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July 19, 2021

Dear FHWA Administrator Achille Alonzi,

We are writing to inform you of recent developments regarding the North Houston Highway Improvement Project (NHHIP) and the Texas Department of Transportation (TxDOT) following FHWA's June 23, 2021 letter to TxDOT. FHWA's letter clarified that it was requesting that TxDOT pause all right-of-way acquisition, including solicitations, negotiations, and eminent domain and final design activities, as well as all other contract solicitation activities while FHWA investigated allegations that TxDOT had violated Title VI of the Civil Rights Act of 1964 and other civil rights requirements. FHWA additionally informed TxDOT that it would also be reviewing TxDOT's compliance with the December 9, 2019 Memorandum of Understanding (MOU) that delegated environmental review authority, including the power to issue the record-of-decision (ROD), from FHWA to TxDOT.

On June 30, the Texas Transportation Commission held a regularly scheduled meeting during which they discussed TxDOT's Unified Transportation Plan (UTP), the agency's 10-year program document, and the product of a planning process that began in September 2020. During this meeting, Commissioner Bruce Bugg announced that, in addition to the standard public comment on the UTP as a whole, there would be a concurrent public comment process specific to the NHHIP, and that, depending on the results of the comment period, the commissioners will consider removing funding for the project from the region. Comments from Commissioner Bugg and Commissioner Laura Ryan during the meeting made clear their intention to use the UTP's public comment period as an ad hoc referendum on the NHHIP. TxDOT released [the public comment form for the UTP](#) on July 9. Concerning the NHHIP, TxDOT asks commenters to select one of two options: "**Support maintaining project and funding as proposed**," or "**Support removing project and funding**."¹ (emphasis added). No other option is given.

The public comment period for the draft 2022 UTP, including the NHHIP specific question, began on July 9, 2021, and will end on August 9, 2021, with one other public hearing on August 2, 2021. According to TxDOT's July 7, 2021 presentation, TTC must approve the UTP by August 31, 2021 under state law. The draft UTP and PowerPoint presentations are only provided in English. The public comment form, in its various formats, is provided in English and Spanish. It is unclear to the public if Spanish language or other accessible translation will be available during the public hearing on August 2nd. In addition, we want to point out that Texas Transportation Commission meetings are held monthly and made available to view virtually but the only way anyone can make a public comment is to be present in Austin, Texas in-person on a weekday in the middle of the morning.

Furthermore, a question on the comment form asks commenters to "Please select your role as it relates to your comments on the UTP," with commenters able to select one of five options:

- Citizen
- Elected Official
- Representative of Metropolitan Planning Organization/Regional Mobility Authority
- Representative or Member of a Community Organization
- Other

¹ 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>

Houston and Texas are home to a large immigrant community, many of whom may be directly affected by any number of projects available to comment on in the UTP. Language asking commenters to identify as "Citizens" or "Other" discourages broad participation from community members. Whether this exclusionary language choice was purposeful to deter participation or simply poor wording, TxDOT should neutralise the options to "community member" or "resident" to encourage comprehensive public participation.

Our organizations are deeply concerned about the substance and timing of TxDOT's actions and the underlying intent of the Texas Transportation Commission. TxDOT has presented the public with only two options: "Support maintaining project and funding as proposed," or "Support removing project and funding." By framing it as a binary option - either support the project as proposed or lose the allocated transportation funding for the Houston area entirely - TxDOT is forcing an impossible choice on our region's residents. Community members, stakeholders, and local elected officials have all expressed concerns about the aging infrastructure along the I-45 corridor and would support desperately needed improvements for safety and mobility. These stakeholders have also repeatedly reiterated their desire to work with TxDOT to improve the NHHIP, and TxDOT has repeatedly refused to meaningfully engage in good-faith. Now, the agency is asking the region to either support a project that may violate civil rights and environmental justice or lose out on funding for any improvements to the corridor whatsoever. To the best of our knowledge, TxDOT has provided no reason or justification for why these are the only two options it will consider, nor why the agency put project selection to an up or down vote by some self-determined segment of the public, following decades of planning and studies.

Both TxDOT's unprecedented threat to pull funding from this project and the timing of that threat call TxDOT's motives into question. According to the commissioners, TxDOT has spent over two decades and about \$503 million planning the project up to this point. TxDOT has continuously highlighted traffic safety concerns as a driving force behind their proposed improvements. TxDOT's own documents claim that in 2019, I-45 was the "second most dangerous road in America." TxDOT's threat to pull funding from the Houston area despite the vast amounts of time, energy, and funding spent on planning, as well as the dire safety improvements needed, leads us to believe this threat is retaliation for the Title VI Civil Rights complaints filed against the agency based on the proposed project's admittedly disproportionate and severe adverse impacts on people because of their race, color, and national origin. A state agency threatening to remove transportation funding from an entire region in response to civil rights concerns is unconscionable, discriminatory, and amounts to little more than institutionalized coercion.

For these reasons, we are asking the FHWA to take these recent developments into consideration during the ongoing Title VI investigation. We would also hope these tactics are considered during the FHWA's audit of TxDOT's power to self-certify environmental RODs. We are aware the UTP process occurs each year and at any given monthly meeting the Texas Transportation Commission is able to modify the active UTP. Finally, we would also like to ask how the Title VI investigation would be affected if the project were to be removed from the TxDOT's 2022 Unified Transportation Program.

Respectfully,

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