



March 31, 2021

The Honorable Peter Buttigieg
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590
Via email: pressoffice@dot.gov

Re: FHWA request that Texas Department of Transportation pause contracting on proposed North Houston Highway Improvement Project in Harris County, Texas

Dear Secretary Buttigieg:

We are writing you with an urgent request that you take steps to ensure that the recent request by the Federal Highway Administration (FHWA) to the Texas Department of Transportation (TxDOT) to pause contracting on the North Houston Highway Improvement Project (NHHIP) is complied with and effective in ceasing ongoing right of way acquisition. This is needed in order to avoid irreparable harm to homeowners and tenants in properties located within proposed right of way areas that TxDOT or its contractors continue seeking to acquire for the Project.

TxDOT released a draft environmental impact statement (DEIS) for the Project in 2017. Over the last four years residents and business owners, along with local and federal elected officials, repeatedly engaged TxDOT to raise concerns about the project and to provide proactive ideas for resolution. The requests were made both to TxDOT and the Texas Transportation Commission, the state agency's governing body. Houston Mayor Sylvester Turner sent a letter to Texas Transportation Commissioner Laura Ryan outlining the City's vision for the project on May 5, 2020 (copy attached.) Mayor Turner's vision has community support, as it was the culmination of a thorough year-long community engagement process genuinely involving residents, business owners, and technical experts. The vision meets TxDOT's purpose and need for the NHHIP while also reducing or eliminating environmental justice impacts and other environmental concerns. It is important to highlight that while this alternative vision does reduce some of the adverse impacts of TxDOT's existing design, it does not mitigate the impacts in Segment 3 of the project. Therefore, there are still elements in Vision C that we would like examined as a part of this review.

Congresswoman Sheila Jackson Lee and Congresswoman Sylvia Garcia's letters provided detailed feedback to TxDOT's FEIS (copies attached.) The letters noted significant concerns in



TxDOT's assessment of the project and noted several unresolved issues: environmental quality; affordable housing loss; displacement of low-income renters and homeowners; insufficient integration of multi-modal transportation and high-capacity public transit; and preservation of historic landmarks and areas of cultural significance for communities of color.

TxDOT effectively dismissed the public's call for studying a new proposed alternative for the NHHIP, based on a community supported vision, when the agency released a Final Environmental Impact Statement (FEIS) in September 2020 that reflected a project substantially like the original proposal to the public in the 2017 DEIS.

On January 18, 2021, the undersigned organizations expressed their concern to the Texas Department of Transportation (TxDOT) that issuing a Record of Decision (ROD) for the North Houston Highway Improvement Project (NHHIP), as proposed in the Final Environmental Impact Statement would violate Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7, the U.S. Department of Transportation's (USDOT) implementing regulations, 49 C.F.R. pt. 21 and TxDOT's own Title VI/Nondiscrimination Plan and assurances submitted to the federal government, as well as other state and federal civil rights and environmental justice requirements (copy attached.) Many of us have separately submitted comments regarding other deficiencies in the proposed Project and its DEIS and FEIS.

Despite all these requests that TxDOT not issue a ROD until the civil rights and environmental justice issues identified in the FEIS and otherwise present were properly analyzed, addressed, and resolved, TxDOT issued a ROD, published in the Federal Register on February 8, 2021, just days after your confirmation as Secretary, without addressing and resolving the issues we and others had raised or the interests of those who will be directly impacted. It is also worth noting that TxDOT has not responded to any of the comments received on the FEIS.

Since then, a number of significant developments regarding the Project have taken place. The Civil Rights Office of FHWA has received multiple complaints, including from local members of Congress, that TxDOT's approval of the NHHIP violates Title VI, and on February 22, it designated our January 18 letter as Complaint #2021-0092. Some of us are preparing a formal, detailed Title VI Complaint, together with voluminous supporting documentation, for submittal in the near future. **On March 8, FHWA informed TxDOT that it had received multiple civil rights complaints regarding the Project, and asked Texas to delay issuing requests for proposals and to pause ongoing contracting.** On March 11, Harris County filed suit against TxDOT in the United States District Court for the Southern District of Texas, challenging the FEIS/ROD as violating requirements of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321, *et seq.*, and Section 4(f) of the Department of Transportation Act, 49 U.S.C. § 303 (copy attached.)

On March 25, 2021, our organizations participated in an online conference with the FHWA Title VI team, during which we learned that the Civil Rights Office had already decided to begin investigating more than one already-filed complaint regarding the Project. **The Title VI officials**



informed us that they were not able to inform us of the intent or scope of the FHWA's request that TxDOT pause ongoing contracting.

On that same day, you spoke regarding the Administration's infrastructure plan, stating "Climate change is real. Every dollar we spend rebuilding from a climate-driven disaster is a dollar we could have spent building a more competitive, modern and resilient transportation system that produces significantly lower emissions." Representative Peter DeFazio, the chairman of the House Transportation Committee, said an infrastructure bill will need to focus on the challenges of the 21st century, that the country shouldn't just add new lanes to highways, stressing, "that's not what this is going to be about." (Associated Press) The Governor of Texas, Greg Abbott, has said that Texas will phase out expansive road building because of changes in transportation priorities and that TxDOT's current projects are "probably the last major buildout of roads we'll have in the state of Texas, even considering that Texas is the fastest-growing state in the nation." (Rivard Report)

While we consider a request to stop contracting to include attempts to contract for the sale or buyout of property; TxDOT clearly does not. Our community-based organizations have received word from affected residents that TxDOT has continued to contact them since March 8, as part of efforts to negotiate sales of property in the proposed right of way areas to TxDOT. The properties which TxDOT has been attempting to acquire are disproportionately occupied by African American and Hispanic or Hispanic residents, and acquisition of more of these properties should be halted while the legal status of the proposed project is being investigated for compliance with civil rights requirements and is being litigated over compliance with environmental and transportation laws. This is particularly critical since the failure to comply with LEP requirements is one of the alleged violations of Title VI. Minority, disabled, and low-income residents should not be subjected to displacement from their homes, some of which have been in their families for generations, and removal from their neighborhoods, for a Project that may or may not ever be constructed.

For these reasons, we request that you take whatever steps are necessary to halt TxDOT's continued efforts to negotiate acquisition of right of way, including any eminent domain proceedings, for the NHHIP, pending resolution of the civil rights investigation(s) and Harris County's legal challenge to the Project.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bakeyah Nelson".

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Enclosures

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