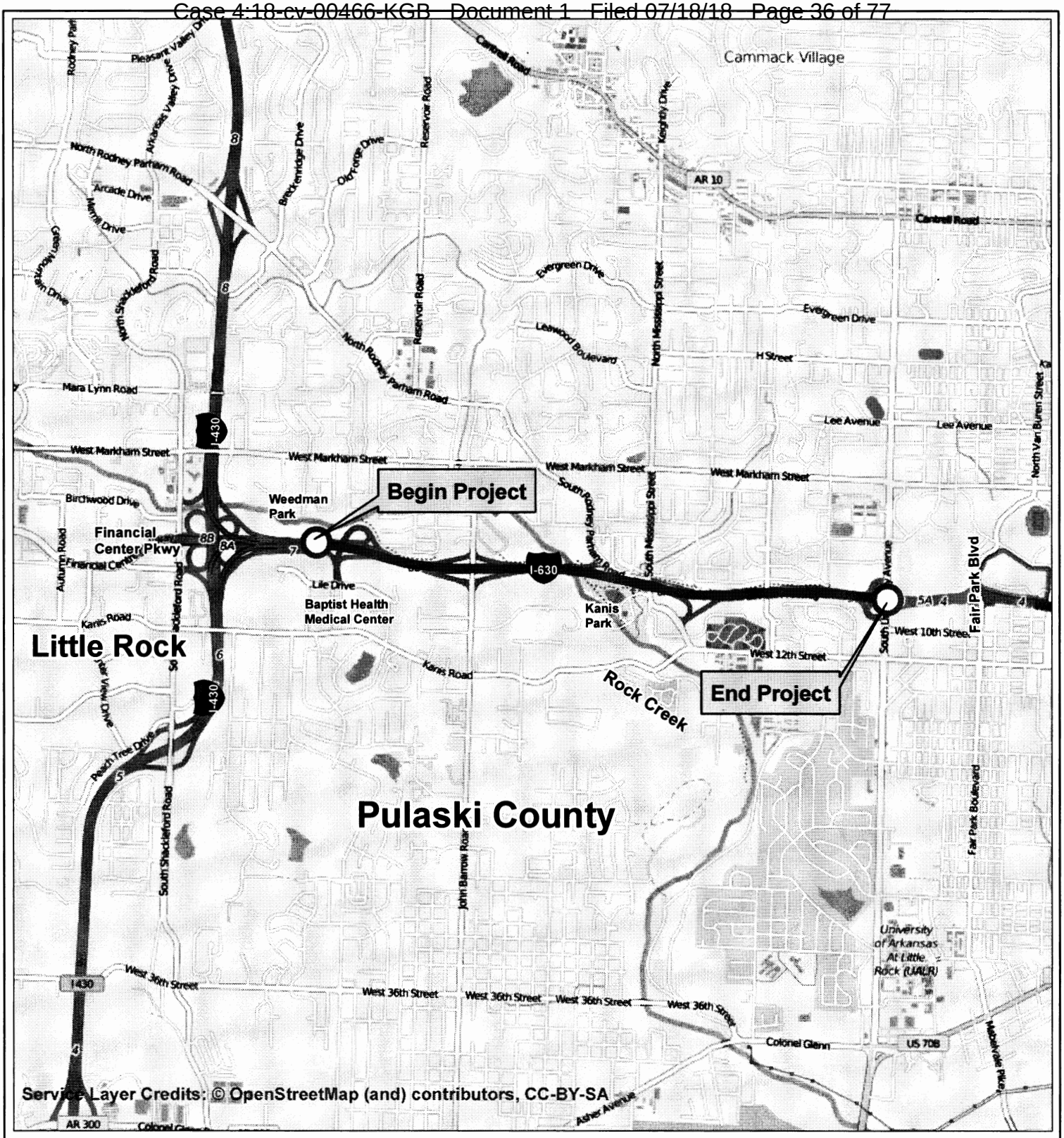
The following commitments have been made in respect to the project:

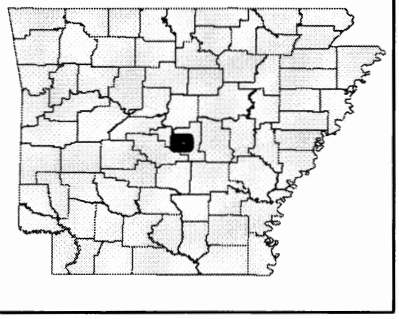
- Special Provision for Nesting Sites of Migratory Birds
- USACE Section 404 Nationwide Permit #23
- Floodplain Development Permit
- ADEQ Short Term Activity Authorization
- Storm Water Pollution Prevention Plan and a local NPDES permit

CA0608 I-630
Baptist Hospital-University Ave. (Widening)

Attachment A

Project Location Map





AHTD Job CA0608
Project Location

0 1,000 2,000 4,000 Feet

Legend

Project Corridor

CA0608 I-630
Baptist Hospital-University Ave. (Widening)

Attachment B

Environmental Impacts Assessment Form

AHTD ENVIRONMENTAL IMPACTS ASSESSMENT FORM

AHTD Job Number CA0608 **FAP Number** ACNHPP-640-1(1)4

Job Title Baptist Hospital-University Ave. (Widening) (S)

Environmental Impacts	None	Minor	Significant	Comments
Air Quality	X			
Construction Impacts		X		*Temporary and minor during construction*
Cultural Resources	X			
Economic	X			
Endangered Species	X			
Energy Resources	X			
Environmental Justice/Title VI	X			
Fish and Wildlife	X			
Floodplains		X		*Floodplain development permit required*
Forest Service Property	X			
Hazardous Materials/Landfills	X			
Land Use Impacts		X		*0.2 acre temporary construction easements required*
Migratory Birds		X		*Migratory Bird Special Provision enclosed.*
Navigation/Coast Guard	X			
Noise Levels			X	*5 impacted areas, noise barriers planned for 3 areas*
Prime Farmland	X			
Protected Waters	X			
Public Recreation Lands		X		*Temporary de minimis impacts to Kanis Park and multi-use trail during construction. 0.2 acre TCE required in Kanis Park*
Public Water Supply/WHPA	X			
Relocatees	X			
Section 4(f)/6(f)		X		*Temporary de minimis impacts to Kanis Park and multi-use trail during construction. 0.2 acre TCE required in Kanis Park*
Social	X			
Underground Storage Tanks	X			
Visual Impacts		X		*Noise walls will have a minor impact on the viewshed from roadway and from residential and business locations.*
Stream Impacts		X		*1,345 linear feet*
Water Quality		X		*Temporary during construction*
Wetlands	X			
Wildlife Refuges	X			

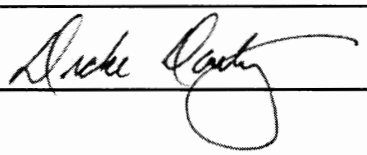
AHTD ENVIRONMENTAL IMPACTS ASSESSMENT FORM

Section 401 Water Quality Certification Required? No

Short-term Activity Authorization Required? Yes

Section 404 Permit Required? Yes Type Nationwide 23

Remarks: 4(f) *de minimis* impacts evaluation form enclosed for Kanis Park.

Signature of Evaluator  Date 09/27/2016

CA0608 I-630
Baptist Hospital-University Ave. (Widening)

Attachment C

SHPO Clearance and Agency Responses

RECEIVED AHTD
OCT 17 2014
ENVIRONMENTAL DIVISION

91596
FHWA
NE

CULTURAL RESOURCE PROJECT IDENTIFICATION FORM

AHTD Job Number: CA0608 AHTD District: Six

Job Name: Baptist Hospital-University Ave. (Widening) (S) County: Pulaski

Associated Highway/Road: Interstate 630 Funding: ☒ Federal ☒ State

USGS Quad: Alexander and Little Rock 7.5"

Job Type:
- ☐ Improvement on New Location
- ☐ Bridge Replacement
- ☒ Road Widening
- ☐ Storage Site
- ☐ Borrow Pit
- ☐ Haul Road
- ☐ Waste Site
- ☐ Other-

AHPP
OCT 14 2014

Job Description: The project proposes to widen Interstate 630 from six to eight lanes from Baptist Hospital to the University Avenue interchange in Little Rock. No new archeological sites were identified within proposed right of way of way of the project. No further work is recommended.

Records Checked:
- ☒ AAS Site Files
- ☒ GLO Surveys
- ☒ AHTD 1936 County Maps
- ☒ AHPP Site Files
- ☒ Early USGS Quad Maps
- ☐ Other

Survey Methods:
- ☒ Visual Inspection
- ☐ Test Pits
- ☐ Other
- ☐ Shovel Tests
- ☐ Machine Excavation

Ground Conditions:
- ☐ Cultivated
- ☐ Woods
- ☐ Pasture
- ☐ Cleared and Grubbed
- ☐ Lawn
- ☒ Other urban

Presence of Cultural Resources: ☐ Yes ☒ No

If yes, see Supplemental Site Information.
If no, this project will not affect cultural resources, no further work is recommended.

AHTD Archeologist: Robert W. Scoggin Date: October 14, 2014

SHPO: Date 10/15/2014 Date:

No known historic properties will be affected by this undertaking. This effect determination could change should new information come to light.

Frances McSwain

Frances McSwain, Deputy State Historic Preservation Officer

From: Lewis, Lindsey
To: Seagraves, Josh
Subject: Re: CA0608
Date: Tuesday, December 01, 2015 9:20:33 AM

Josh,

First I've seen of it, but no big deal.

The Service does not have any information indicating that there are any federally listed species in the directly affected area of this action due to the habitat type, urban environment, and distance to any known species locations. Additionally, the project location, design, and BMPs should minimize the potential for any direct or indirect effects to listed species. Therefore, the Service concurs with AHTD's assessment and determination that this project is "not likely to adversely affect any listed species."

Thanks,

Lindsey Lewis
Biologist

US Fish & Wildlife Service
Arkansas Field Office
110 South Amity Rd., Suite 300
Conway, Arkansas 72032

(501) 513-4489 - voice
(501) 513-4480 - fax
Lindsey_Lewis@fws.gov
http://www.fws.gov/arkansas-es/

On Mon, Nov 30, 2015 at 5:12 PM, Seagraves, Josh <Josh.Seagraves@ahtd.ar.gov> wrote:

> Lindsey,
>
> Was this submitted to you previously? If so I cannot find the response. Could you please resend? If it wasn't previously submitted, please review.
>
> Thanks.
>
> Josh Seagraves
>
> Section Head – Special Studies
>
> Arkansas Highway and Transportation Dept.
>
> PO Box 2261, Little Rock, AR 72203

CA0608 I-630
Baptist Hospital-University Ave. (Widening)

Attachment D

Roadway and Bridge Design Sheets

DATE SUBMITTED _____

DESIGN INFORMATION

Job Number CA0608 FAP Number 9991 County Pulaski

Job Name I-630 Widening from Baptist Hospital to University Avenue

Design Engineer Shahriar Azad, PE (Bridgefarmer and Associates, Inc.)

Brief Project Description Widening of existing I-630 and replacement of bridge structures, from Baptist Hospital to University Avenue

EXISTING CONDITIONS:

Roadway Width: 36'-0" each way Shoulder Width: 10'-0"

Number of Lanes and Width: 3 lanes each way, 12'-0" width

Average Existing ROW Width Varies, 220' to 400'

PROPOSED CONDITIONS:

Roadway Width: 48'-0" to 60'-0", each way Shoulder Width: 10'-0" outside, 8'-9" inside

Number of Lanes and Width: Varies, 4-5 lanes each way, 12'-0" width

Average Existing ROW Width Varies, 220' to 400'

CONSTRUCTION INFORMATION:

If detour: Where N/A Length _____

DESIGN DATA:

2017 ADT 116,000 2037 ADT 138,000 %Trucks 3% Design Speed 60 mph

Approximate total length of project: 2.344 mile(s)

Justification for improvements: Improve the overall level of service and address future growth in the heavily traveled urban corridor

Table 1: Existing Structures

Bridge Number	Roadway/Watercourse	Existing Structure
05584	I-630	47' x 175' structure comprised of 2-span concrete deck with steel beams on spread footings. The structure is not deficient and has a sufficiency rating of 95.8.
A5582	Rock Creek	120' x 258' structure comprised of 4-span concrete deck with steel beams on spread footings.
B5582	Rock Creek	70' x 503' structure comprised of 4-span concrete deck with steel beams on spread footings.
A5583	Rodney Parham	111' x 445' structure comprised of 4-span concrete deck with box girder on spread footings. The structure is structurally deficient.
B5583	Rodney Parham	111' x 445' structure comprised of 4-span concrete deck with box girder on spread footings. The structure is structurally deficient.
Sta. 96+13	Tributary to Rock Creek	Quintuple 6' x 5' x 88.5' structure comprised of RCBC
Sta. 1175+74	Tributary to Rock Creek	Triple 7' x 5' x 344' structure comprised of RCBC

Table 2: Proposed Structures		
Roadway/ Watercourse	**Proposed Structure**	**Type**
I-630	2-span Continuous Composite W-Beam Unit on Concrete Columns on spread footings. Total length 185'-1 7/8"	Replacement Structure (Hughes Street)
Rock Creek	4-span Continuous Composite W-Beam Unit on Concrete Columns on spread footings. Total length 258'-6 1/2"	Replacement Structure (I-630 WB)
Rock Creek	4-span Continuous Composite W-Beam Unit on Concrete Columns on spread footings. Total length 258'-6 1/2"	Replacement Structure (I-630 EB)
Rock Creek	4-span Continuous Composite W-Beam Unit on Concrete Columns on spread footings. Total length 257'-2"	New Structure (Pedestrian Bridge North of I-630 EB)
Rodney Parham	4-span Continuous Composite Plate Girder on Concrete Columns on drilled shaft foundations. Total length 430'-3 3/16"	Replacement Structure (I-630 WB)
Rodney Parham	4-span Continuous Composite Plate Girder on Concrete Columns on drilled shaft foundations. Total length 430'-3 3/16"	Replacement Structure (I-630 EB)
Tributary to Rock Creek Sta 96+13	Add Barrels to Existing Double 6' x 5' x 88.5' RCBC to existing Quintuple 6' x 5' x 88.5' RCBC	Culvert Widening
Tributary to Rock Creek Sta 1124+69	Quadruple 12' x 8' x 151.2' RCBC	New Structure

DATE SUBMITTED _____

BRIDGE DESIGN INFORMATION

Job Number CA0608 FAP Number 9991 County Pulaski

Job Name I-630 Widening from Baptist Hospital to University Avenue

Design Engineer Shahriar Azad, PE (Bridgefarmer and Associates, Inc.)

Description of Existing Bridge:

Bridge Number N/A (New Structure) over _____

Bridge Location: Rte:_____ Section: _____ Log Mile: _____

Length: _____ Br. Rdwy. width:_____ Deck width (Out-to-Out): _____

Type Construction: _____

Deficiencies _____

HBRRP Eligibility: _____ Qualifying Code: ___ Sufficiency Rating: _____

Proposed Improvements:

Length: 257'-2" Br. Rdwy. Width: 14'-0" (SUP) Deck Width (Out-to-out) 16'-0"

Travel Lanes: N/A (Pedestrian Bridge) Shoulder Width: N/A

Sidewalks: None Location: N/A Width: N/A

Construction Information

Location in relation to existing bridge: No existing bridge, north of A5582

Superstructure Type: Continuous Composite W-Beam Unit

Span Lengths: 68'-61'-61'-65'

Substructure Type: Concrete columns on spread footings

Ordinary High Water Elev. 306 No. of Bents inside OHW Contours: 1

Concrete Volume below OHW: 28 yd^3 Vol. Bent Excavation: 40 yd^3 Is backfill req'd? Yes

Is Channel excavation req'd? No Surface Area: 0 ft^2 Volume: 0 yd^3

Is fill below OHW req'd? No Surface Area: 0 ft^2 Volume: 0 yd^3

Is riprap req'd? Yes

Work Road Information:

Is work road(s) required? Yes Location: See Attached Top width: 20-30 ft

Is fill below OHW req'd? Yes Surface Area: 1,845 ft^2 Volume: 126 yd^3

Are pipes required to meet backwater criteria? No

Detour Information:

Is a detour bridge required? No Location in relation to existing bridge: N/A

Length: N/A ft Br. Rdwy. Width: N/A ft Deck Elevation: N/A

Volume of fill below OHW: N/A yd^3 Surface area: N/A ft^2

DATE SUBMITTED _____

BRIDGE DESIGN INFORMATION

Job Number CA0608 FAP Number 9991 County Pulaski

Job Name I-630 Widening from Baptist Hospital to University Avenue

Design Engineer Shahriar Azad, PE (Bridgefarmer and Associates, Inc.)

Description of Existing Bridge:

Bridge Number A&B5582 over Rock Creek

Bridge Location: Rte: 630 Section: 21 Log Mile: 5.80

Length: 258'-6½" Br. Rdwy. width: 120'-6¾"—138'-11¾" Deck width (Out-to-Out): 137'-4"—154'0"

Type Construction: Composite W-Beam Unit

Deficiencies _____

HBRRP Eligibility: _____ Qualifying Code: _____ Sufficiency Rating: _____

Proposed Improvements:

Length: 258'-6½" Br. Rdwy. Width: 148'-11⅝"—150'-8 1/16" Deck Width (Out-to-out): 154'-9⅝"—156'-7 7/16"

Travel Lanes: 8 Lanes @ 12' Each & 1 Ramp Lane @ 12'—15' Shoulder Width: 6'—10'

Sidewalks: None Location: N/A Width: N/A

Construction Information

Location in relation to existing bridge: Same Location

Superstructure Type: Continuous Composite W-Beam Unitpans

Span Lengths: 64'-64'-64'-64'

Substructure Type: Concrete columns on spread footings

Ordinary High Water Elev. 306 ft. No. of Bents inside OHW Contours: 2

Concrete Volume below OHW: 16 yd^3 Vol. Bent Excavation: 33 yd^3 Is backfill req'd? Yes

Is Channel excavation req'd? No Surface Area: 0 ft^2 Volume: 0 yd^3

Is fill below OHW req'd? No Surface Area: 0 ft^2 Volume: 0 yd^3

Is riprap req'd? Yes

Work Road Information:

Is work road(s) required? Yes Location: See Attached Top width: 20-30 ft

Is fill below OHW req'd? Yes Surface Area: 1854 ft^2 Volume: 126 yd^3

Are pipes required to meet backwater criteria?

Detour Information:

Is a detour bridge required? No Location in relation to existing bridge: N/A

Length: N/A ft Br. Rdwy. Width: N/A ft Deck Elevation: N/A

Volume of fill below OHW: 0 yd^3 Surface area: N/A ft^2

DATE SUBMITTED _____

BRIDGE DESIGN INFORMATION

Job Number CA0608 FAP Number 9991 County Pulaski

Job Name I-630 Widening from Baptist Hospital to University Avenue

Design Engineer Shahriar Azad, PE (Bridgefarmer and Associates, Inc.)

Description of Existing Bridge:

Bridge Number A&B5583 over Rodney Parham

Bridge Location: Rte: 630 Section: 21 Log Mile: 5.53

Length: 444'-3/8" Br. Rdwy. width: 111'-4" Deck width (Out-to-Out) 114'-0"

Type Construction: Continuous Composite Welded Box Girder

Deficiencies _____

HBRRP Eligibility: _____ Qualifying Code: SD Sufficiency Rating: _____

Proposed Improvements:

Length: 430'-$3^{3}/_{16}$" Br. Rdwy. Width: 68'-0" (x2) Deck Width (Out-to-out) 142'-8"

Travel Lanes: 8 Lanes @ 12'-0" Min. Each Shoulder Width: 10'-0"

Sidewalks: None Location: N/A Width: N/A

Construction Information

Location in relation to existing bridge: Same Place

Superstructure Type: Continuous Composite Plate Girder

Span Lengths: 119'-97'-100'-112'

Substructure Type: Concrete columns on drilled shaft foundations

Ordinary High Water Elev. 311 No. of Bents inside OHW Contours: 0

Concrete Volume below OHW: 0 yd^3 Vol. Bent Excavation: 0 yd^3 Is backfill req'd? No

Is Channel excavation req'd? No Surface Area: N/A ft^2 Volume: N/A yd^3

Is fill below OHW req'd? No Surface Area: N/A ft^2 Volume: N/A yd^3

Is riprap req'd? No

Work Road Information:

Is work road(s) required? No Location: N/A Top width: N/A ft

Is fill below OHW req'd? No Surface Area: N/A ft^2 Volume: N/A yd^3

Are pipes required to meet backwater criteria? No

Detour Information:

Is a detour bridge required? No Location in relation to existing bridge: N/A

Length: N/A ft Br. Rdwy. Width: N/A ft Deck Elevation: N/A

Volume of fill below OHW: N/A yd^3 Surface area: N\A ft^2

DATE SUBMITTED _____

BRIDGE DESIGN INFORMATION

Job Number CA0608 FAP Number 9991 County Pulaski

Job Name I-630 Widening from Baptist Hospital to University Avenue

Design Engineer Shahriar Azad, PE (Bridgefarmer and Associates, Inc.)

Description of Existing Bridge:

Bridge Number 05584 over I-630

Bridge Location: Rte: Hughes Street Section: ___ Log Mile: ___

Length: 174'-1 5/8" Br. Rdwy. width: 36'-0" Deck width (Out-to-Out) 47'-0"

Type Construction: Composite I-Beam

Deficiencies _____

HBRRP Eligibility: _____ Qualifying Code: ND Sufficiency Rating: 95.8

Proposed Improvements:

Length: 185'-1 7/8" Br. Rdwy. Width: 36'-0" Deck Width (Out-to-out) 52'-2"

Travel Lanes: 2 Lanes @ 18'-0" Each Shoulder Width: N/A

Sidewalks: 2 Location: Both Sides Width: 6'-6" (x2)

Construction Information

Location in relation to existing bridge: Same location

Superstructure Type: Continuous Composite W-Beam

Span Lengths: 92'-91'

Substructure Type: Concrete columns on spread footings

Ordinary High Water Elev. N/A No. of Bents inside OHW Contours: N/A

Concrete Volume below OHW: N/A Vol. Bent Excavation: N/A Is backfill req'd? N/A

Is Channel excavation req'd? N/A Surface Area: N/A Volume: N/A

Is fill below OHW req'd? N/A Surface Area: N/A Volume: N/A

Is riprap req'd? No

Work Road Information:

Is work road(s) required? No Location: N/A Top width: N/A ft

Is fill below OHW req'd? No Surface Area: 0 ft^2 Volume: 0 yd^3

Are pipes required to meet backwater criteria? No

Detour Information:

Is a detour bridge required? No Location in relation to existing bridge: N/A

Length: N/A ft Br. Rdwy. Width: N/A ft Deck Elevation: N/A

Volume of fill below OHW: N\A yd^3 Surface area: N\A ft^2

CA0608 I-630
Baptist Hospital-University Ave. (Widening)

Attachment E

Public Involvement Synopsis

Public Meeting
Synopsis

Job CA0608

Baptist Hospital-University Ave. (Widening) (S)

Pulaski County

February 3, 2015

An open-forum public involvement meeting for the proposed Baptist Hospital-University Ave. (Widening) was held at Christ Lutheran Church Little Rock (Fellowship Hall) in Little Rock, Arkansas from 4:00 – 7:00 p.m. on February 3, 2015. A public officials meeting was held at 2:00 p.m. on the same day. Efforts to involve minorities and local property owners in the meeting(s) included:

- Display ad placed in the Arkansas Democrat Gazette January 18 and February 1, 2015.
- Radio Public Service Announcement (PSA) was run twice a day from January 31 through February 3, 2015 on Heartbeat 106.7 and La Pantera 1440.
- Letters to public officials were mailed and emailed on January 20, 2015, and fliers were mailed on January 27, 2015.
- Letters to ministers were mailed on January 21, 2015 and emailed on January 22, 2015.
- Fliers to adjacent property owners were mailed January 21, 2015.
- Fliers to stakeholders and people interested in the project were mailed and emailed January 21, 2015.
- Meeting notice fliers were delivered door-to-door along project route January 27 and January 28, 2015.
- Every Door Direct Mail from the U.S. Postal Service was used to mail fliers to residents near the project location in zip code 72205 and 72204 the week of January 26, 2015.
- A news release was distributed to the media on January 28, 2015.
- A meeting announcement was listed on ConnectingArkansasProgram.com on January 16, 2015 and ArkansasHighways.com on January 22, 2015.

CONNECTING ARKANSAS PROGRAM CAP

Public Meeting
Synopsis

The following information was available for inspection and comment. Small-scale copies of the displays are attached to this synopsis.

- Two aerial photograph roll plots at a scale of 1" = 100', illustrating the entire length of the proposed project
- Two 24" x 52" aerial photographs on mounted boards at a scale of 1" = 400', illustrating the entire length of the proposed project
- Three CAP informational boards

Handouts for the public included a comment sheet and a small-scale map illustrating the project location, which was identical to the aerial photograph display. Copies of these are attached to this synopsis.

Table 1 describes the results of public officials participation at the 2 p.m. meeting.

Table 1

Public Participation	**Total**
Attendance at meeting (including AHTD and CAP staff)	**23**
Comments received	**0**

No written comments were received during the public officials meeting.

Table 2 describes the results of public participation at the 4-7 p.m. meeting.

Table 2	
Public Participation	**Total**
Attendance at meeting (including AHTD and CAP staff)	**150**
Comments received	**50**

Bridgefarmer & Associates reviewed all comments received and evaluated their contents. The summary of comments listed below reflects the personal perception or opinion of the person or organization making the statement. The sequencing of the comments is random and is not intended to reflect importance or numerical values. Some of the comments are combined and/or paraphrased to simplify the synopsis process.

An analysis of the responses received from the public survey is shown in Table 3.

Table 3	
Survey Results	**Totals**
Supports improvements to Interstate 630	**23**
Does not support improvements to Interstate 630	**21**
Knowledge of historical, archeological or cemetery sites	**6**
Knowledge of area environmental constraints	**20**
Home or property offers limitations to the project that need to be considered during the design	**4**
Suggestions to better serve the needs of the community	**33**
Believes the project would have beneficial impacts	**5**
Believes the project would have adverse impacts	**33**

CONNECTING ARKANSAS PROGRAM CAP

Public Meeting
Synopsis

Total Comments Received	**50**

The following is a listing of comments concerning issues associated with this project. Responses to comments are *provided in blue italics*.

- Twenty-eight comments were made regarding existing noise and/or increased noise resulting from the project. Eighteen comments expressed the desire for noise abatement to be included in the project.

  A separate noise study is being conducted as a part of the environmental process and noise barriers will be included in the project if they are found to be feasible and reasonable.
- Nineteen comments were made about Kanis Park and the basketball courts below the I-630 bridge stating their importance to the community. Fifteen of these comments listed Kanis Park and/or the basketball courts as an environmental constraint. Five comments were made calling for the courts to be improved, replaced or reconstructed nearby.

  The basketball courts will be removed from their current location inside the roadway right-of-way based on an existing agreement between AHTD and the City of Little Rock. The City is exploring options for relocating the facilities.
- Eight comments were made concerned that the project would lower property values.
- Seven comments were made about concerns during the construction phase; including noise, dust, damage from heavy vehicles along residential streets, and the proximity of potential staging areas to homes.

  Efforts will be made to minimize the impact of construction on the neighboring communities. Dust control and other erosion control measures will be utilized. Heavy vehicles and equipment will not regularly use residential streets.
- Six comments expressed the desire for the bikeway to be maintained along with the fence separating the bikeway from the highway.

  The Kanis Park trail be temporarily closed during construction, but will be reopened when the project is complete.
- Four comments stated the current traffic did not warrant the project.

  The purpose of the project is to improve the overall safety of the facility and to address the expected future growth in traffic along the corridor.
- Four comments were made concerned that the project would increase congestion on other roads in the community.

  Adjacent roadways may experience additional traffic during construction, but no long-term impacts to these roadways are anticipated.

- Four comments were made noting the Haven of Rest Cemetery along W. 12th Street.

  Potential impacts to the cemetery have been considered in all of the environmental technical studies performed for the project.
- Three comments made concerning drainage along Ouachita Drive and the inlet at the corner of the off ramp and Mississippi Street.

  The proposed improvements will not adversely impact storm drainage anywhere along the project corridor.
- Three comments were made about a Bald Eagle nest located along Marguerite Lane, two homes over from Blue Bird Lane.

  Project impacts to threatened and endangered species are being coordinated with the US Fish and Wildlife Service. No impacts are anticipated.
- Four comments were made expressing concerns about access along Mississippi Street near Ouachita Drive; two comments about blocking of the intersection of Mississippi Street and Ouachita and driveways along Mississippi, two comments about the movement from I-630 exit ramp to Eastbound Ouachita Drive.

  Access to Ouachita drive will not be modified through this project.
- Three comments were made supporting future meetings and on-going updates regarding the project.
- Three comments were made supporting the widening of I-630 beyond University Ave.
- Two comments were made about mass transit; specifically that the money used for this project would be better spent or more effectively used in support of mass transit.
- Two comments were made concerning drainage issues along the creek between John Barrow Road and Deerbrook Road and increased runoff resulting from this project.

  The proposed improvements will not adversely impact storm drainage anywhere along the project corridor.
- Two comments were made that removing the Blue Bird Drive on-ramp would reduce access to the highway and result in lower property values.
- Two comments were made supporting improved lighting along I-630; one comment specifically requested LED be used.

  The existing roadway lighting system will be replaced by an LED system.
- Two comments were made about the murals painted on the existing Rodney Parham Bridge substructure; one noting the location, the other hoping they would be preserved.

  The existing bridge will be replaced by a new bridge. The murals cannot be preserved due to demolition of the existing bridge.
- One comment was made that collector-distributer lanes would improve operations between John Barrow Road and Baptist Hospital.
- One comment made noted that an old ordinance field is located south of the

interstate at John Barrow Road.

- One comment was made that the project would be beneficial to the community by improving emergency vehicle access.
- One comment was made that widening I-630 beyond the limits of this project would be destructive to existing residential areas and businesses.
- One comment was made expressing a desire for speed bumps to be installed along Mississippi Street.

  Improvements to Mississippi Street are outside the scope of this project.
- One comment was made about the condition of Mississippi Street and the presence of pot holes.

  Improvements to Mississippi Street are outside the scope of this project.
- One comment was made that all pavement along I-630 should be replaced.

Attendees were also given the opportunity to provide their names and contact information to be notified of the results for the I-630 Noise Analysis Study. Fifty-four people provided their contact information.

Attachments:

- Small-scale copy of the display board
- Blank comment form
- Blank I-630 Noise Analysis Study sign-in sheet
- 11x17 map handout

CA0608 I-630
Baptist Hospital-University Ave. (Widening)

Attachment F

4(f) *de minimis* Evaluation

EVALUATION AND DOCUMENTATION OF A *DE MINIMIS* FINDING TO SECTION 4(F) PROPERTY FOR PUBLIC PARKS, RECREATION LANDS, AND WILDLIFE AND WATERFOWL REFUGES

AHTD Job Number CA0608

Baptist Hospital-University Ave. (Widening)

Pulaski County

Kanis Park

City of Little Rock

February 29, 2016

Federal Highway Administration

Arkansas State Highway and Transportation Department

What is Section 4(f)?

Section 4(f) is part of a law that was passed to protect public parks, recreation areas, wildlife/waterfowl refuges, and important historic sites from being harmfully affected by transportation projects.

Does Section 4(f) Apply to Kanis Park?

Kanis Park, in the City of Little Rock, is an important park for the metropolitan area. Because it is a significant park and owned by a public entity, it qualifies for Section 4(f) protection.

After an evaluation such as this is completed, some Section 4(f) impacts can be recognized as "*de minimis*," which means relatively minor. Information will be presented to prove that there are only minor impacts to Kanis Park. A *de minimis* finding is allowed on projects that meet the conditions shown in Table 1.

Table 1

When Can We Use A *De Minimis* Finding on Section 4(f) Properties?	Does It Apply To This Project?
Did we specially design the project to protect Kanis Park as much as possible? Did we use mitigation and enhancement where it was suitable?	Yes
Did the official(s) with authority over Kanis Park have a chance to consider this information and agree that the project will not greatly harm the things that make Kanis Park important?	Yes
Did the public have an opportunity to review and comment on the effects of the project on Kanis Park and the things that make it important to them?	Yes

What is the proposed road project?

The Arkansas State Highway and Transportation Department (AHTD) and Federal Highway Administration are proposing a project to widen Interstate 630 from six to eight lanes from Baptist Hospital to University Avenue in Pulaski County within the City of Little Rock as seen in Figure 1.

Why is Kanis Park Important?

Kanis Park is located in and owned and operated by the City of Little Rock. The park property includes approximately 46 acres. The main purpose of the park is recreation including the following facilities:

- Basketball courts
- Baseball/softball field
- Playgrounds
- Tennis courts
- Picnic tables
- Bicycle and pedestrian paths

Can We Avoid the Park?

The need for the proposed temporary construction easement could be avoided if only roadway improvements were considered. In order to improve bicycle and pedestrian facilities for safety and usability, the geometrics of the facilities need to be corrected. A temporary construction easement will be acquired from Kanis Park to transition the existing paths to the new bicycle and pedestrian facilities.

What Will the Project Do To the Park?

The proposed temporary construction easement within Kanis Park is approximately 0.2 acre, as seen in Figure 2. No permanent right of way will be required from Kanis Park. Impacts as a result of the interstate construction will be temporary loss of use for portions of the bike and pedestrian path to reconstruct the paths and ensure user safety. Recreational uses after construction of the interstate will be unchanged from the present conditions.

What Did We Do to Reduce Harm to the Park?

The following measures were included in the proposed project to reduce harm to Kanis Park:

1) Permanent impacts to Kanis Park were avoided. Land acquisition and interruptions to bicycle and pedestrian facilities will be temporary during construction.

2) The improvements requiring the property from Kanis Park will result in overall improvements to the recreational values of Kanis Park by improving the geometrics of the bicycle and pedestrian facilities. These improvements will increase bicycle and pedestrian safety and usability of the facilities.

How Did We Involve the Public In This Evaluation?

An open-forum public involvement meeting and public officials meeting for the proposed widening project were held at Christ Lutheran Church Little Rock (Fellowship Hall) in Little Rock on February 3, 2015. Efforts to involve minorities and local property owners in the meeting(s) included:

- Display ad placed in the Arkansas Democrat Gazette January 18 and February 1, 2015.
- Radio Public Service Announcement (PSA) was run twice a day from January 31 through February 3, 2015 on Heartbeat 106.7 and La Pantera 1440.
- Letters to public officials were mailed and emailed on January 20, 2015, and fliers were mailed on January 27, 2015.
- Letters to ministers were mailed on January 21, 2015 and emailed on January 22, 2015.
- Fliers to adjacent property owners were mailed January 21, 2015.
- Fliers to stakeholders and people interested in the project were mailed and emailed January 21, 2015.
- Meeting notice fliers were delivered door-to-door along project route January 27 and January 28, 2015.
- Every Door Direct Mail from the U.S. Postal Service was used to mail fliers to residents near the project location in zip code 72205 and 72204 the week of January 26, 2015.
- A news release was distributed to the media on January 28, 2015.
- A meeting announcement was listed on ConnectingArkansasProgram.com on January 16, 2015 and ArkansasHighways.com on January 22, 2015.
- The Draft 4(f) Evaluation was provided on the CAP website for public review and comment.

The public meetings had a total of 173 attendees. A total of 51 comment forms were received, with the following comments regarding Kanis Park:

- Nineteen comments were made about Kanis Park and the basketball courts below the I-630 bridge stating their importance to the community.

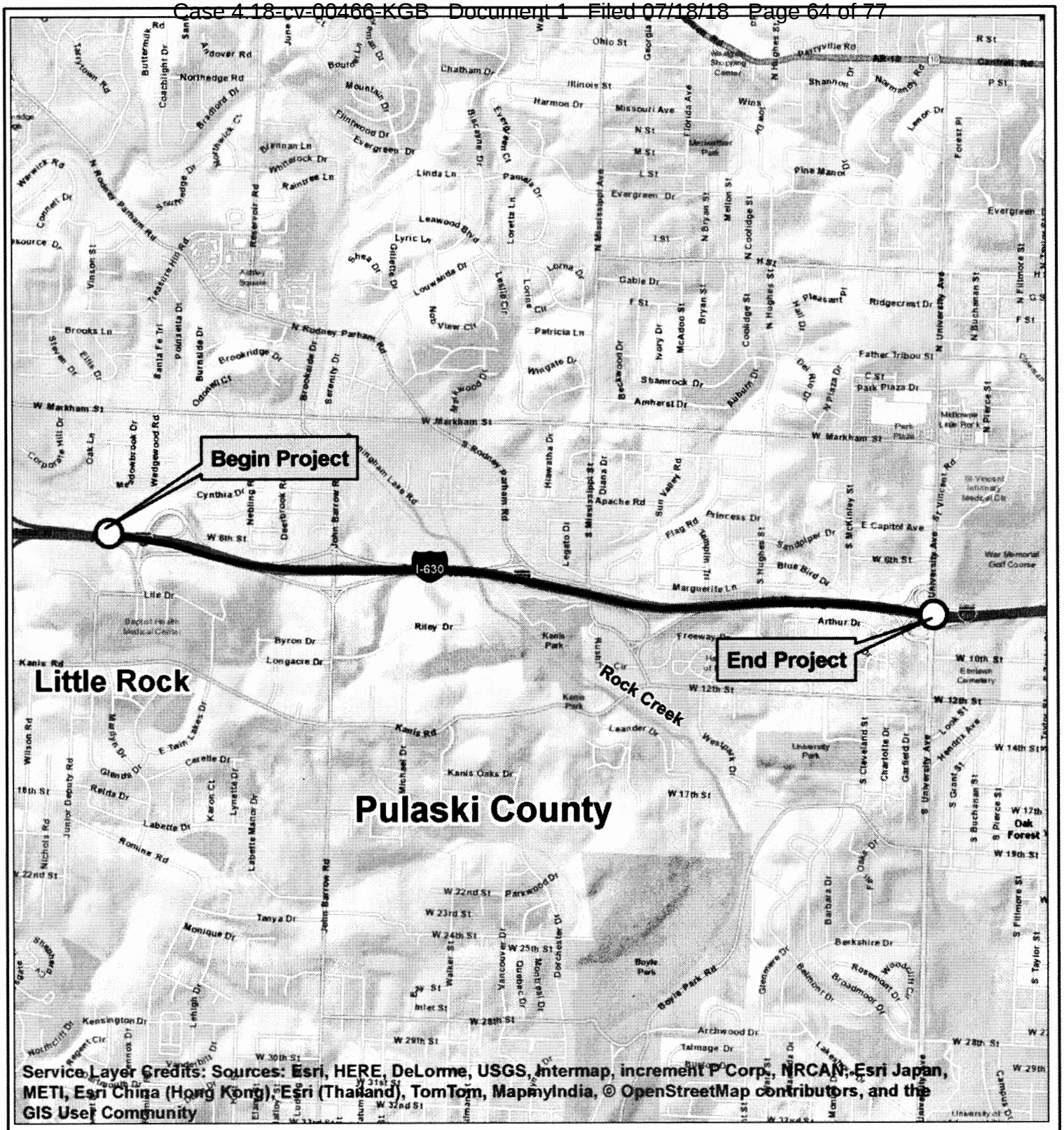
- Fifteen of these comments listed Kanis Park and/or the basketball courts as an environmental constraint.
- Five of these comments called for the courts to be improved, replaced or reconstructed nearby.

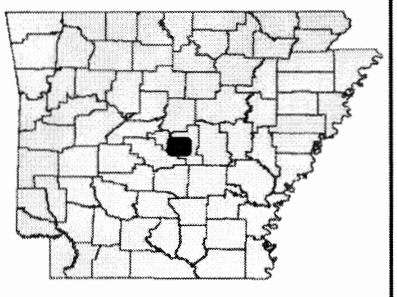
- Six comments expressed the desire for the bikeway to be maintained along with a fence separating the bikeway from the interstate.

The City of Little Rock has agreed that this project will not have a harmful effect on Kanis Park. A copy of this agreement is included in Appendix A.

What is the Decision?

This evaluation has determined that the proposed roadway improvement will not harm the protected features, qualities, or activities that make the park important for recreation under Section 4(f), thus qualifying for a *de minimis* finding on Kanis Park.



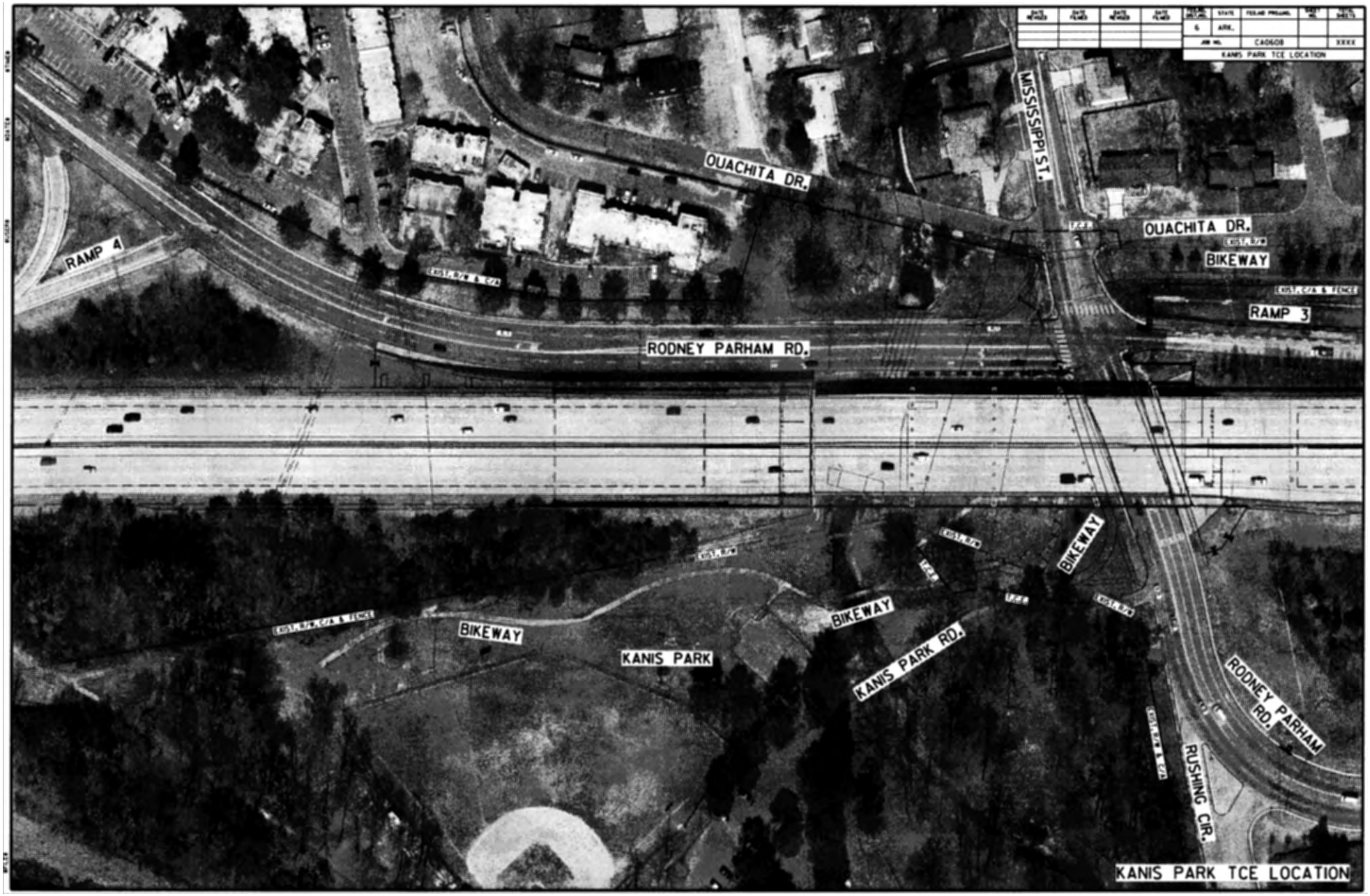


AHTD Job CA0608
Project Location

0 1,000 2,000 4,000 Feet

Legend

Project Corridor


OUACHITA DR.
MISSISSIPPI ST.
OUACHITA DR.
BIKEWAY
RAMP 4
RAMP 3
RODNEY PARHAM RD.
BIKEWAY
BIKEWAY
BIKEWAY
KANIS PARK
KANIS PARK RD.
RODNEY PARHAM RD.
RUSHING CIR.
KANIS PARK TCE LOCATION

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Scott E. Bennett
Director
Telephone (501) 569-2000
Voice/TTY 711

P.O. Box 2261
Little Rock, Arkansas 72203-2261
Telefax (501) 569-2400
www.arkansashighways.com

March 1, 2016

Mark Webre
Deputy Director of Operations
City of Little Rock Parks and Recreation
500 West Markham Street, Room 108
Little Rock, AR 72201

Re: AHTD Job Number CA0608
Baptist Hospital- University Ave.
(Widening)
Pulaski County
Section 4(f) *De Minimis* Evaluation –
Kanis Park

Dear Mr. Webre:

The Arkansas State Highway and Transportation Department (AHTD) is proposing a project to widen Interstate 630 from six to eight lanes from Baptist Hospital to University Avenue in Pulaski County within the City of Little Rock.

In order to make geometric improvements to an existing bike and pedestrian path within Kanis Park, part of the City of Little Rock park system, the AHTD will need to acquire a temporary construction easement within the park boundary. Kanis Park qualifies for Section 4(f) protection as a significant public park. The primary uses of the park are recreational activities on such facilities as bicycle and pedestrian trails, ball fields, basketball and tennis courts, picnic tables, and playgrounds.

The determination has been made by the Federal Highway Administration that the proposed project will not adversely affect the protected features, attributes or activities qualifying the property for protection under Section 4(f), thus qualifying for a *de minimis* finding on the impacts to Kanis Park. The AHTD's proposal includes all possible planning to avoid the park property and minimize harm to the recreational uses of Kanis Park. A draft of the Section 4(f) *De Minimis* Evaluation for Kanis Park is enclosed.

The proposed temporary construction easement within Kanis Park is approximately 0.2 acre. No permanent right of way will be required from Kanis Park. Impacts as a result of the highway construction will be temporary loss of use for portions of the bike and pedestrian path to reconstruct the paths and ensure user safety. Recreational uses after construction of the highway will be unchanged from the present conditions.

The path reconstruction will also improve user safety by improving the geometrics of the facility. The bicycle bridge just east of Rock Creek will also be reconstructed with better geometry for bicyclists.

A requirement for a Section 4(f) *de minimis* finding is an opportunity for the public to comment on the Section 4(f) Evaluation. The draft Section 4(f) *De Minimis* evaluation will be posted on the Connecting Arkansas Program (CAP) website and made available for review and comment by the public. Any comments received will be addressed in the final Section 4(f) *De Minimis* Evaluation.

If you have any questions, comments, or wish to discuss the impacts to the park further, please contact Bill McAbee of Garver at (501) 537-3259.

If you agree with the assessment of the impacts of this project and the proposed minimization and mitigation for the impacts on Kanis Park, please sign the statement below and return it to us. Thank you for your cooperation.

Sincerely,

John Fleming

John Fleming
Environmental Division Head

cc: FHWA
AHTD CAP Manager
Garver CAP Environmental Manager
Azad Shahriar

Enclosure

I concur with the assessment and the proposed minimization and mitigation of impacts to Kanis Park as detailed in the enclosed Evaluation and Documentation of *De Minimis* Findings to Section 4(f) Property for Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges.

Mark Wild
Signature

Deputy Director Operations
Title

March 10, 2016
Date

ARKANSAS DEPARTMENT OF TRANSPORTATION
ArDOT.gov | IDriveArkansas.com | Twitter: @myArDOT
10324 Interstate 30 | P.O. Box 2261 | Little Rock, AR 72203-2261 | Phone: 501.569.2227

INFORMATION RELEASE

Contact:
Danny Straessle/Krista Sides

NR 18-213
July 13, 2018

Construction Begins on Interstate 630 in Little Rock

PULASKI COUNTY (7-13) – Construction and overnight lane closures are set to begin to widen 2.2 miles of Interstate 630 to four lanes in each direction in Little Rock, according to Arkansas Department of Transportation (ARDOT) officials.

Weather permitting, construction contractor Manhattan Road & Bridge will begin work **Monday, July 16** to widen I-630 between the Big Rock Interchange and University Avenue. Eastbound and westbound center and outside lanes within the work zone will be closed between **8:00 p.m. and 6:00 a.m. Monday through Friday** to allow the contractor to set temporary barrier walls, place pavement markings, erect safety platforms at the Hughes Street overpass and remove pavement corrugations along the shoulders. One lane of traffic in each direction will remain open, and interstate ramps will remain accessible except the westbound on-ramp from the old Sears parking lot. During the daytime travel peak hours, all six lanes on I-630 will be open to traffic. Neighborhoods adjacent to the interstate will experience noise impacts during nighttime hours.

Beginning **Friday night, July 20**, the Hughes Street overpass will be temporarily closed for approximately three months as crews perform bridge demolition and reconstruct the overpass. Detours will direct Hughes Street traffic to Mississippi Avenue to bypass the closure. A detour map is attached.

Within the construction zone, the posted speed limit will be 50 mph. Nightly lane closures will occur throughout the life of the construction project from Sunday night through Saturday morning, 8:00 p.m. to 6:00 a.m. and Saturday night from 8:00 p.m. to midnight. Also, traffic cameras have been installed along the project and can be viewed at IDriveArkansas.com. A project website on ConnectingArkansasProgram.com will include lane closure information, project schedules, upcoming work, and additional project information.

This project (Job CA0608) is part of ARDOT's Connecting Arkansas Program, which is funded through a 10-year, half-cent sales tax. The widening is estimated to be complete in early 2020. More information on this $87.4 million project is available at ConnectingArkansasProgram.com.

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EXHIBIT
tabbies
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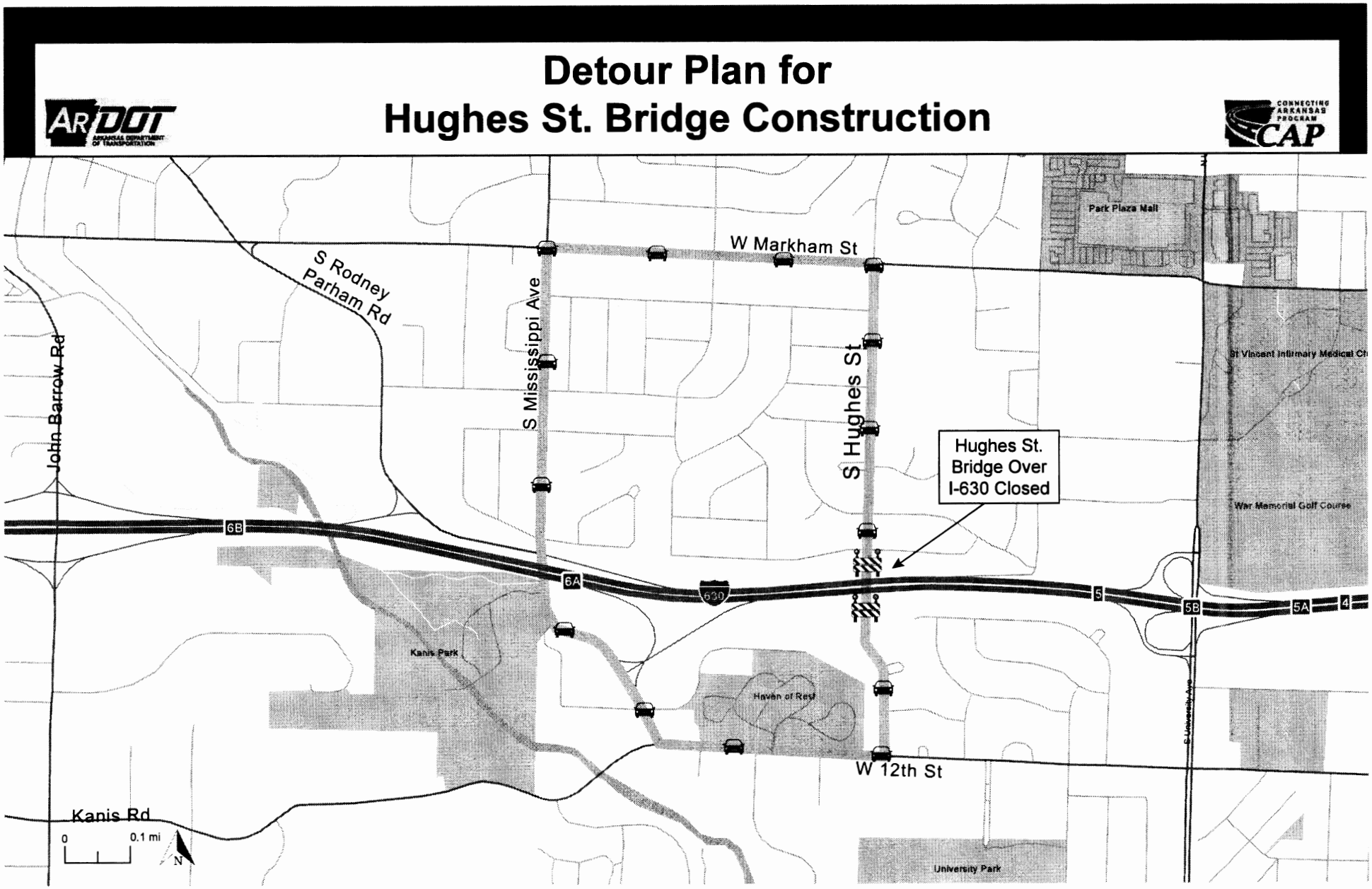
Detour Plan for
Hughes St. Bridge Construction
ARDOT
ARKANSAS DEPARTMENT OF TRANSPORTATION
CONNECTING ARKANSAS PROGRAM
CAP
Park Plaza Mall
W Markham St
S Rodney Parham Rd
S Mississippi Ave
S Hughes St
John Barrow Rd
St Vincent Infirmary Medical Ctr
Hughes St. Bridge Over I-630 Closed
War Memorial Golf Course
6B
6A
630
5
5B
5A
4
Kanis Park
Haven of Rest
W 12th St
S University Ave
Kanis Rd
0
0.1 mi
N
University Park

MEMORANDUM OF AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT FOR PROCESSING AND DOCUMENTATION OF CATEGORICAL EXCLUSIONS

WHEREAS, Section 771.107(b) of 23 Code of Federal Regulations (CFR) describes an action;

WHEREAS, Section 771.115 of 23 CFR describes classes of actions;

WHEREAS, Section 771.115(b) describes categorical exclusions as actions that do not individually or cumulatively have a significant environmental effect and are excluded from the requirements of having to prepare an environmental impact statement or environmental assessment;

WHEREAS; Section 771.117(c) lists actions that meet the criteria for categorical exclusions outlined in Section 771.117(a) and that normally do not require any further National Environmental Policy Act (NEPA) approvals by the Federal Highway Administration (FHWA);

WHEREAS; Section 771.117(d) lists other actions that may meet the criteria for a categorical exclusion after Federal Highway approval; and

WHEREAS; Arkansas State Highway and Transportation Department (AHTD) and FHWA desire to concur in advance with the classification of those types of categorical exclusions in Section 771.117(d) which have no adverse environmental impacts;

THEREFORE, AHTD and FHWA mutually agree that an action that meets the following conditions is a categorical exclusion. If one or more of the conditions is not satisfied, a separate environmental document will be prepared for submittal to FHWA for review and approval.

1) The action does not have significant environmental impacts as described in 23 CFR 771.117(a);

2) The action does not involve unusual circumstances as described in 23 CFR 771.117(b);

3) The action meets the following criteria:

a) Does not involve the acquisition of more than minor amounts of temporary or permanent right-of-way (less than or equal to 10 acres). Acquisition of right-of-way in excess of 10 acres will be considered on a case-by-case basis. Such acquisitions will not require substantial commercial or residential displacements.

b) Does not involve the use of properties protected by Section 6(f), Land and Water Conservation Fund Act (16 United States Code 460L-4 to L-11). Case-by-case evaluation will be made of projects where Section 6(f) impacts are the **only** environmental concern. These type projects may be supported with Tier 3 Categorical Exclusions accompanied by a Section 4(f) Evaluation.

c) Does not involve work in farmlands where the Farmland Conversion Impact Rating form (Form AD-1600) indicates a total score of 160 or higher.

d) Does not involve projects that are entirely on new location where new location is defined as a substantial portion of the project corridor requiring right of way not immediately adjacent to the existing highway facility.

e) Does not involve the use of properties protected by Section 4(f) of the Department of Transportation act (49 United States Code 303). Case-by-case evaluation will be made of projects where Section 4(f) impacts are the **only** environmental concern. These type projects may be supported with Tier 3 Categorical Exclusions, accompanied by a Section 4(f) Evaluation.

f) Does not involve a determination of adverse effect by the State Historic Preservation Officer (SHPO), when the adverse effect cannot be satisfactorily mitigated per SHPO approval.

g) Does not involve any work encroaching on a regulatory floodway (other than by bridge over the floodway) or any work adversely affecting the base floodplain (100 year flood) elevations of a watercourse or lake.

h) Does not involve improvements requiring additional right of way within the boundaries of the Buffalo National River.

i) Does not involve new location highway facilities crossing or adversely affecting any river designated as a component in the National System of Wild and Scenic Rivers published by the U. S. Department of the Interior/U. S. Department of Agriculture.

j) Does not involve any new or additional break in access for a fully-controlled highway facility.

k) Does not involve any known regulated or potentially regulated hazardous waste sites or previous land uses with potential for hazardous wastes remaining within the project right-of-way that require more than minor remediation.

l) Does not involve any work that may adversely affect federally listed endangered or threatened species or critical habitat.

m) Does not involve any work in a non-attainment area that may increase the traffic carrying capacity of a facility and cause additional air quality concerns.

WHEREAS, the environmental analysis and review for all projects determined to be a Tier One or Tier Two Categorical Exclusion by AHTD under this Memorandum of Agreement will be documented by AHTD and provided to FHWA in digital format upon completion.

WHEREAS, the environmental analysis and review for all projects determined to be a Tier Three Categorical Exclusion by FHWA under this Memorandum of Agreement will be documented by AHTD and submitted to FHWA for review and approval.

NOW, THEREFORE, the signatories agree that the environmental documentation process shall proceed in accordance with the following stipulations.

AHTD/FHWA CATEGORICAL EXCLUSION DOCUMENTATION AND PROCESSING STIPULATIONS

In accordance with the National Environmental Policy Act (NEPA) and 23 CFR 771, AHTD and FHWA have divided categorical exclusions into three tiers for documentation purposes.

TIER 1: This level of categorical exclusion requires no documentation other than memo approval by the Division Head of the AHTD Environmental Division and includes the following project types:

a) Highway safety or traffic operations improvement projects including the installation of ramp metering control devices, lighting, and Safe Routes to School facilities.

b) Transportation corridor fringe parking facilities.

c) Approval for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant impacts.

d) Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.

e) Construction of bus shelter facilities (an open area consisting of passenger shelters, boarding areas, kiosks, and related street improvements) when located in a commercial or other high activity center in which there is adequate street capacity for project bus traffic.

f) Construction of 3R type projects that require only minor amounts of additional right-of-way.

g) Transportation enhancements as defined in Section 133 of 23 United States Code (USC), National Recreational Trail Program projects as defined in Section 106, Title 23 USC, and National Scenic Byways Program projects, as defined in Section 162, Title 23 USC.

h) Intelligent Transportation System projects that do not require additional right of way.

i) Funding external environmental mitigation site construction or purchase of environmental mitigation credits from a Corps of Engineers or other regulatory agency approved site.

j) Acquisition of transportation-related equipment that does not require additional right of way.

TIER 2: This level of categorical exclusion requires documentation prepared by Environmental Division and approved by the Assistant Chief Engineer - Planning and includes the following:

a) Modernization of a highway by reconstruction, adding shoulders, or adding auxiliary lanes (e.g. parking, weaving, turning, climbing).

b) Bridge rehabilitation, reconstruction or replacement, or the construction of grade separations to replace existing at-grade railroad crossings.

c) Bridge maintenance, rehabilitation, reconstruction or replacement that requires removal, containment, and disposal of lead or zinc paint waste.

d) Construction of new truck weigh stations or rest areas.

e) Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is consistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support traffic.

f) Construction of new rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is consistent with existing zoning and where there is no significant noise impact on the surrounding community.

g) Acquisition of land for hardship or protective purposes; advance land acquisition loans under Section 3(b) of the UMT Act. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify as a categorical exclusion only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the transportation decision-making process. No project development on such land may proceed until the transportation decision-making process is complete.

TIER 3: This level of categorical exclusion requires documentation prepared by Environmental Division of AHTD and submitted to FHWA for review and approval and includes any project that would otherwise be a Tier 1 or Tier 2 project, but does not satisfy one or more of the conditions listed in the body of this MOA. Additional actions that would qualify as Tier 3 Categorical Exclusions include (but are not limited to):

a) Change in control of access for a partially-controlled highway facility or design modifications that result in a change of access control at existing interchanges.

b) Widening on or along the existing alignment with minor environmental impacts, safety improvements on new location.

c) Projects where less than five (5) property owners (businesses and/or residential) are displaced, and there are no other significant environmental impacts.

d) Property acquisition for wetland mitigation.

e) Endangered species involvement where a determination has been made that the action will not adversely affect federally listed endangered or threatened species or critical habitat.

f) Projects involving rivers listed on the Nationwide Rivers Inventory or the Arkansas Natural and Scenic Rivers System.

g) Projects involving property enrolled in the Wetlands Reserve Program administered by the U. S. Department of Agriculture, Natural Resources Conservation Service.

h) Projects requiring a Standard (Individual) Section 404 Permit.

i) Projects with minor environmental impact but requiring approval of design exceptions on the NHS or Interstate System, regardless of funding type.

Environmental Division will submit to FHWA (in digital format) all approved Tier 1 and Tier 2 Categorical Exclusions.

All projects proposed for NEPA documentation by Tier 3 Categorical Exclusions will be evaluated by FHWA on a case-by-case basis to ensure that they fit the criteria of Tier 3 Categorical Exclusions.

Arkansas State Highway and Transportation Department — 11/3/2009 Date

Federal Highway Administration — 11/4/2009 Date