



**LINK
HOUSTON**



Chairman J. Bruce Bugg, Jr.
Texas Transportation Commission
125 E. 11th Street
Austin, Texas 78701
Via email to Aug2021.Commissionmtg@txdot.gov

Commissioner Alvin New
125 E. 11th Street
Austin, Texas 78701

Commissioner Laura Ryan
125 E. 11th Street
Austin, Texas 78701

Commissioner Robert C. Vaughn
125 E. 11th Street
Austin, Texas 78701

August 30, 2021

Dear Chairman Bugg, Commissioner New, Commissioner Ryan, and Commissioner Vaughn:

We appreciate the Commission's provision of reasonable accommodation that allows persons covered by the Americans with Disabilities Act to provide comments on the Unified Transportation Plan by email to avoid the risk of COVID-19 transmission.

However, we note that the TTC has not made this option public; there was no mention of it on TxDOT's website, the TxDOT or TTC twitter accounts, or TxDOT's Facebook page as of 1:00 p.m. today. It is unclear how persons covered by the Americans with Disabilities Act are reasonably accommodated if they do not know that the reasonable accommodation exists. That the only option is to submit written comments may also make it more difficult for people with visual impairments or other impairments that make it difficult for them to communicate in writing to use this process.

While we appreciate the limited reasonable accommodation provided, we object to the TTC's failure to modify its policies to make remote access, including by telephone and video conference, available to the public, including persons with disabilities until the the risk of community transmission of COVID-19 is low or moderate, and the decline in new cases, hospitalizations, and deaths, has continued for at least four weeks. Providing a narrow and one-time accommodation instead of a modification of the Commission's policies, practices, and rules requires not just persons with disabilities and persons associated with persons with a disability, but also all Texans, for example parents of children under 12, to risk their health, the health of their families and communities, and potentially their lives to participate in a public decision making process as mandated by the Texas Open Meetings Act.¹ As of August 27, 2021, the Austin area had exceeded its ICU capacity.² The state's level of community transmission remains high.³

We also note that the communities that have been disproportionately and adversely affected by COVID-19, communities of color⁴ and low-income communities, are the same communities that will be most adversely affected by the NHHIP as proposed, and for whom in-person public meetings in Austin are the most challenging and high-risk.

The undersigned organizations, as set out in previous comments submitted to TxDOT, including our January 18, 2021 letter regarding issuance of the Record of Decision (incorporated by reference and attached) maintain that the North Houston Highway Improvement Project (NHHIP) as proposed in the Final Environmental Impact Statement (FEIS) 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 The Texas

¹ TEXAS GOVERNMENT CODE, Chapter 551

² Marisa Charpentier, "We Need Your Help": Austin Public Health Urges COVID-19 Vaccination As ICU Patients Exceed Capacity", KUT X Available at:

<https://www.kut.org/covid-19/2021-08-27/watch-austin-public-health-gives-covid-19-update>

³ https://covid.cdc.gov/covid-data-tracker/#cases_community

⁴ See, e.g.: Jared Brey, "People Living in Formerly Redlined Neighborhoods at Higher Risk of COVID-19" Next City, September 11, 2020. Available at:

<https://nextcity.org/daily/entry/housing-brief-people-in-formerly-redlined-neighborhoods-higher-risk-covid19>;

People of color are disproportionately exposed to air pollution that increases the prevalence of disabilities and increases the likelihood that COVID-19 will be fatal. Lisa Friedman, "New Research Links Air Pollution to Higher Coronavirus Death Rates", *New York Times*, April 7, 2020. Available: <https://nyti.ms/2UROU3Y>; Razzaghi H, Wang Y, Lu H, et al. Estimated County-Level Prevalence of Selected Underlying Medical Conditions Associated with Increased Risk for Severe COVID-19 Illness — United States, 2018. *MMWR Morb Mortal Wkly Rep* 2020;69:945–950. DOI:

<http://dx.doi.org/10.15585/mmwr.mm6929a1>; J. David Goodman, "The Virus Found a Crowded Houston

Neighborhood, Sparing One Nearby", *New York Times*, July 21, 2020. Available at:

<https://www.nytimes.com/2020/07/21/us/coronavirus-houston-gulfton-bellaire.html>;

Department of Transportation’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. TTC added a separate question specific to the NHHIP to its UTP public comment process, that asked commenters to select one of two options: “Support maintaining project and funding as proposed,” or “Support removing project and funding.”⁵ (emphasis added). Asking the public to decide between an option that violates Civil Rights and environmental justice requirements and an option that would also violate Title VI of the Civil Rights Act of 1964 and other civil rights requirements by excluding from participation in, denying the benefits of, and subjecting to discrimination, under a program or activity receiving Federal financial assistance, persons protected by Title VI, is unacceptable. TxDOT cannot avoid compliance with federal civil rights laws by asking the public to choose between two options that would have a significant adverse effect on Texans based on their race, color, and national origin. We urge the TTC and TxDOT to work with Houston area officials and community members to improve the NHHIP design to better reflect the region's mobility needs, reduce climate change impacts, and improve equitable outcomes for low-income and communities of color.

Respectfully,

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Transportation Policy Advocate
Air Alliance Houston

Ines Sigel
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Susan Graham
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Stop TxDOT I-45

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⁵ See, *also*; TxDOT’s presentation at the July 7, 2021 UTP Public Comment Hearing, Slides 16-17. <https://ftp.txdot.gov/pub/txdot/tpp/utp/2022-public-meeting.pdf>

