



U.S. Department
of Transportation
**Federal Highway
Administration**

Texas Division

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In Reply Refer To:
HDA-TX

Mr. Marc Williams Executive Director
Texas Department of Transportation 125 E. 11th Street
Austin, TX 78701

Dear Mr. Williams:

I am writing to inform you that the Federal Highway Administration (FHWA) has concluded its review of the Texas Department of Transportation's (TxDOT) compliance with the December 9, 2019, Memorandum of Understanding (MOU) in completing the Environmental Impact Statement (EIS) and issuing its Record of Decision (ROD) for the North Houston Highway Improvement Project (NHHIP). As explained in my June 14, 2021, letter initiating this review, the review of the NHHIP was conducted as an extension of the FHWA's monitoring responsibilities in accordance with 23 U.S.C. 327(c)(4) and (d), and sections 8.1.5 and 8.2 of the MOU. I appreciate TxDOT's cooperation in the project review process.

In particular, the FHWA project review team found that TxDOT complied with the responsibilities assumed under the MOU with respect to the environmental review process for the NHHIP. TxDOT made decisions consistent with the National Environmental Policy Act (NEPA); title 23 of the United States Code, and the applicable FHWA regulations and guidance concerning the environmental review process. The FHWA's review of topic areas included, but was not limited to, alternatives analysis, traffic impacts, environmental justice, public involvement, Section 106 of the National Historic Preservation Act, noise, air quality, drainage, social impacts including displacements, and Section 4(f) of the Department of Transportation Act. In addition, we did not find any violations of the Uniform Relocation Assistance and Real Property Act implementing regulations (49 CFR Part 24).

The NHHIP project review was conducted by an interdisciplinary team from FHWA's headquarters and field offices consisting of environmental and realty specialists, subject matter

experts, and attorneys. The team met several times and reviewed the draft and final Environmental Impact Statements (EIS), the technical reports, the ROD, the public hearing transcripts, the Division office's project files, and the project website (www.ih45northandmore.com). In addition, the FHWA Division office coordinated with TxDOT to facilitate a site visit and to review many additional project files.

FHWA commends TxDOT for working with Harris County and the City of Houston to resolve their concerns about many elements of this project as it proceeds to construction with additional mitigation and coordination beyond what was in the ROD. Although the FHWA team did not identify any issue in the NHHIP's environmental review process requiring a corrective action, the following observations and recommendations of successful practices are provided to assist TxDOT with its efforts to continuously improve the delivery of its program for future projects:

1. Presentation of Environmental Justice Analyses:

TxDOT included an analysis of Environmental Justice impacts in their Community Impact Assessment Technical Report that met the applicable requirements. TxDOT's analysis focused on the following subjects:

- Displacements and Housing
- Businesses and Community Facilities
- Public Transportation
- Access, Mobility and Safety
- Traffic Noise
- Air Quality
- Homeless Populations

More specifically, TxDOT's methodology used a 50% threshold to identify minority populations at the Census Tract and Block Group level and compared that to the regional average to identify majority minority Block Groups. For low-income populations, the 2019 Health and Human Services poverty guidelines and the same census-based geography was used. The analysis included all census tracts, block groups, and blocks within or adjacent to the proposed right-of-way of the Preferred Alternative.

TxDOT made a determination in the Draft EIS that all alternatives would have a disproportionately high and adverse impact on the Environmental Justice Community. However, between the Draft EIS and Final EIS, through consultation with various impacted Environmental Justice communities and local governmental agencies TxDOT determined and committed to a number of mitigation measures to offset these adverse effects. Based on these commitments and measures, TxDOT concluded in the Final EIS that the preferred alternative would not have a disproportionately high and adverse impact on the Environmental Justice Community.

The TxDOT public involvement process included meeting locations and times that ensured low-income and minority workers with nontraditional schedules had opportunities to participate in person. Ten out of 17 super neighborhoods are predominately minority and are dispersed along the length of the corridor. Public and

neighborhood meetings were held in the most directly impacted neighborhoods. TxDOT's outreach included providing information at community events, neighborhood meetings and civic club gatherings as well as meetings specific to environmental justice stakeholders and businesses. Meetings were held in the public housing communities of Kelly Village and Clayton Homes. Translations were available in several languages for limited English proficiency attendees.

Recommendation: FHWA recommends that in future projects, in addition to conducting a Community Impact Assessment, TxDOT should consider including a separate Environmental Justice chapter in its Environmental Impact Statements and bring relevant graphics from the appendices to the main body of the document to provide a visual representation of potential impacts.

2. Development of Mitigation Commitments:

TxDOT's mitigation commitments met the applicable requirements. TxDOT revised the proposed mitigation during an iterative process of developing the preferred alternative. For each category of impacts, TxDOT described the impacts that would result from each of the alternatives, compared the impacts for each alternative, and described planned mitigation efforts to counter the impacts. The final mitigation commitments were listed in a table attached to the ROD.

Recommendation: FHWA recommends that in future projects TxDOT consider strengthening the language in the mitigation commitments to be more precise and measurable so that the commitments can be tracked through project close-out. For example, it was difficult to decipher which exact locations were designated for bicycle and pedestrian accommodations during design. In addition, in future projects, FHWA recommends that TxDOT consider ways to provide additional clarity around the development of the preferred alternative and the corresponding mitigation measures in response to public involvement and agency coordination. Although changes to the preferred alternative were included in the FEIS as a result of public comments, TxDOT could have more clearly documented the changes to enhance community understanding.

3. Management of Relocations:

TxDOT's analysis of displacement impacts and the relocation process met the applicable requirements. The project alignment currently includes approximately 817 right-of-way acquisitions, 1079 residential displacements, 344 business relocations, and additional relocations of 58 billboards, five places of worship, and 2 schools. The DEIS and Community Impact Assessment documented the relocation impacts that would result from the relocations. Through this analysis, TxDOT determined that an adequate supply of housing was available through existing homes for sale or lease in the surrounding area to accommodate the displacements and relocations. However, TxDOT determined that there was not sufficient public housing to meet the needs of tenants displaced from the two public housing facilities (Clayton Homes and Kelly Village). As a result, TxDOT coordinated with the Houston Housing Authority and signed an agreement to build new subsidized housing in the project area that would provide adequate public housing for the displacees of the two facilities. In the ROD, TxDOT committed \$27 million towards

developing affordable housing in the neighborhoods most affected by the proposed project. The \$27 million is above and beyond the compensation that will be provided to individual displacees under the Uniform Act. This mitigation was intended to compensate for the direct effects of residential displacements, the indirect effects of potentially contributing to ongoing housing affordability problems, and past and present contributions to recurrent adverse effects.

Recommendation: Federal regulations at 49 CFR 24.205 require agencies to plan Federal and federally-assisted programs or projects in such a manner that recognizes the “problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations and develop solutions to minimize the adverse impacts of displacement.” The regulations suggest that a relocation plan may include certain elements outlined in the regulations at 49 CFR 24.205(a)(1)-(5). While TxDOT considered all the suggested elements in various sections of the Community Impact Assessment, TxDOT should consider developing a separate Right-of-Way Relocation Plan for future projects.

The FHWA appreciates TxDOT’s cooperation in the NHHIP project review. If you wish to discuss any of the above recommendations, please contact Tom Bruechert of my staff on (512) 536-5948.

As you are aware, the FHWA has also conducted the first of a minimum of two program-level Monitoring Reports that are required during the current NEPA Assignment MOU period. The Monitoring Report process is collaborative and was conducted separately from the NHHIP project review addressed in this letter. The next step in the Monitoring Report process, which should occur in the near future, will be the transmittal of the Draft Monitoring Report #1 to TxDOT for a required 14-day comment period. FHWA will consider TxDOT’s comments and finalize Monitoring Report #1 for TxDOT to post on its website for public review.

Sincerely,

/s/

Achille Alonzi
Division Administrator

cc: Marc D. Williams, Executive Director
Brandye Hendrickson, Deputy Executive Director for Planning & Administration
Brian Barth, Deputy Executive Director for Program Delivery
Doug Booher, Director of Environmental Affairs
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