

December 7, 2020

The Honorable J. Bruce Bugg, Jr.,  
Chairman  
Texas Transportation Commissioner  
125 E. 11th Street  
Austin, TX 78701

Mr. Brian R. Barth  
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Dear Chairman Bugg and Members of the Texas Transportation Commission:

Americans are dying at alarming rates from COVID-19; and the I-45 North Houston Highway Improvement Project (NHHIP) will bring about catastrophic change to the communities in my Congressional District; therefore, I am requesting that the time for comments be extended by another 60 days to give sufficient time for well informed comments to be provided to TxDOT regarding this important process due to this pandemic.

The FEIS is 8,189 pages in three volumes: 380 pages in Volume 1; 5,949 pages in Volume 2; and 2,240 pages in Volume 3. All three volumes are important and require detailed review. sixty days is simply inadequate time for review and comment on the FEIS. Organizations concerned about the project, many of which are small nonprofits, and most importantly, our constituents who are the most directly impacted by the project need an additional sixty-days to reply, which would be necessary and fair for TxDOT to grant so that community input is adequately addressed.

I submit the following public comments and attached documents on behalf of residents of the 18<sup>th</sup> Congressional District who will be adversely impacted should the Final Environmental Impact Statement be adopted without comprehensive revisions that reflect a break from TxDOT past project practices that have left communities and residents damaged.

I continue to hear from concerned constituents and organizations concerned about NHHIP construction regarding:

- Air quality in adjacent schools;
- Building to a 500-year flood standard and not 100 year;
- Displacement and noise and air quality in low income communities of color; and
- Unsafe designs at highway-urban interfaces (i.e. further dividing communities)

All of these issues will have serious impacts on adjacent low-income residents and communities of color. There are concerns that while TxDot is communicating with local

government and independent agencies as well as community leaders regarding the project, but the FEIS does not reflect their input.<sup>1</sup> In the comments submitted by Houston Metro the submission states:

“In reviewing the FEIS, METRO finds that most of its comments have not been adequately addressed and that the FEIS is deficient in specific design changes and mitigation commitments requested by METRO. This is particularly troubling in light of the fact that METRO has the special standing of a Cooperating Agency...”

In addition, it is noted that while TxDOT engages in good faith discussions with the Independence Heights Redevelopment Council (IHRC) over the disposition of the historic Greater Mount Olive Missionary Baptist Church, which faced serious impact from the NHHIP. Instead of TxDOT treating these discussions with some level of respect, TxDOT instead engaged in negotiations for the purchase of the property without notice to IHRC.<sup>2</sup> This historic church which has been purchased by TxDOT has great historic significance and for this reason it is slated to be part of the Emancipation National Historic Trail study recently begun by the National Parks Service (NPS). These communities, TxDOT, and the city of Houston and Harris County need NHHIP to be an overwhelming success – especially for those communities directly impacted by the project. It is in TxDOT’s best interest to hear from and respect the views of as many people as possible as the agency charts a path forward for implementing, managing and concluding NHHIP. Every effort should be made to deliver improvements to resident’s quality-of-life and avoid harming communities in ways similar to past development projects.

In the mid-1960s TxDOT’s conclusion of construction of the original I-45 project left in its wake a highway cutting through the historic communities of Third and Fourth Wards, Northside, and Independence Heights, with disproportionate negative impacts on low-income communities and communities of color. The FEIS, makes it clear that the proposed Project would continue this pattern by significantly widening the highway through the Near Northside and Independence Heights communities, resulting in the displacement of more than 1,000 residential housing units and all most 400 businesses, to clear the way for more lanes.<sup>3</sup>

There is a pattern and practice issue with the long and sorted history of TxDOT’s default behavior when implementing city of Houston “highway improvements” that is evidenced by any major TxDOT highway construction in the city will require widening of a highway with the pain inflicted being focused on low-income black and brown communities.

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<sup>1</sup> Thomas C. Lambert Houston Metro, Comments to NHHIP FEIS addressed to Ms. Eliza Paul P.E. District Engineer, Texas Department of Transportation, December 8, 2020.

<sup>2</sup> Independence Heights Redevelopment Council and Lone Star Legal Aid, Comments to NHHIP FEIS addressed to Texas Department of Transportation, Addressed to the Attention of Director of Project Development, December 9, 2020.

<sup>3</sup> Linda Hidalgo, Harris County Judge, Comments on the Final Environmental Impact Statement (FEIS) for the North Houston Highway Improvement Project (NHHIP), December 8, 2020

As you can see, there is a need for new thinking at TxDOT that embraces a win-win model for how TxDOT defines its success when planning, implementing and constructing projects. The reality is TxDOT projects are measured in decades, not years, which makes it too easy to push through with plans without concern for, or consideration of, the consequence for those who are impacted because few if any of the aggrieved will be around for the next development project. The NHHIP is projected to take up to 5 decades to complete given the complexity and timing of the phases of the proposal.

As an elected official representing residents who will be impacted by the NHHIP, it is important that this project be inclusive and transparent throughout the process from conception to the end of construction. As I stated in my August 20, 2020 comments, I am concerned regarding the planned construction's impact on historic places that are near I-45 and relevant to a new initiative under the National Parks Service to designate a new National Historic Trail that would run from Galveston into the city of Houston. The proposed expansion of I-45 North of downtown to Beltway 8 will result in impacts to neighborhoods along the route on both sides of I-45 North, and displacement of hundreds of residents. The historic neighborhood of Independence Heights is one of those neighborhoods facing impact.

Efforts by your office to address community concerns must include detailed mitigation strategies reflected in the FEIS, such as:

- Minimizing displacement of single-family, multi-family, and public housing homes and businesses (over 1,000 units are currently slated for displacement);
- Protecting historical and cultural sites identified by advocacy groups, historians, the city of Houston, or community residents;
- Improving neighborhood-level air quality impacts;
- Protecting greenspace and parks within each impacted neighborhood;
- Erecting two direction transit lanes;
- Installing BRT Stations along the route of I-45;
- Bringing IH-45 North up to current safety design standards;
- Designing two-lane frontage roads as city streets;
- Improving drainage on Little White Oak and Halls Bayous;
- Substantially mitigating flooding in Independence Heights;
- Saves costs to taxpayers; and
- Improves bicycle and pedestrian safety, especially at crossings over and under I-45.

From the opening decades of the last century the work of your office came as a direct consequence of Federal efforts to establish a national highway transportation policy which mandated the creation of state highway offices to be responsible for highway construction. TxDOT started with a highway mission and unfortunately according to my constituents you have not changed this focus and appear not to want to change. Because of the enactment of the Federal Highway Act in 1921, the Texas Department of Transportation, in cooperation with local and regional officials, is responsible for planning, designing, building, operating, and maintaining the state's transportation system to deliver a safe, reliable, and integrated transportation system that enables the

movement of people and goods. This involves the state's entire transportation system, including its rail lines, inland and water ports, airports, waterways, and pipelines. The Regional officials and councils as a reflection of community interests, follow TxDOT practice of not accepting community input.

The Federal Highway Act established that states had to have highway departments to control the design, construction, and maintenance of roads rather than allowing counties to undertake the work themselves. Again in 1956, with the passage of the Federal Highway Act more progress was made in modernizing the highway system by providing for the massive construction effort that resulted in the federal highway system we enjoy today. The law led to creation of the Interstate Highway System in Texas, which resulted in significant growth of the Texas highway system. In 1969, the Texas legislature created the short-lived Texas Mass Transportation Commission to "encourage, foster, and develop public mass transportation in Texas." In 1975, the Texas Mass Transportation Commission was merged with the Texas Highway Department, creating the State Department of Highways and Public Transportation. However, the results are continued highway construction, but minimal concern for multimodal or public or mass transit options.

The Texas Department of Transportation (TxDOT) was created in 1991, merging the Texas State Department of Highways and Public Transportation, the Texas Department of Aviation; and the Texas Motor Vehicle Commission (created in 1971). In 1997, the Texas Turnpike Authority also merged with the Texas Department of Transportation.

The best means of determining the values and priorities of any organization is to identify how it spends funds. In October 2020, TxDOT's request to the Texas Legislature for Fiscal Year (FY) 2022-2023, began with a description of how COVID-19 had impacted TxDOT 2020 revenue in the form of lower gas tax and toll revenue, which is inextricably linked to automotive vehicle use. This means that not only does TxDOT build more highways it also depends on highway use for revenue, which incentivizes the continued construction of more highways. In the stark reality of a COVID-19 impacted economy people are not driving as much, which means a hit to TxDOT's major sources of funding. TxDOT's source of revenue is from the Highway Trust Fund, bond initiatives, fuel taxes and toll fees, which are managed in large part by statewide ballot measures in the form of Propositions that are written to limit the use of funds to highway construction. This financial arrangement offers a view into why TxDOT has been unable to provide the level of clear thinking regarding future transportation planning needed to meet the needs of Houstonians and why TxDOT needs fresh thinking.

The future of transportation is defined by current decisions about means and methods of public and private transportation that are planned, funded, and implemented. The deficit in TxDOT transportation's NHHIP FEIS -planning is found in the:

1. Lack of willingness to include recommendations from the city of Houston such as:
  - a. An absence of multimodal and mass-transit options;
  - b. Not establishing a plan for expanded local street connectivity, particularly for people walking and biking;
  - c. Displacement of residential, business, and cultural properties; and

2. a lack of follow through on acquisition of a low-income complex for \$90 million but does not link the purchase to Houston Public Housing acquiring land nearby for a new low-income development.

## AREAS OF CONCERN

There are several areas of concern regarding the FEIS, that include:

- **INSUFFICIENT COLLABORATIVE ENGAGEMENT** with the broad-based of community groups, local minority businesses, and those locations deemed to be of cultural and social significance to residents;
- **NEEDING TO ADEQUATELY ADDRESS THE ISSUE OF FLOODING AND FLOOD MITIGATION** post-construction;
- **INFLEXIBILITY IN THE METHODS FOR PROJECT DEVELOPMENT** that makes it clear that TxDOT is incapable of serious consideration of external input from external sources, which includes rejecting making any changes to plans that incorporate ideas and well researched solutions to addressing real world transportation needs in the impacted area;
- **DISREGARDING A FOCUS ON ENVIRONMENTAL JUSTICE** for all who will be displaced by the project and not having an independent reputable third party to report on the plan's impact on vulnerable communities;
- **ABSENCE OF A PLAN TO ADDRESS THE NATIONAL PARKS ONGOING WORK TO DEVELOP THE REPORT FOR A NATIONAL EMANCIPATION HISTORIC TRAIL** that will span from Galveston into the City of Houston;
- **NO ACKNOWLEDGEMENT OF THE CHANGE IN TRAFFIC PATTERNS DUE TO COVID-19 MEASURES** that may persist following the emergency;
- **NOT ADEQUATELY ADDRESSING THE GROWING DEMAND FOR MULTI-MODAL FORMS OF TRANSPORTATION** that has a great demand for mass and bi-modal travel options for residents of urban areas;
- **NOT PROVIDING CONCRETE SOLUTIONS FOR THE LOSS OF PUBLIC HOUSING UNITS DUE TO CONSTRUCTION** or the speculative buying of property in the planned area for construction that might result in impacts to the availability of affordable housing.; and
- **NOT ADDRESSING PEDESTRIAN AND BICYCLE SAFETY** to address years of high fatality rates that are remarkable for a city of the size of Houston.

### I. **INSUFFICIENT COLLABORATIVE ENGAGEMENT WITH THE BROAD-BASED COMMUNITY**

The NHHIP has tremendous potential for improving the lives of countless residents if it has a human centric focus. It is possible for TxDOT to achieve its goals while making much needed repairs to the I-45 corridor, while improving the quality of life of those who live and work along the construction route.

In 2020, TxDOT is again affirming its history of not listening to; nor accepting input from the city of Houston and certain community organizations. The problems run much deeper than TxDOT's

unwillingness to provide aid to address negotiated outcomes such as relocation of low-income housing to areas nearby the location of existing housing; or agreements to engage in historic preservation, or having internal resources to address anthropological, sociological, or urban planning, housing and small business development in plans..

Despite claims to the contrary the current FEIS will have disproportionately high and adverse effects” on the population directly in the path of NHHIP construction. It is important that TxDOT provide a complete break from the practices and thinking of the past that takes a winners and losers view of construction projects.

The NHHIP is a widen freeway proposal that would displace over 1,000 residential properties, which includes 160 single family homes, 433 multi-family units, 344 businesses, five places of worship, and two schools.

The city of Houston provided well researched options that would not widen the freeway and achieve TxDOT’s goal of meeting capacity demand on the freeways involved by building out the capacity of a range of transportation options such as multimodal and mass transit to meet the projected demand.

The city of Houston is very interested in meeting the transportation demands of residents. This is evidenced by the intense and focused work of the City of Houston to engage citizens through a series of nine public community meetings that elicited 1,130 NHHIP written comments submitted to the city and TxDOT. The May 12, 2020 letter sent by the Mayor of Houston to TxDot, the city outlined its efforts to meet TxDOT’s objectives, while meeting the needs of the communities to be served. In October 2020, the City of Houston Planning and Development Department produced a detailed report and provided information on the report in multiple formats to support ease of access to and comprehension of the dialogue with the residents of Houston on NHHIP.

The current metro area population of Houston in 2020 is 6.3 million, a 2.02% increase from 2019, and by 2035 it is projected to reach 7.5 million. Because of the current population in the region and the projected population growth coupled with the emergence of bimodal travel technology innovations, evolving consumer options for online shopping and drone applications to support delivery of products and services provide some reasons to revisit the current plan. However, there may be residual impacts of changes in travel patterns caused by COVID-19 that may not return to post-virus road use; and increase demand, not only in Houston, but other urban areas throughout the state for consumer choices of alternative travel using multimodal and mass transit should be reflected in the FEIS, but they are not. For example, Austin Voters when given the option on November 3, 2020, voted by a 67 percent margin in favor of

providing a range of multimodal options for travel.<sup>4</sup> It would be remiss not to mention the plans for a highspeed rail service for the state of Texas, which is not being planned by TxDOT, but private interest.

There are issues with agreements and understandings reached with community groups on a range of issues that involve historic preservation, and affordable housing.

It is insufficient to:

- tell the city of Houston that its concerns will be addressed post adoption of the FEIS,
- purchase a low-income multi-family development without linking the sale to the purchase of property within a two-mile radius of the old property's location to ensure construction of new low-income housing, or
- telling a community group, you will preserve historic places when development speculators are purchasing properties without any conditions on how the property might be developed and TxDOT purchased an historic church without notice to the historic preservationist.

## **II. NEEDING TO ADEQUATELY ADDRESS THE ISSUE OF FLOODING AND FLOOD MITIGATION**

The federal Flood Disaster Protection Act, 42 U.S.C. 4001-4128. Start Printed Page 48323 and Presidential Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, which govern the work that will be done to address flooding and the NHHIP.

In the 1950s through 1960s, TxDOT's construction of I-45, I-610, U.S. 59 and I-10, had significant impacts on flood-prone areas like Buffalo Bayou, White Oak Bayou, and Little White Oak Bayou watersheds. These highways crisscross floodplains while disregarding the boundaries of Bayou channels while decreasing available land that would be able to manage seasonal heavy rainfall. In some places, like I-610, the current freeway constricts water flow enough that it causes significant upstream flooding in neighborhoods like Independence Heights.

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<sup>4</sup> The ballot title for Proposition B was as follows:

"The issuance of \$460,000,000 in tax supported general obligation bonds and notes for planning, constructing, reconstructing, and improving sidewalks, urban trails, bikeways, bridges, roads, streets, intersections, and related utility and drainage infrastructure for the roads and streets; improving traffic signal synchronization and communications and control systems and acquiring and installing traffic signals and related technology to implement traffic safety and traffic fatality reduction strategies; and acquiring land and interests in land and property necessary to do so; and the levy of a tax sufficient to pay available at [https://ballotpedia.org/Austin,\\_Texas,\\_Proposition\\_B,\\_Transportation\\_Bond\\_Issue\\_\(November\\_2020\)](https://ballotpedia.org/Austin,_Texas,_Proposition_B,_Transportation_Bond_Issue_(November_2020)), November 3, 2020.

It is important to note that until recently there was no effort to understand the cause and consequences of flooding in the Houston area. In 2017, and again in 2018 I introduced an amendment that would provide funding for a systemwide flood study for the city of Houston, which were adopted and included in final omnibus appropriations for FY 2018.

In October 2020, the U.S. Army Corps of Engineers (Corps), in partnership with the Harris County Flood Control District (HCFCD), released an interim report on a systemwide flood study they are conducting on the Buffalo Bayou and Tributaries flood risk management system. This interim feasibility report documents initial analyses conducted by the project delivery team (PDT) but does not present final conclusions and recommendations. The report is a mid-point technical document for review prior to recommending a Tentatively Selected Plan (TSP).<sup>5</sup>

The Jackson Lee Amendment was initiated in response to several recent flood events in the Houston metro area, including Hurricane Harvey that struck Texas with devastating effects in August 2017. Harvey made landfall on August 25th about 30 miles northeast of Corpus Christi near the communities of Rockport and Fulton. The Category 4 hurricane caused extensive damage as it moved north toward San Antonio and then turned east towards Houston and Louisiana. After stalling, Harvey dropped record rainfall volumes in east Texas causing widespread flooding and producing record water levels in Addicks and Barker reservoirs and downstream in Buffalo Bayou. Addicks and Barker Dams were constructed in the 1940s in response to damaging floods on Buffalo Bayou that struck Houston in the 1920s and 1930s. These dams worked well over their 70 plus years in operation, by preventing loss of life and billions of dollars in property damage along Buffalo Bayou.

The purpose of the Buffalo Bayou and Tributaries study is to evaluate changed conditions since the projects were constructed. The objective is to identify, evaluate, and recommend actions to address the changed conditions, including potential modifications to the Buffalo Bayou system to reduce flood risks to people, property, and communities.<sup>6</sup>

The FEIS is silent on the existence of the Army Corps of Engineer's "Buffalo Bayou and Tributaries Resiliency Study, Texas Review of Completed Projects Interim Feasibility Report," begs the question, if TxDOT is serious about flood prevention how could the agency not consult with the Army Corps of Engineers on every project undertaken.

The FEIS has very little detail on how the construction project will address flooding, outside of the mention of detention ponds, which need more description and a treatment of alternative uses that might, for example,

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<sup>5</sup> Army Corps of Engineers and Houston Flood District, Buffalo Bayou and Tributaries Resiliency Study, Texas, Review of Completed Projects, Interim Feasibility Report. October 2020.

<sup>6</sup> Ibid



address community needs for green space. At key points construction would touch on areas that create opportunities to improve neighborhood flood mitigation if attention was given to specific needs. It is recommended that the NHHIP could be an opportunity to reduce flood risk by rebuilding the crossing at Little White Oak Bayou, coordinating with the North Canal project in Downtown, and improving local drainage. The FEIS includes significant new commitments, based on work the Harris County Flood Control District has done in partnership with TxDOT since the release of the FEIS. Unfortunately, the FEIS is not committing to any flood control beyond what is required to offset the impacts of widening and rebuilding the highway.

First, it is important to note that the city has a proposal that would not widen the freeways and would achieve TxDOT objectives. Second, without conversations with the Army Corps of Engineers it is not possible to fully appreciate what the flood impact might be so that mitigation measures are matched to the actual impact of the planned project. Third, the FEIS is silent on the 2018 National Oceanic Atmospheric Administration (NOAA) Atlas 14 which calculates a five-inch increase estimates for precipitation-depth duration frequency (PDDF) values for Houston area storms of various sizes (e.g. rainfall depth), duration, and frequency such as. 2-year, 100-year, and 500-year storm events.<sup>7</sup>

The Harris County Commissioners Court adopted changes to development regulations based on the Atlas 14 study of historical rainfall data. These changes went into effect in July 2019. Atlas 14 is a study conducted by the National Oceanic and Atmospheric Administration (NOAA) to analyze rainfall data in order to revise rainfall amounts that define 100-year storm events. These events are those that on average occur every 100 years or have a one percent chance of happening in any given year and provide the primary data for mapping floodplains and establishing our Flood Insurance Rate Maps (FIRMs).<sup>8</sup>

The Atlas 14 data showed that rainfall totals for a 100-year event over 24 - our period went from 13 inches to roughly 18 inches in the Houston region. These estimates make the presumed 100-year event when the new maps are drawn equivalent to today's 500-year event.

Using this new data, the Harris County Flood Control District (HCFCD) and the Harris County Engineering Department (HCED) developed and proposed revisions to their development regulations, specifically, the HCFCD Policy Procedure & Criteria Manual (PCPM) and the HCED Regulations for Floodplain Management and Regulations for the Approval and Acceptance of Infrastructure.

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<sup>7</sup> The NOAA Atlas 14 Update is publicly available at: <https://hdsc.nws.noaa.gov/hdsc/pfds/index.html>.

<sup>8</sup> Greater Houston Builders Association, Harris County Adopts New Development Regulations Based on Atlas 14 Data, available at <https://www.ghba.org/harris-county-adopts-new-development-regulations-based-on-atlas-14-data/>, July 16, 2019.

Experts state that the Atlas 14 study means that on the “average,” Houstonians can expect new floodplains to widen in a manner commensurate with increased 100-year rainfall depths; new detention basins are expected to get bigger if they are sized to contain the 100-storm; and storm sewer pipes will get larger to convey more runoff. This will inherently affect communities’ flood risk perception. Costs for NHHIP construction will be impacted by Atlas-14 changes; and these changes require FEIS solutions that mitigate flood risk created by NHHIP construction to achieve effective flood control against anticipated storm events.

Experts report that Houston’s highly urbanized environment with relatively flat topography –with drainage infrastructure designed for 100-year storms will not meet the need for storms that are 250 year or 500-year events. As has been documented, Hurricane Harvey exceeded all known previous rain events recorded in the United States and this event was followed by three years of increased storm activity and more active hurricane seasons.

It is important to recognize that the FEIS proposal for construction will impact the work of the Army Corps of Engineers and it is important that plans that are intended to mitigate flooding must include input from them. It is also essential that the FEIS address insufficiencies in details on how flood mitigation will be achieved so that federal and city engineers can evaluate the soundness of the proposal. Finally, the FEIS must address the Atlas 14 data in its flood mitigation planning and seriously consider the proposal by the city of Houston to forgo widening the freeways if a viable alternative exists for meeting the objectives set forth by TxDOT.

### **III. INFLEXIBILITY IN THE METHODS FOR PROJECT DEVELOPMENT**

At the core of TxDOT’s reason for existing is the construction of highways and roads. This single-minded mission is a result of federal laws that established the need for highway construction to connect the nation following World War II. The mission has not changed, but the definition of connecting the nation’s people should have expanded to include metro-buses, rail, bicycles, foot paths, and other forms of multimodal transportation.

Multimodal options for Houstonians to travel freely absent personal automobiles must be part of the final FEIS. TxDOT is wedded to automotive and over the decades that is what the federal government created and funded state transportation departments to do, but times are changing and with changes comes adaptation.

The FEIS needs a traffic study that can report accurately on how travel in all of its forms is actually occurring. There are people who walk to get to

where they are going, but —do we know how many travelers who fit this description live and work in the Houston area, there are those who ride bikes or buses and those who drive or get rides from others who do drive.

Understanding the travelers can better inform the planning process.

#### **IV. DISREGARDING A FOCUS ON ENVIRONMENTAL JUSTICE**

The federal Clean Air Act, 42 U.S.C. 7401-7671(q) is involved with the planned construction of NHHIP. The Clean Air Act requires the Environmental Protection Agency (EPA) establishes National Ambient Air Quality Standards (NAAQS) for certain common air pollutants, often referred to as “criteria pollutants,” which it must review every 5 years.

The FEIS makes it clear that there will be a broad range of environmental impacts and the reconstruction of the freeway will have significant impacts both during construction and at completion, including air pollution, aesthetics and noise pollution. Each of these impacts have significant implications for the residents of Fifth Ward, Second Ward, and Near Northside, which are all low-income communities with a majority Hispanic/Latinx or Black/African American population.

The current projects for the FEIS work on I-45 will reconstruct it with more lanes to accommodate more vehicle traffic. Additional traffic means more impacts for communities in the form of noise, and air pollution in a city struggling with air quality issues.

I have grave concerns regarding the health and well-being of area residents should the construction along I-45 proceed as planned. The areas involved in the FEIS plan are “No Deed Restrictions Zone.” Because Houston does not have zoning, it is of utmost importance that agencies charged with protecting the environmental quality of residents’ air and water remain vigilant. Many of those who will be impacted by the FEIS decision are low-income and will have few options for protecting their air quality.

Cement’s use in construction produces fine particulates that can be aspirated into the upper respiratory system and can invade the lower respiratory system triggering asthma and obstructive pulmonary disease (COPD) respiratory distress. In 2015, it was reported that African American women were 20 percent more likely to have asthma than non-Hispanic whites. In 2014, African Americans were almost three times more likely to die from asthma-related causes than whites. In 2015, African American children had a death rate ten times higher than that of non-Hispanic white children. In addition, African American children are four times more likely to be admitted to the hospital for asthma, as compared to non-Hispanic white children.

Post construction it is important to note that increased vehicle traffic will generate more air and noise pollution. Some experts warn that air pollution from vehicles have serious and significant impacts as described on the health of vulnerable populations, which undermines the quality of life for residents. It is documented that schools near freeways already experience a much higher rate of asthma than other Houston Independent School District schools and at least 26 schools and daycares will be brought within 500 feet of the freeway with the new expansion.<sup>9</sup>

The report reviewed the Draft Environmental Impact Statement (DEIS) of the North Houston Highway Improvement Project (NHHIP), released by the Texas Department of Transportation (TxDOT) in April 2017, and the Air Alliance Houston determined that the air quality analyses provided in the DEIS were glaringly inadequate, which would limit in-formed decision making on the project to identify and implement mitigations to address community impacts. From May 2018 to April 2019, Air Alliance Houston led a Health Impact Assessment (HIA) of the NHHIP to evaluate the potential health impacts of the I-45 expansion to communities, especially children and their families who live, work, and go to school nearby. Based on findings, the HIA proposes recommendations to mitigate the potential adverse health outcomes identified. A variety of data sources, including input from stakeholders and community members, were used by AAH to perform the HIA, identify concerns, and develop recommendations.

NHHIP planning does address discussions on sound barriers and pollution monitoring, but there is no treatment of what measures will be used to gauge pollution levels or actions to be taken if those levels are exceeded. In addition to these environmental issues, there is no plan to address rains washing pollutants on road surfaces in the run-off water that will enter adjacent residential areas.

Finally, the absence of any mention of Greenhouse Gas Emissions and Climate Change,” should be considered with the incoming Administration focus on rejoining the Paris Climate Accord and elevating climate change to a prominent place in domestic and international policy. Expect significant changes are coming that will impact heavy investments in expanding roadways to carry more motor vehicle traffic.

A great deal of work is needed on this section before the environmental component of the EIS will be acceptable.

**V. ABSENCE OF A PLAN TO ADDRESS THE NATIONAL PARKS ONGOING WORK TO DEVELOPED THE REPORT FOR A NATIONAL EMANCIPATION HISTORIC TRAIL**

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<sup>9</sup>Air Alliance Houston, report “ I-45 Expansion: Health Impact Assessment and Community Organizing, available at <https://airalliancehouston.org/campaigns/i45-expansion/>.

It is important to note that federal law found in the Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 300101 et seq.]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)-11]; Archeological and Historic Preservation Act [54 U.S.C. 312501 et seq.]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001-3013] all have relevance to the areas of historic significance to the planned NHHIP construction.

On January 27, 2020, the Emancipation National Historic Trail Act became Public Law 116-111. • Currently, the National Parks Service only has one National Historic Trail, which centers on the African American experience.

Establishment of the Emancipation National Historical Trail will be the second trail for which that the National Parks Services would have responsibility, and it will tell the story of African Americans and will preserve for future generations the rich history of the newly-freed slaves who journeyed to Houston in search of economic and political opportunity, and greater religious and cultural freedom.

It is a remarkable story and one that all Americans can be proud to share with the world.

The Emancipation National Historical Trail Act designates as a national historic trail the 51 miles from the historic Osterman Building and Reedy Chapel in Galveston, Texas, along Highway 3 and I-45, north to Freedmen's Town and Emancipation Park in Houston, Texas.

The Emancipation National Historic Trail Act will result in a study the post-Civil War history of newly freed slaves in a major slave holding state following the largest military campaign waged on domestic soil in the history of the United States.

This period is more than just a story about the North's victory and the South's loss—it is a story about a newly-freed people emerging from over 250 years of slavery and how they survived into the 21st century when other similarly situated communities did not.

The National Parks Service and the Texas Historical Society have designations of historic sites of significance that could be impacted by NHHIP. There are real concerns regarding the construction and later use of properties that are being acquired by development speculators that may have a direct impact on the trail's development.

In 2019 when TxDOT made public its report on the Project's expected impacts to historical resources required under the National Environmental Policy Act (NEPA), the agency inexplicably left Independence Heights out of its survey. This occurred despite the fact that Independence Heights is

listed in the National Register of Historic Places as the first state chartered community of former slaves and is a destination site on state historic heritage trails such as the Texas Independence Trail and holds the distinction as the first town incorporated by African Americans in the state of Texas.

Independence Heights is the first African American town in Texas. Despite its listing on national and state historic registries nothing has spared it from poor treatment by TxDOT. Allowing the placement of signs will mean nothing if the people who are the descendants of the founders can no longer be found or the places that have historic significance and have survived to this day but are lost to work on the NHHIP cannot be measured as successful historic preservation.

IHRC in its comments report that Independence Heights has a history that goes back over 100 years and the community's desire for historic and cultural preservation have been strongly expressed in community planning studies, like the H-GAC Independence Heights Northline Livable Centers Study.<sup>10</sup>

It is important to note that IHRC comments to TxDOT includes detailed information on the historic significance of Independence Heights:

“IHRC submitted written comments on the draft Historical Resources Survey Report, which profiled the history of Independence Heights, and its inclusion in a historical district on the National Registry of Historic Places...These comments concerned not only the historical nature of the community, but also the historical role that the construction of Loop 610 have played in displacing large portions of the neighborhood and also increasing flooding risk due to the undersized culvert at Loop 610.”<sup>11</sup>

It is insufficient to say historic preservation but act to undermine the preservation of historic properties or communities. TxDOT's purchase of historic Greater Mount Olive Missionary Baptist Church does not resolve the issue of its disposition and condition while NHHIP is completed.

The negotiations with IHRC were underway while TxDOT purchased the church which undermined trust and good will. There are federal statutes that obligate TxDOT to make sure that the historic places which will be involved in the NPS National Emancipation Trail Study be protected.

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<sup>10</sup> Independence Heights Redevelopment Council and Lone Star Legal Aid, Comments to NHHIP FEIS addressed to Texas Department of Transportation, Addressed to the Attention of Director of Project Development, December 9, 2020, page 5.

<sup>11</sup> <sup>11</sup> Independence Heights Redevelopment Council and Lone Star Legal Aid, Comments to NHHIP FEIS addressed to Texas Department of Transportation, Addressed to the Attention of Director of Project Development, December 9, 2020, page 6.

## **VI. NO ACKNOWLEDGEMENT OF THE CHANGE IN TRAFFIC PATTERNS DUE TO COVID-19 MEASURES**

It was noted earlier that TxDOT's Legislative Appropriations Request for FY 2022-2023 noted the impact on COVID-19 as it related to revenue coming to the agency from fuel taxes and toll fees. However, they did not address the underlying change in commuting patterns that may result in changes in the long term travel patterns of residents due to businesses realizing an economic benefit to not having physical office space that requires rent, utilities, insurance, maintenance and other expenses to maintain.

Because we have seen marked reductions in commercial business activity due to COVID-19, there is concern that a major construction project that is scheduled to start in early January will further impact businesses along the route that struggling to survive. It is important that significant time is given for public engagement of small businesses along the route of the planned construction, and citizens on the topic of the planned construction.

The advent of new drone applications to meet growing demand for delivery of goods, groceries, or purchases that eliminate the use of automotive vehicles will impact traffic patterns.

For this reason, TxDOT should consider how this pandemic or future emergencies might impact the underlying demand for transportation.

## **VII. NOT ADEQUATELY ADDRESSING THE GROWING DEMAND FOR MULTI-MODAL FORMS OF TRANSPORTATION**

A July 2019, article by Geoff Carleton, published in the Houston Chronicle's Outlook, best describes the circumstances that past TxDOT projects have left the city to deal with, and what might await the city following NHHIP, when he writes:

“A “boondoggle” and a “Texas-sized mess of a highway plan” is how one national headline recently described the proposal to spend more than \$7 billion in public dollars to rebuild and realign I-45. It is hard to disagree.

The project — which would remake I-45 between downtown and the Sam Houston Tollway — represents a doubling down on the formula that has made Houston a national leader in roadway deaths and transportation CO2 generated per capita. It has made us increasingly vulnerable to major storms and flooding while doing little to address congestion on our roadways.”<sup>12</sup>

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<sup>12</sup> Geoff Carleton, A new vision for I-45. And for Houston, Houston Chronicle, Outlook, July 13, 2019.

If TxDOT would listen they would learn that people are choosing a multimodal option for travel that are supported by innovations such as electric scooters, expanded use of greenspaces in urban areas, and more creative ways to connect areas through bike and foot paths that exclude consideration of automobiles.

Other advancements will see an increase in drone use for home delivery as technology displaces drivers in cars making routine deliveries.

There is also the rise of electric cars which are becoming more common and with them a need for charging stations.

Charging stations will be replaced by solar systems that charge vehicles while they are on the road.

TxDOT should engage with the city of Houston and other advocacy groups to better understand the opportunities for building a transportation system that is consumer centric.

#### **VIII. NOT PROVIDING CONCRETE SOLUTIONS FOR THE LOSS OF PUBLIC HOUSING UNITS DUE TO CONSTRUCTION**

The federal laws that govern the NHHIP do address the rights of those impacted by this project, especially those who are from vulnerable and at-risk populations.

The Federal Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)] create obligations that TxDOT must address in the FEIS, which it has not done.

Insufficient Collaboration with the City of Houston, Houston Public Housing, Houston METRO, and Key Stakeholders regarding affordable housing including low-income public housing that will be displaced by NHHIP as currently planned.

TxDOT purchase of Clayton Homes for \$90 million and the pending partial sell of Kelly Village for the planned NHHIP are worrisome because these transactions are not linked to operationalization of the plan to build replacement units within a 2-mile radius of the current location of these public housing properties.<sup>13</sup>

The Houston Housing Authority reports that Houston historically has ranked one of the most affordable metropolitan cities in the United States, until now. Currently the city is facing the nation's fifth largest affordable

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<sup>13</sup> HHA Second Ward Community Guide, Prepared for: Congresswoman Jackson Lee, Appendix A of this document.



housing shortage and the FEIS proposes to reduce the number of affordable housing.

The city of Houston and Houston Public Housing is working to increase the number of affordable housing in the city. Housing affordability is directly linked to homelessness, which is why TxDOT should have a priority on making sure that any construction has a goal of keeping the same level or more affordable housing in place before, during and after construction. Houston Public Housing reports that today, Houston has 19 apartments that are affordable for every 100 families in need of housing, we currently have in the city. There are over 430,000 apartment renters of which 50% spend more than 30% of their income on rent.

The I-45 Coalition reports that in addition to the loss of homes is the loss of several essential service providers to low-income and homeless persons such as<sup>14</sup>

- the AVANCE Training Center, a nonprofit that provides low-income and at-risk families job training and family therapy;
- Displacement of the Texas Department of Health and Human Services;
- Displacement and relocation of Loaves and Fishes Magnificat Houses Ministries, SEARCH Homeless Services, and Fatima House that provides services to low-income and homeless populations;
- Displacement of medical office that serve low-income persons and high minority populations;
- Displacement of three houses of worship and one school that serve Spanish speakers; and
- Displacement of two houses of worship with predominately African American members and the Helping Hand Charity.

## **IX. NOT ADDRESSING PEDESTRIAN AND BICYCLE SAFETY**

Houston constantly ranks high on the list of cities with high pedestrian motor vehicle accidents and deaths. In November 2020, A person died when they tried to cross the southbound lanes of I-45 on foot, Houston police said. In another incident, Police say the man was pushing a shopping cart on the feeder road of I-10, the East Freeway near Wayside Drive when he was run over. In this incident officers say the road was poorly lit, there was no impairment of the drivers. The drivers are not expected to face any charges.

These are only two of several incidents in the month of November, which saw a sharp increase in pedestrian motor vehicle deaths.

The efforts of Make I-45 Better Interstate 45 Coalition are focused on working to raise community awareness and solicit public engagement by

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<sup>14</sup> Make I-45 Better Coalition, Consumer Engagement Document on Upcoming Events (see Appendices)

asking very good questions about what TxDOT intends to achieve with NHHIP.

The city of Houston is focused on implementing Achieving Vision Zero a plan to reach zero pedestrian deaths caused by motor vehicles. The Make I-45 Better Interstate 45 Coalition is asking how TxDOT's NHHIP could be compatible with this goal if they are seeking to 100 percent more freeway vehicle miles traveled—more driving—and increased average speeds of 24 miles per hour will increase deaths of pedestrians.

This reply to the opportunity to make comments to the NHHIP FEIS makes it clear that the time for comments must be extended by sixty days to allow additional comments on this important public works project. The expending of \$7 billion in taxpayer dollars that will cost those with so little so much needs a better FEIS before this process moves forward.

I ask for your full and fair consideration of this request to extend the time for comments will provide valuable insights into addressing deficiencies in the FEIS for the NHHIP. Should you have questions, I may be reached by contacting Glenn Rushing, my chief of staff by emailing [Glenn-Rushing@mail.house.gov](mailto:Glenn-Rushing@mail.house.gov) or 202-225-3816.

Very truly yours,



Sheila Jackson Lee  
MEMBER OF CONGRESS

cc: The Honorable Laura Ryan, Commissioner

Appendices 1-5

sjl/lc

# Appendix 1

## Federal Laws

TxDOT and Federal agency decisions as of the issuance date of the Federal Register Notice when Published has the following Federal laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109].
2. Air: Clean Air Act, 42 U.S.C. 7401-7671(q).
3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.
4. Wildlife: Endangered Species Act [16 U.S.C. 1531-1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)], Migratory Bird Treaty Act [16 U.S.C. 703-712].
5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 300101 et seq.]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)-11]; Archeological and Historic Preservation Act [54 U.S.C. 312501 et seq.]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001-3013].
6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201-4209].
7. Wetlands and Water Resources: Clean Water Act, 33 U.S.C. 1251-1377 (Section 404, Section 401, Section 319); Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601-4604; Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)-300(j)(6); Rivers and Harbors Act of 1899, 33 U.S.C. 401-406; Wild and Scenic Rivers Act, 16 U.S.C. 1271-1287; Emergency Wetlands Resources Act, 16 U.S.C. 3921, 3931; TEA-21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133(b)(11); Flood Disaster Protection Act, 42 U.S.C. 4001-4128. Start Printed Page 48323
8. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

## Appendix 2

## Appendix 3

# Appendix 4

# Appendix 5