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February 7, 2020

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Via Email

Ms. Eliza Paul, P.E.
Houston District Engineer (Interim)
Texas Department of Transportation
P.O. Box 1386, Houston, Texas 77251

RE: North Houston Highway Improvement Project [NHHIP] – Technical Reports Review for Community Impacts and Draft Cumulative Impacts of December 2019

Dear Ms. Paul, P.E.,

The following are LINK Houston's comments regarding the Texas Department of Transportation's (TxDOT) Draft Community Impacts Assessment (CIA) and Draft Cumulative Impacts Technical Report (CITR) of the North Houston Highway Improvement Project (NHHIP). LINK Houston advocates for a robust and equitable transportation network so that all people can reach opportunity. LINK Houston provides these comments as a member of and in direct support of the Make I-45 Better Coalition and in support of the many directly impacted communities in the project corridor with environmental justice populations.

This letter intentionally focuses on (1) displacement impacts in communities where significant environmental justice populations live and historical impacts of highways are still remembered and (2) procedural abnormalities in the environmental process.

1. TxDOT's over reliance, over confidence or over assertion that complying with relocation regulation and policy is somehow adequate to justify disproportionate impacts on environmental justice communities is not acceptable. The agency's reliance on relocation as the primary form of mitigation is iterated in both the draft Community Impacts Assessment and the draft Cumulative Impacts Technical Report. Relocation is the most harmful and disruptive form of mitigation and must not be construed as the meaningful "*enhancement measures and potentially offsetting benefits*" expected as a result of proactive, best-practice compliance with federal environmental justice regulations.¹ ***LINK Houston recommends that TxDOT put forward an updated Preferred Alternative design for the NHHIP that prioritizes the desires of directly impacted communities, as collected by TxDOT directly in the interim 2+ years since the initial Draft EIS was released and as collected by the City of Houston through the on-going, robust community engagement under the direction of Mayor Turner.***
2. The Draft Environmental Impact Statement (Draft EIS) was deficient when released in 2017 due to lacking all the required analyses to afford the public a full and complete opportunity to review one, unified environmental document. ***LINK Houston recommends that TxDOT issue a Supplemental Draft EIS before pursuing a Final EIS and a formal Record-of-Decision to proceed. There is significant precedent for issuing a Supplemental Draft EIS for a project the size of the NHHIP, especially given the opaque, abnormal process of intermittently releasing technical reports over a 2+ year period.***

¹ CIA, Section 5.9.4, page 5-219.



Displacement Impacts and Environmental Justice

The NHHIP Preferred Alternative will have significant and adverse impacts on environmental justice populations.

Along the length of the Preferred Alternative, the majority of the adjacent residential areas include environmental justice populations (minority and/or low-income) as measured at both the census block level (for race) and census block group level (for income) as well as at the super neighborhood level.²

Displacement of residences (single family and multifamily), businesses (i.e., jobs), schools, and other important community resources (i.e., churches, social services, etc.) by NHHIP will revisit and indeed expand the harm to communities begun when IH-45 North was first constructed in the 1950s-60s. The December 2019 CIA provides update counts of resources displaced:

- 919 multi-family residences will be displaced (including public and low-income housing) – a decrease from 1,067 noted in March 2017.
- 160 single-family residences will be displaced – a decrease from 168 in March 2017.
- 344 businesses will be displaced – an increase from 331 in March 2017.
- 2 schools will be displaced – a decrease from 8 in March 2017.

The displaced people and land uses noted in the updated CIA are due to additional increases in right-of-way required in Segment 1 (Beltway 8 to IH-610 North Loop) and Segment 2 (IH-610 North Loop to Downtown) as compared to the initial draft of the CIA from March 2017:

- Segment 1, displacement for additional right-of-way increased from ~212 acres to ~246 acres.
- Segment 2, displacement for additional right-of-way increased from ~19 acres to ~44 acres.
- Segment 3, displacement for additional right-of-way remains ~160 acres.

TxDOT's explanation for the additional right-of-way centers on storm water detention, which itself is partly necessitated by proposing a significantly wider stretch of impervious highway:

The Preferred Alternative would require new right-of-way, which would displace single- and multi-family homes, schools, places of worship, businesses, billboards, and other structures. ...The estimated number of displacements has changed since the 2017 NHHIP CIA Technical Report and Draft EIS due to changes in the proposed project right-of-way, including the addition of storm water detention basins, and changes in existing land use and occupancy.³

TxDOT is willing to acquire additional right-of-way to improve the project in one dimension, mitigating water runoff, but has not demonstrated a willingness to significantly alter the project to prevent the harm to communities caused by displacement and need for additional right-of-way in the first place. Reducing or eliminating altogether the need for additional right-of-way is the appropriate course of action. Taking less land will protect community integrity and make it much easier for TxDOT to address impacts of the past by improving conditions for the immediately impacted communities, including for the significant environmental justice populations detailed in the CIA.

TxDOT describes the expectation that complying with environmental justice regulations includes “mitigation and enhancement measures and potentially offsetting benefits for affected minority and/or low-income populations”⁴. However, the CIA essentially only describes how TxDOT will take mitigative action to offset impacts – which turns out to mean essentially only relocation assistance and offers of advance acquisition. The text generously describes in some places how relocation may turn to benefit of some – emphasis on may.

For example, the relocation of a medical service provider that caters to low-income patients would be dependent on what access to those services would be after the medical office moves. It is possible that, with the relocation

² CIA, Section 5.9.1.1, page 255

³ CIA, Section 5.1, page 52.

⁴ CIA, Section 5.9.4, page 5-219.



benefits provided by TxDOT, the medical office would relocate locally and the new location would be more convenient for some patients.⁵

These are ephemeral hypotheticals that always seem to hint of possible benefits while ignoring similarly likely negative impacts. The project needs a fundamental reboot that actually provides proactive transportation benefits to the immediately impacted communities, which essentially all have significant environmental justice populations.

After considering the benefits of the proposed project along with mitigation, the Build Alternative may cause disproportionately high and adverse effects to minority or low-income populations but a substantial amount of these effects have been minimized through a variety of commitments and programs that will be implemented by TxDOT.⁶

There is very little variety in the commitments and programs TxDOT proposes to utilize. The mitigation actions TxDOT is referring to are nearly exclusively the result of following the minimum required practices for relocating people and businesses displaced by public infrastructure projects. The following section headings illustrate that point:

- 5.9.3.1 Displacements – Relocations*
- 5.9.3.2 Displacements – Affordable Housing*
- 5.9.3.3 Displacements – Public Housing*
- 5.9.3.4 Displacements – Businesses and Community Facilities*
- 5.9.3.5 Noise and Visual*
- 5.9.3.6 Noise and Air*
- 5.9.3.7 Air Quality Monitoring*

Relocation is the lowest, most harmful and disruptive form of mitigation and can never be construed as the meaningful “*enhancement measures and potentially offsetting benefits*” expected as a result of proactive, best-practice compliance with federal environmental justice regulations.⁷ There is no evidence of potentially offsetting benefits. There is no evidence of hard decisions to reduce the project footprint to prevent repeating the injurious displacements of past decades. In fact, the CIA notes the negative impacts of disrupting community cohesion through displacement – for communities at-large and displacees themselves.

In general, displacement of residences can affect the cohesion of a community, especially if that community has a history and a culture that gives it a unique identity. From the information and analysis in Sections 5.1 and 5.2 it is apparent that most of the environmental justice communities indicated in Table 5-16 have a history and culture that is identifiable in the community today. For example, the Independence Heights community has a history that goes back over 100 years and has indicated through community planning studies the desire for historic and cultural preservation. As indicated in Table 5-16, the potential effects to community cohesion related to residential displacements could be expected to be felt more so in the neighborhoods of Northside/Northline, Independence Heights, Near Northside, Greater Fifth Ward, Downtown, Second Ward, and Greater Third Ward.

From a community-wide perspective, the loss of residents might be recurrent or cumulative with other activities that have affected, or are affecting, a community and thereby creating a cumulative effect that is more adverse than the individual effect associated with the project. Other associated effects occurring in these neighborhoods (to varying degrees) include impacts from flooding and floodplain buyout programs, previous transportation projects, as well as housing affordability associated with gentrification.

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⁵ CIA, Section 5.9.4, page 5-220.

⁶ CIA, Section 5.9.4, page 5-220.

⁷ CIA, Section 5.9.4, page 5-219.



From the displacee's perspective, the disruption associated with moving can affect a resident's access to a social structure to which they have become familiar over time. This social structure can include community activities (church and school) and other regular routines such as grocery shopping, childcare and medical services. Individual circumstances will vary making it difficult to assess the extent of adverse effects related to residential displacements, however; low-income and limited English proficiency populations may be especially vulnerable to such effects.

The proposed project would impact public housing communities and privately-owned housing projects for low-income families and individuals and persons with disabilities.⁸

TxDOT's over reliance, over confidence, or over assertion that complying with relocation regulation is somehow adequate to justify disproportionate impacts on environmental justice communities is not acceptable. The agency's over reliance on relocation as the primary form of mitigation is iterated in the Draft Cumulative Impacts Technical Report also released in December 2019. The following is just one example of the heavy reliance on relocation (instead of preventing the need to relocate in the first place):

For all impacts in the Northside/Northline super neighborhood, TxDOT intends to follow through with implementing mitigation through relocation to ensure that cumulative adverse impacts are not significant in this super neighborhood or significant to Environmental Justice populations.⁹

NEPA Procedural Abnormalities

The Make I-45 Better Coalition has previously expressed the opinion that releasing individual technical appendices for public review after the public comment period passes for the Draft EIS is highly irregular. Comments and discussion to that effect were detailed in the Irvine Connor letter dated July 20, 2018. Every technical report should have been completed and included in the public review process with the NHHIP DEIS. Understanding community impacts and cumulative impacts of a major highway project is fundamental to public oversight through the required public hearing and commenting processes. Had the information been provided as part of the Draft EIS, it would have greatly influenced the ability of the public to understand both general project impacts and impacts at specific locations of concern to communities, individuals, organizations, and business owners.

LINK Houston recommends that TxDOT issue a Supplemental Draft EIS before pursuing a Final EIS and a formal Record-of-Decision to proceed. There is significant precedent for issuing a Supplemental Draft EIS for a project the size of the NHHIP, especially given the opaque, abnormal process of intermittent release of technical reports over a 2+ year period.

A Supplemental Draft EIS for the NHHIP is necessary so that the comprehensive impacts of the project can be fully examined and commented upon by the public. In addition, some of the substantive changes to the project's Preferred Alternative design will necessitate a re-modeling of the project in context of the 8-county region. The Supplement Draft EIS can be issued after TxDOT completes revisions to the Preferred Alternative and any necessary re-modeling of the project impacts and thus can reflect all TxDOT commitments to-date, such as those still to come as part of the City of Houston's continued NHHIP community engagement under the auspice of Mayor Turner. We understand such a course of action will require additional time and resources. The additional time and resources are an investment in creating a much better project for TxDOT, for residents, for businesses, and the Houston region – but most importantly for the immediately impacted communities. The current IH-45 North facility has existed for more than 50 years. The NHHIP represents a once-in-generations opportunity to improve the greater Houston metropolitan area's image and mobility while mitigating past impacts.

⁸ CIA, Section 5.9.1.3, pages 5-207-8.

⁹ CTR, Table 8 Summary of Impacts to Community Facilities and Mitigation Efforts in the RSA, page 51.



Conclusion

This letter related LINK Houston's continuing concerns about NHHIP's displacement in environmental justice communities and the NEPA process applied to the project. LINK Houston's two key recommendations are:

1. TxDOT's over reliance, over confidence or over assertion that complying with relocation regulation and policy is somehow adequate to justify disproportionate impacts on environmental justice communities is not acceptable. ***LINK Houston recommends that TxDOT put forward an updated Preferred Alternative design for the NHHIP that prioritizes the desires of directly impacted communities, as collected by TxDOT directly in the interim 2+ years since the initial Draft EIS was released and as collected by the City of Houston through the on-going, robust community engagement under the direction of Mayor Turner.***
2. The Draft EIS was deficient when released in 2017. ***LINK Houston recommends that TxDOT issue a Supplemental Draft EIS before pursuing a Final EIS and a formal Record-of-Decision to proceed. There is significant precedent for issuing a Supplemental Draft EIS for a project the size of the NHHIP, especially given the opaque, abnormal process of intermittently releasing of technical reports over a 2+ year period.***

LINK Houston provides these comments as a member of the Make I-45 Better Coalition and based on our own organization's mission to advocate for a robust and equitable transportation network so that all people can reach opportunity. We believe every major infrastructure project using taxpayer dollars is an opportunity to improve the quality of life in the surrounding neighborhoods, rather than simply mitigating negative impacts through relocation services. Transportation infrastructure will continue to influence access to opportunity and quality of life, including health and wellness in Harris County. The existing IH-45 North facility has existed for approximately 50 years. The NHHIP is a once-in-generations opportunity to improve the greater Houston metropolitan area's image, but most importantly to correct racist wrongful actions of the past by improving quality of life for people in the immediate neighborhoods of the NHHIP.

Sincerely,



Jonathan P. Brooks
Director of Policy and Planning
LINK Houston

