



LINA HIDALGO

December 9, 2020

Via Email

Attention: Director of Project Planning and Development
Texas Department of Transportation
P.O. Box 1386
Houston, Texas 77251
HOU-piowebmail@txdot.gov

RE: Comments on the Final Environmental Impact Statement (FEIS) for the North Houston Highway Improvement Project (NHHIP)

Dear Chairman Bruce Bugg and Members of the Texas Transportation Commission,

I am writing on behalf of Harris County to submit the following public comments and attached documents in response to the Texas Department of Transportation's (TxDOT) Final Environmental Impact Statement (FEIS) for the North Houston Highway Improvement Project (NHHIP or Project). All attachments to this letter are also submitted as comments, including the FEIS Report by Huitt-Zollars and the University of Houston's Community Design Resource Center. Both entities were contracted to evaluate the FEIS on behalf of Harris County. I ask that their report be included as comments in the administrative record, along with this letter.

The North Houston Highway Improvement Project on Interstate 45 (I-45) between downtown Houston and Beltway 8 may be the largest highway construction project any of us sees in our lifetimes. Undoubtedly, it will also impact Harris County residents for generations to come. We believe this project should be carefully considered and designed to meet the diverse needs of our region's future without unnecessarily displacing hundreds of families and businesses. If we are truly to put people first in how we construct transportation projects in our region, we must re-imagine this highway in a way that will benefit everyone by allowing improved mobility for all modes of transportation, including cars, trucks, transit, bicycles, and pedestrians, addressing current safety concerns such as narrow shoulders and short merge lanes, while minimizing the right-of-way that we take from people to do so.

Construction of the original I-45 project concluded in 1967, building the highway 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. As documented in the FEIS, the Project would continue this pattern by significantly widening the highway through the Near Northside and Independence Heights communities, which would displace a total of 1,079 residential housing units and 344 businesses, in order to add lanes.

On August 13, 2019 and June 9, 2020, the Harris County Commissioners Court passed two resolutions regarding the NHHIP (Appendix B and Appendix C). The resolutions, which are attached and incorporated into this letter, outline required benchmarks for all regionally significant transportation projects in Harris County. The resolutions also requested changes to the NHHIP in order for TxDOT to move the Project forward. These resolutions reflect feedback collected from community members and stakeholders across Harris County through an extensive public engagement effort. This public input resulted in a new vision, as outlined in Appendix C and Appendix D, that proposes an alternative way for TxDOT to accomplish many of the safety, flood mitigation, and other benefits of the NHHIP while retaining the freeway's current footprint to minimize the impact on existing homes, businesses, and communities.¹ From this public input,² Harris County learned that community members overwhelmingly support a vision of an improved I-45 that remains within the current right-of-way as much as possible in Segments 1 and 2 and provides for improved local connectivity and transit access, including implementing the voter-approved and funded METRONext Moving Forward Plan.³

This new vision⁴ has both broad community support and endorsements by numerous elected leaders and community organizations.⁵ TxDOT's FEIS prioritizes highway widening and does not evaluate or take this new vision into account.

- Specifically, despite numerous public comments, including from Harris County, for TxDOT to reduce the footprint of the NHHIP, the proposed design as presented in the FEIS does not consider the possibility of keeping Segments 1 and 2 within the current right-of-way. Rather, the FEIS reflects largely the same design that TxDOT presented to the public in the 2017 Draft Environmental Impact Statement (DEIS), which substantially increases the right-of-way along much of the freeway with environmental, social, and economic ramifications that are not fully addressed in the FEIS.⁶
- The FEIS does not integrate the voter-approved and funded METRO Next plan, including dedicated transit lanes for Bus Rapid Transit and increased access to high-speed transit for communities impacted by Segments 1 and 2.
- The FEIS does not acknowledge bayou greenways as parkland, contrary to the new vision which proposed the greenways as recreational open spaces that also serve as effective flood control.
- Frontage roads, as shown in the schematics, are not designed as city streets with 11-foot lanes, separated bike lanes, and improved pedestrian facilities in order to improve safety and accommodations for all road users.
- While the FEIS makes some new commitments regarding mitigation for displacement of residents and business owners, it does not fully address the extent of the impacts to those who would be displaced. For example, the FEIS does not commit to relocating displaced residents within their own neighborhoods or replacing the affordable housing units that are affected by construction.

¹ See Appendix D for more details.

² See Appendix E for more details.

³ METRONext. (2019). *Moving Forward Plan*. <https://www.ridemetro.org/MetroPDFs/METRONEXT/METRONext-Moving-Forward-Plan.pdf>.

⁴ For a visual representation, see Appendix F.

⁵ *Posters*. (2020). Make I-45 Better Coalition. <https://i-45coalition.org/documents>.

⁶ See Appendix A for a more detailed discussion.

In addition, the FEIS for the NHHIP includes significant methodological flaws and omissions, including (i) inaccurate claims regarding the impacts of the alternatives identified in the FEIS, including as it relates to congestion, safety, and evacuation routes; (ii) unsound project structure and methodology; and (iii) omissions of critical and/or required information, all of which are discussed below and incorporated into this letter in more detail as part of Appendix A.

I. Inaccurate Claims

The stated Need and Purpose of the FEIS is to increase the facility's capacity, reduce traffic congestion, accommodate projected future traffic growth, expand shared transit and carpool opportunities with express lanes, reduce traffic crashes, improve the facility's resiliency from flooding, and expand capacity for emergency evacuations. However, there are errors and inaccuracies within both the Need and Purpose statement and the proposed solution that must be addressed in the FEIS before a Record of Decision (ROD) is issued.

Congestion

The FEIS makes the claim that congestion is leading to safety issues on I-45. The link between congestion and safety was made with statements such as, "Heavily congested areas are generally where more crashes occur"⁷ and "Population and economic growth will increase system demand, increasing congestion and contributing to system deterioration, both of which are implicated in safety issues."⁸ However, traffic volumes on I-45 have been decreasing since 2008. The FEIS projects that, starting in 2015, traffic volumes would rise 40% by 2040. Contrary to that projection, the data from the first five years of that projection show traffic volumes decreasing.⁹ In addition, research has shown that highway widening projects have improved congestion only temporarily because of induced demand.¹⁰ A local example of this is the Katy Freeway, where induced demand after the highway was expanded has made congestion worse than before.¹¹ Without a more careful analysis of high-quality data, the FEIS does not demonstrate that anticipated congestion on I-45 is an appropriate justification for the NHHIP.¹²

Safety

The FEIS states that a goal of this project is to "move the maximum number of people at maximum speed,"¹³ and that the planned widening will increase travel speeds and safety. This goal will lead to higher speeds and increased exposure, both of which will reduce safety. In fact, the recent decrease in traffic volumes due to COVID-19 has resulted in a rise in speed-related road deaths in Texas.¹⁴ Although many of the other design improvements, such as added shoulders and merge lanes, make the highway safer, moving traffic at higher speeds will not improve safety on I-45.

⁷ Final Environmental Impact Statement, August 2020. (FEIS Volume 1, Section 1.2.1). Texas Department of Transportation. Retrieved from http://www.ih45northandmore.com/final_eis.aspx.

⁸ Final Environmental Impact Statement, August 2020. (FEIS Volume 1, Section 1.2.2). Texas Department of Transportation. Retrieved from http://www.ih45northandmore.com/final_eis.aspx.

⁹ Appendix A, pp. 23.

¹⁰ Turner, Matthew. (2011, October). Fundamental Law of Road Congestion: Evidence from US Cities. *American Economic Review*. Retrieved from <https://pubs.aeaweb.org/doi/pdfplus/10.1257/aer.101.6.2616>.

¹¹ Amal Ahmed. (August 21, 2019). More Highways, More Problems. *The Texas Observer*. Retrieved from <https://www.texasobserver.org/more-highways-more-problems/>.

¹² See Turner, Matthew. (2011, October). Fundamental Law of Road Congestion: Evidence from US Cities. *American Economic Review*. Retrieved from <https://pubs.aeaweb.org/doi/pdfplus/10.1257/aer.101.6.2616>.

¹³ North Houston Highway Improvement Project: Final Environmental Impact Statement, August 2020. (FEIS Volume 1, Section 1.1.1). Texas Department of Transportation. Retrieved from http://www.ih45northandmore.com/final_eis.aspx.

¹⁴ Begley, Dug. (2020, July 7). Despite a massive drop in crashes, Texas sees rise in speed-related road deaths during the pandemic. *The Houston Chronicle*. <https://www.houstonchronicle.com/news/houston-texas/transportation/article/road-deaths-coronavirus-texas-houston-txdot-15386383.php>

The FEIS also does not recognize the impact of the NHHIP on local streets or frontage roads.¹⁵ Frontage roads are crash hotspots and represent increased risks for pedestrians and bicyclists. With the proposed highway widening, these crossings are likely to become more dangerous. The FEIS should be amended to design frontage roads to operate like city streets with high-comfort pedestrian and bike lanes.

It should also be noted that TxDOT recently made a commitment to eliminate traffic fatalities on Texas roads by 2050;¹⁶ this goal is only 10 years after the life of the proposed widening. Therefore, in order to increase safety along the I-45 corridor in accordance with TxDOT's policy direction, TxDOT should focus on mitigating fatal and serious injury crashes first, including those on the highway as well as feeder roads and local streets, before seeking to increase speeds.

Emergency Evacuation

Emergency Evacuation is cited in the FEIS as being a motive for widening the highway.¹⁷ I-45 narrows to two lanes in each direction outside Harris County along the route from Houston to Dallas, creating a bottleneck for evacuation north of the study area. Adding more lanes to the already widest parts of I-45 is not an effective strategy to help with evacuation, as the widened section of the highway will only serve as additional storage space for motorists to queue or slow on an access-limited highway. The FEIS does not demonstrate any data, analysis, or other information that proves that the proposed widening will help during an evacuation.

II. Project Structure and Methodology

It is the purpose of the FEIS to establish that the proposed project is the best option amongst a range of options, using credible data. However, this FEIS includes a range of gaps in procedure, data, and analysis that must be remedied before a Record of Decision is issued.

Alternatives

In the initial process of evaluating alternatives, an overly narrow set of alternatives were considered. An Environmental Impact Statement is required to "rigorously explore and objectively evaluate all reasonable alternatives and devote substantial treatment to each alternative considered in detail so that reviewers may evaluate their comparative merits."¹⁸ However, during the initial round of screening alternatives, right-of-way impacts were only considered between Cavalcade Street and Quitman Street and all alternatives that did not add lanes were eliminated from further consideration.¹⁹ TxDOT thus did not meaningfully consider any options without significant displacement impacts. Reasonable alternatives "include those that are practical or feasible from the technical and economic standpoint and using common sense,"²⁰ but this project has not fully evaluated a wide range of alternatives for the NHHIP.

¹⁵ Appendix A, pp. 21.

¹⁶ Texas Department of Transportation. (2019, May 30). *TxDOT Embraces Goal To End Deaths On Texas Roads By 2050*. Retrieved from <https://www.txdot.gov/inside-txdot/media-center/statewide-news/012-2019.html>

¹⁷ North Houston Highway Improvement Project: Final Environmental Impact Statement, August 2020. (FEIS Volume 1, Section 1.2.3). Texas Department of Transportation. Retrieved from http://www.ih45northandmore.com/final_eis.aspx.

¹⁸ Alternatives including the proposed action, 40 C.F.R. § 1502.14(b)

¹⁹ North Houston Highway Improvement Project: Final Environmental Impact Statement, August 2020. (FEIS Volume 1, Section 2.3.1). Texas Department of Transportation. Retrieved from http://www.ih45northandmore.com/final_eis.aspx.

²⁰ Council of Environmental Quality, Executive Office of the President. (1981, March 16, amended 1986). *Memorandum to Agencies: Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*. Retrieved from <https://www.energy.gov/sites/prod/files/2018/06/f53/G-CEQ-40Questions.pdf>.

Traffic Modeling and Assumptions

The “Need for Proposed Action” states “the average daily traffic volumes on I-45 in the areas from US 59/I-69 to I-10 (Downtown area) and I-610 to Beltway 8 North are projected to increase up to approximately 40 percent between 2015 and 2040.”²¹ Assumptions upon which the traffic model was based are not provided for review or scrutiny, and traffic volumes have in fact been trending downward on I-45 since 2008. Similarly, the FEIS includes several unrealistic predictions for travel times if the project is not completed, such as 103 minutes from the Near Northside to Midtown—a trip of only a few miles—in order to claim significant improvements due to the implementation of the NHHIP. The FEIS provides no evidence to support these claims, and its use of them to justify such a significant project is not valid.

The FEIS states that the NHHIP will not have significant impacts on local traffic, but does not provide evidence to support this claim. On the contrary, several local connections are severed by this project, likely causing significantly increased traffic on surface streets and feeder roads. TxDOT should, in collaboration with the City and County, conduct thorough modeling of the impact of the NHHIP on local streets and mitigate the identified impacts appropriately.

In addition, for the last nine months, traffic patterns have changed because of the COVID-19 pandemic. This shift has resulted in fewer vehicles on our freeways as many businesses have moved their operations to virtual offices. Recent research has indicated that work from home and hybrid working models will remain more common, even after the pandemic ends.²² TxDOT should take into consideration how that cultural shift may have a lasting impact on traffic patterns in its final design for the NHHIP.

Unrecognized Impacts and Unsubstantiated Mitigation Claims

Throughout the FEIS there are significant unrecognized impacts and unsubstantiated mitigation claims. Several impacts outlined in the DEIS were removed, representing a significant flaw in the requirement of the FEIS to adequately assess and identify mitigation for project impacts.

The FEIS has removed critical discussions related to disproportionate impacts on minority and low-income populations²³ and climate change impacts.²⁴ For example, the DEIS stated that “all alternatives would cause disproportionately high and adverse impacts to minority and low-income populations.” However, the FEIS states that, due to mitigation, this is not the case, while not supporting documentation to support this statement.²⁵ The FEIS also does not recognize impacts to METRO bus service, the Wheeler Transit Center circulation, or Inner Katy

²¹ North Houston Highway Improvement Project: Final Environmental Impact Statement, August 2020. (FEIS Volume 1, Section 1.2). Texas Department of Transportation. Retrieved from http://www.ih45northandmore.com/final_eis.aspx.

²² Alexander W. Bartik et al. (2020, June). *What Jobs are Being Done at Home During the COVID-19 Crisis? Evidence from Firm-Level Surveys*. Retrieved from https://www.hbs.edu/faculty/Publication%20Files/20-138_ec6ff0f0-7947-4607-9d54-c5c53044fb95.pdf.

²³ North Houston Highway Improvement Project: Draft Environmental Impact Statement, April 2017. (Table ES-1). Texas Department of Transportation. Retrieved from http://www.ih45northandmore.com/docs7/NHHIP_Draft_EIS_April-2017.pdf; North Houston Highway Improvement Project: Final Environmental Impact Statement, August 2020. (FEIS Volume 1, Section 3.2.4). Texas Department of Transportation. Retrieved from http://www.ih45northandmore.com/final_eis.aspx.

²⁴ North Houston Highway Improvement Project: Draft Environmental Impact Statement, April 2017. (Section 4). Texas Department of Transportation. Retrieved from http://www.ih45northandmore.com/docs7/NHHIP_Draft_EIS_April-2017.pdf; North Houston Highway Improvement Project: Final Environmental Impact Statement, August 2020. (FEIS Volume 1, Section 4). Texas Department of Transportation. Retrieved from http://www.ih45northandmore.com/final_eis.aspx.

²⁵ North Houston Highway Improvement Project: Final Environmental Impact Statement, August 2020. (FEIS Volume 1, Section 3.2.4). Texas Department of Transportation. Retrieved from http://www.ih45northandmore.com/final_eis.aspx.

park-and-ride routes, which will affect transit services throughout the region. The responsibility of the FEIS is to document all impacts, but it does not do so.

The FEIS takes credit for several mitigation efforts in response to comments, but does not provide an adequate funding source to implement them. For example, the FEIS says that the depressed freeway and provision for cap parks would mitigate impacts on East Downtown, but TxDOT is not funding those cap parks. All claims of mitigation in the FEIS must be funded as part of the NHHIP, and any improvements that are not funded must not be claimed as mitigation in the FEIS.

Equity and Ethical Considerations

This project, as presented, does not advance equity and inclusion and instead promotes the continuation of structural inequity. The FEIS and its alternatives favor white communities while disproportionately impacting communities of color. In its initial screening of alternatives, TxDOT was particularly mindful of limiting right-of-way impacts for Woodland Heights, between Cavalcade and Quitman, which is home to among the most affluent and whitest communities in the corridor.²⁶ Additionally, in areas with more white residents, such as Downtown, Midtown, and Woodland Heights, the freeway is likely to be depressed, narrowed, or removed; parks are also more likely to be proposed. In areas with more Black and Hispanic residents, such as Third Ward, Northside, and Independence Heights, the freeway is likely to be widened and residential and commercial properties are more likely to be taken for the freeway project or otherwise negatively impacted.²⁷ Regardless of intent, the impacts of this project would disadvantage people and communities of color.

III. Omissions of Information

Throughout the FEIS there are significant omissions in information, data, and analysis that are critical and/or required information for an adequate FEIS. These items should be addressed and mitigated as necessary in the FEIS before a Record of Decision is issued. Some examples of critical omissions are provided below and expanded on in more detail in Appendix A:

- **The FEIS claims that Bayou Greenways are not designated parkland and does not propose substantive mitigation.** The project would replace the current I-45 crossing of White Oak Bayou north of Downtown, which is eight lanes and 140 feet wide, with a new crossing 21 lanes and 700 feet wide, and widens the freeway as it runs along the bayou. The FEIS does not document that the Greenway serves as a major urban park, that it will be significantly impacted, or that it is a protected property under federal law.²⁸ The FEIS states “the primary use of the White Oak Bayou Greenway in the area of the NHHIP is for drainage and flood control” and that the “function of the White Oak Bayou Greenway will not change.”²⁹

²⁶ North Houston Highway Improvement Project: Final Environmental Impact Statement, August 2020. (FEIS Volume 1, Figure 2-2). Texas Department of Transportation. Retrieved from http://www.ih45northandmore.com/final_eis.aspx; FEIS Public Meeting Presentation, October 2020. (pages 41-42). *Huitt-Zollars and University of Houston Community Design Resource Center*. Retrieved from <https://www.letstalkhouston.org/7872/widgets/24371/documents/15196>

²⁷ Appendix G

²⁸ 23 C.F.R. § 774

²⁹ North Houston Highway Improvement Project: Final Environmental Impact Statement, August 2020. (FEIS Volume III, Response to Comment 423). Texas Department of Transportation. Retrieved from http://www.ih45northandmore.com/final_eis.aspx.

- **The FEIS does not provide justification for projected growth rates.** As the projected growth rates significantly differ from actual growth rates in recent years (i.e., since 2008), the FEIS should provide justification as to why future traffic volumes are expected to be significantly higher than actual trends on the highway.
- **The FEIS does not provide a detailed analysis of traffic impacts on local streets.** The lack of detailed traffic analysis does not allow for an accurate assessment of the environmental, traffic, and accessibility impact of the proposed project. Also, the modeling approach is not fully documented and does not follow best practices recommended in National Environmental Policy Act (NEPA) guidance on traffic modeling and documentation of approach and results.
- **The FEIS does not document impacts during construction.** The construction period for the project is anticipated to be a decade or longer, but the FEIS does not acknowledge those impacts on congestion or connectivity, and does not provide mitigation for those who would be adversely impacted by construction.
- **The FEIS eliminates discussion of climate change impacts.** As designed, this project would increase vehicle miles traveled in the region and thus exacerbate carbon emissions, but the FEIS does not document these impacts.
- **The FEIS does not provide documentation to justify its claim that the project will have a positive economic impact.** The FEIS calculates the annual tax loss to local jurisdictions due to tax-paying private land being taken to widen the highway right-of-way is \$152.9 to \$319.9 million, but does not provide supporting evidence for how the project would have a net positive impact on the region's economy.
- **The FEIS contains multiple discrepancies between project schematics, FEIS language, and stated commitments.** Two such conflicts are:
 - The FEIS schematics show a six-lane I-10 express lane structure connecting to a two-lane existing elevated HOV structure on I-10.
 - The FEIS indicates that there will be separated bike lanes on frontage roads, but these are not shown in the DEIS or schematics.

The studies submitted by the County as part of this comment, the alternative vision developed in collaboration with the community, and the totality of the mitigation measures that TxDOT could take demonstrate considerable gaps in TxDOT's analysis and the need for a more thorough review of alternatives to the proposed project, as well as additional mitigation measures that may be warranted to ameliorate the negative disproportionate impact on already vulnerable communities. The County requests that TxDOT give due weight to community concerns and account for the disadvantaged position that individual residents face when trying to have input in large and complicated projects, such as this Project.

Harris County believes that comments submitted demonstrate that the FEIS is insufficient, specifically that there is new information that warrants additional TxDOT analysis. This, the County believes, demonstrates that the "draft statement is so inadequate as to preclude meaningful analysis" sufficient to

place on TxDOT the nondiscretionary duty to “prepare and publish a supplemental draft of the appropriate portion.”³⁰

We are asking TxDOT to provide a complete FEIS that fully documents the impacts and methodology as required by law. As we’ve said, this project could be a potentially transformative project for Houston, Harris County, and our region; however, the right decision about this project can only be made if the project is fully documented and evaluated.

Sincerely,

A handwritten signature in black ink, appearing to read "Lina Hidalgo". The signature is fluid and cursive, with a large initial "L" and "H".

Lina Hidalgo
Harris County Judge

Attachments

Appendix A: Huitt-Zollars/CDRC Consultant Report, dated November 20, 2020

Appendix B: Harris County Resolution, dated August 13, 2019

Appendix C: Harris County Resolution, dated June 9, 2020

Appendix D: Letter and Technical Appendix from Mayor Sylvester Turner to TxDOT, dated May 12, 2020

Appendix E: Public Engagement Feedback Results, dated February 20, 2020

Appendix F: Visual Representation of Vision C, dated May 12, 2020

Appendix G: Toole Consultant Inequitable Impacts Report, dated December 4, 2020

Appendix H: Harris County Commissioners Court Order Approving Comments on Behalf of Harris County, dated December 8, 2020

³⁰ 40 C.F.R. § 1502.9(b)