Federal Highway Administration
Office of Civil Rights
Attention: Title VI Program Coordinator
1200 New Jersey Avenue, SE
8th Floor E81-314
Washington, DC 20590
CivilRights.FHWA@dot.gov

Re: Complaint under Title VI of the Civil Rights Act of 1964

To FHWA Title VI Program Coordinator:

On behalf of residents of the Hillcrest neighborhood, in Corpus Christi, Texas, we file this complaint under Title VI of the Civil Rights Act of 1964, 49 C.F.R. § 21.5, and the United States Department of Transportation (DOT) and Federal Highway Administration (FHWA) Title VI Handbook (collectively “Title VI”).

I. Introduction

For the reasons stated below, we request that FHWA undertakes a Title VI compliance investigation into Texas Department of Transportation (TxDOT)”s compliance with its obligations pursuant to Title VI of the Civil Rights Act. In particular we ask that you review TxDOT”s selection of the recommended alternative for the new Corpus Christi Harbor Bridge,¹ public participation procedures during the environmental impact analysis of the bridge, and competitive bidding process for construction of the recommended alternative. We request that FHWA take all appropriate actions to ensure TxDOT”s compliance with Title VI.

TxDOT”s decisions and procedures violate its duty to administer all programs and activities in a nondiscriminatory manner. These violations include both actions that have caused and will cause significant adverse impact on the basis of race, color, and ethnicity, as well as acts that constitute intentional discrimination based on these protected characteristics, which are prohibited by Title VI.

¹ For a general description of the project and information about the environmental review process, see TxDOT’s Corpus Christi Harbor Bridge Project website, http://ccharborbridgeproject.com/.
Specifically, Complainants allege that TxDOT violated Title VI’s prohibition on discrimination for three reasons:

1. TxDOT’s selection of the recommended alternative for the new Harbor Bridge in the Final EIS and the ongoing bidding process for the design and construction of the route, without adequate consultation with and mitigation for minority residents of these neighborhoods, has had and continues to have discriminatory and significant adverse impacts on African American and Latino/a residents in Hillcrest and Washington Coles.

2. By selecting the recommended alternative without adequate consideration of minority residents’ concerns, TxDOT continues to perpetuate past discrimination against African Americans in the historically segregated Hillcrest neighborhood which has already borne disproportionate environmental and health impacts through the siting of a previous highway in the neighborhood and the growth of the surrounding industrial district, including several refiners and the Port of Corpus Christi.

3. TxDOT intentionally discriminated against African American and Latino/a residents of Hillcrest and Washington Coles by implementing discriminatory procedures during the environmental impact process, including site selection and public participation.

II. Complainants

Complainants Jean Salone and Rosie Porter are African American residents of the Hillcrest neighborhood. Jean Salone has lived in the neighborhood for over 50 years and Rosie Porter grew up in the neighborhood and moved back with her children.

Complainants are very concerned about the health and safety threats posed by the new Harbor Bridge, the further isolation of the Hillcrest neighborhood into an industrial area, and the reduction in their property values. They are also concerned about the exclusion of Hillcrest residents from meaningful participation in the decision-making process about the new Harbor Bridge, and believe TxDOT’s actions exacerbate and perpetuate past discrimination against African Americans in the Hillcrest and Washington Coles neighborhoods.

III. TxDOT must comply with Title VI regulations as a recipient of federal funding

TxDOT is a past and current recipient of federal funding, including grants coming directly from the U.S. Department of Transportation’s Federal Highway Administration (FHWA) and Federal Transit Administration (FTA). TxDOT is a primary recipient of federal funds. See 49 C.F.R. § 21.23(d), (f); 28 C.F.R. § 42.102(f)-(g). In particular,
TxDOT is leading the environmental planning process for the new Harbor Bridge and has allocated federal transportation funds for the project.  

TxDOT is a “program or activity” that is subject to the requirements of Title VI. See 42 U.S.C. § 2000d-4a(1)(A)-(B); 49 C.F.R. § 21.23(e)(1). As the agency responsible for transportation solutions within the state, TxDOT plays a direct role in highway planning and construction.

As a recipient of federal funding, TxDOT is required to provide assurances that it is in compliance with Title VI on each of their applications for federal funding. 49 C.F.R. § 21.7. TxDOT is further required to ensure that the City of Corpus Christi’s transportation planning process complies with Title VI. 23 C.F.R. § 450.218; 23 C.F.R. § 450.334.

Accordingly, TxDOT’s environmental impact analysis, siting decision, public participation process, and mitigation for the new Harbor Bridge Project are all subject to the requirements of Title VI.

IV. Factual and Historical Background

a. Hillcrest and Washington Coles Neighborhoods: A history of segregation and discrimination in the siting of industry and highways

The Hillcrest neighborhood was first platted in 1916 and underwent development along with the Washington-Coles, Dona Park, and Oak Park neighborhoods in the 1930s and ’40s, prior to the industrialization of the Corpus Christi Ship Channel. At that time, Washington-Coles was specifically designated as the neighborhood for black residents. In 1944, the City Council allowed black homeowners to move into the Hillcrest neighborhood after being informed that Washington-Coles had no more room for new residents. Over the next two decades, Hillcrest transformed from a predominantly white community to a predominantly black community.

Despite this history of segregation, the Northside neighborhoods have a rich history: well-attended schools, vibrant churches, restaurants, locally owned businesses, and community activism. Ray Charles and B.B. King both played at clubs on the Northside. The first park in the area, T.C. Ayers Park, was established in 1938. In 1964, representatives from the Hillcrest, Ayers, Leathers, and Coles neighborhoods formed HIALCO, an organization that sponsored food banks, vocational education, medical facilities, and voter education projects. The Harlem Theater on North Staples was the only theater with open seating for blacks. The Old Bayview Cemetery, on Waco Street, is

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the city’s oldest, with graves dating back to 1845, including those of the City’s first mayor and sheriff, pioneer families, and Buffalo Soldiers.

Nevertheless, industrialization, the construction of Interstate 37 and United States Highway 181, and violations of the nation’s environmental laws have taken their toll. Over time, the government has allowed industry, new highways, and the Port to encroach on the Northside neighborhoods, perpetuating a history of discrimination against African American residents in Corpus Christi. See Exhibit A, Map of Hillcrest and Dona Park Neighborhoods with surrounding sources of toxic releases.

The Port of Corpus Christi opened in 1926 and primarily shipped cotton until the 1930s, when oil was discovered in Nueces and adjacent counties. In 1934, the first industrial plant, Southern Alkali, was built in Northside, off Buddy Lawrence Drive.

In 1958, as industrial growth encroached on Northside neighborhoods from the north, a new freeway was proposed from Corpus Christi to San Antonio. Although objections were raised to the route in Corpus Christi, the highway was not rerouted and construction commenced in 1961 through the Northside neighborhoods. The new I.H. 37 divided existing communities and created a barrier on the south side of the neighborhoods, isolating them from the rest of the community between the interstate and the industrial/port corridor.3

Today, Corpus Christi has one of the largest concentrations of major oil refineries next to residents in the United States. The Ship Channel is now home to six refineries, the Port, and numerous petrochemical and energy companies. With the discovery of the Eagle Ford Shale, petrochemical activity in Corpus Christi is only projected to increase in the coming decades.

Due to their proximity to an ever-expanding Port and industrial sector, Northside and Ship Channel neighborhood residents have endured repeated environmental assaults, including explosions, releases of toxic chemicals, fires, and violations of environmental laws so severe that companies have been criminally prosecuted. Just a few examples across several decades include:

- General American Tank Farm Explosion (1952): There was a large explosion at the General American tank farm, just north of the Hillcrest neighborhood. Residents from a 27-block area were evacuated. For 17 hours, firefighters battled to control the fire, and at least a dozen firefighters were injured.

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3 Jessica Savage, Corpus Christi library director hopes to rebuild trust in historic Northside neighborhoods, May 6, 2012, Corpus Christi Caller Times, available at http://www.caller.com/news/corpus-christi-library-director-hopes-to-rebuild ("The neighborhood changed when the [I-37] highway construction began. ... 'That changed the neighborhood really forever. It was almost destined to be industrial.' ... Homes in the interstate's path were moved and demolished as the state highway department bought between 500 and 600 parcels of property.")
• Hydrogen Sulfide Leaks (1954): Two years later, Hillcrest residents complained of foul odors, which were eventually identified as hydrogen sulfide from a nearby refinery. Those odors were making their way into the neighborhood through the sewage system. Hydrogen sulfide can poison several different systems in the body, with a toxicity comparable to that of carbon monoxide.

• Southwest Refinery Explosion (1981): More recently, another environmental accident threatened Hillcrest when a gasoline tank exploded at Southwestern Refinery. One worker died and another was injured. The explosion of this tank caused explosions in two other tanks. Hillcrest residents evacuated their homes and sought shelter.

• Southwestern Refinery Emissions (1993): Southwestern Refining emitted a large black cloud of smoke that burned residents’ eyes and throats.

• Citgo Refinery (1996–97): Citgo reported a release of hydrogen fluoride (HF). Upon contact with moisture, HF converts immediately to hydrochloric acid, which is highly corrosive and toxic, and requires immediate medical attention following exposure. Breathing in HF at high levels can cause death from an irregular heartbeat and/or fluid buildup in the lungs.

• Citgo East Refinery (2009): An explosion and fire that lasted several days in the alkylation unit caused a release of HF and critically burned one worker.

• Citgo East Refinery (2009): Another incident at this refinery led to another HF release.

Additionally, two of the companies with refineries adjacent to the Hillcrest neighborhood were indicted for criminally exceeding their benzene limits. In 2000, a grand jury returned an indictment against Koch Industries (now called Flint Hills) for violations of the Clean Air Act, including benzene violations, at the company’s West plant. In 2007, Citgo was convicted for environmental crimes, including having uncontrolled benzene emissions, which is a known carcinogen, from open tanks from 1994 through 2003.

The litany of emissions exceedances and refinery accidents has impacted the health and welfare of the residents of the Northside and Ship Channel neighborhoods. The impact of these events is exacerbated by the day-to-day impacts of living next door to heavy industry. These daily impacts include: loud noises and sirens; bright lights at all hours, including lights from industrial flares; vibrations that shake residents’ homes; and foul odors. Residents in the Northside neighborhoods also suffer from disproportionately high incidences of cancers; asthma and respiratory problems; and birth defects.

In 1997, state regulators responded to community requests and installed an air monitor on the Northside, which recorded high levels of toxins in the air. From 2002–2005, the monitor registered benzene emissions among the highest in the state of Texas. Problems with industrial pollution, accidents, and environmental justice in the neighborhood persisted.

During the Citgo sentencing, over 800 victims of Citgo’s crimes were certified, most current or former residents of the Hillcrest and Washington-Coles neighborhoods.
Ninety of these victims testified at a recent sentencing hearing about the odors and pollution in the neighborhood, the reduction in property values because of the pollution, and the lack of resources available to address neighborhood concerns about the impacts of the pollution.

b. Demographics of the Northside Neighborhoods

TxDOT’s recommended alternative (the Red Route) for the new Harbor Bridge will benefit the City of Corpus Christi at the expense of the Hillcrest and Washington Coles neighborhoods, which have a substantially higher percentage of African Americans and overall minority residents than the city as a whole. Corpus Christi is approximately 4.3% African American, whereas Hillcrest and Washington Coles are 38% and 31% African American, respectively.4

Even though the Northside neighborhoods have a much higher African American population compared to the rest of the city, the Final EIS fails to consider the unique impacts on Corpus Christi’s African American population. Instead, because Corpus Christi is a majority minority city, it considers all proposed routes of the highway to have high environmental justice impact, ignoring the fact that the construction of the Red Route will occur in an area which contains a distinct minority group that has suffered a unique history of discrimination and segregation in the City. TxDOT must address this unique population and its history in its decision-making process for the bridge.

In addition, the total minority population in Hillcrest and Washington Coles is higher than the city and county, demonstrating that both African Americans and Latinos/Hispanics will be disproportionately impacted by harms to these neighborhoods. The City of Corpus Christi and Nueces County have minority populations of 66.7% and 67.1%, respectively, compared with Hillcrest and Washington Coles, which are 93% and 94% minority, respectively.5

c. The New Corpus Christi Harbor Bridge Project

TxDOT has led the environmental impact analysis and planning process for the new Harbor Bridge in Corpus Christi pursuant to the National Environmental Policy Act. TxDOT went through a scoping process, released a Draft EIS in December 2013, and a Final EIS in November 2014.6 In addition, TxDOT is currently seeking requests for proposals for the shortlisted teams for the design and construction of the new bridge.7 FHWA is expected to sign the Record of Decision approving TxDOT’s Final EIS and selection of, likely in April of this year.

4 2010 Census data, see Section 3-67 of the Final EIS.
5 Id. at 3-67, 68.
6 TxDOT, Corpus Christi Harbor Bridge Project, EIS, http://ccharborbridgeproject.com/eis/
From the very beginning of the planning for the new bridge, TxDOT has demonstrated its intent to prioritize the economic benefits of the bridge for other segments of Corpus Christi at the expense of the Northside neighborhoods. In the Harbor Bridge feasibility study, TxDOT stated that the Red Alternative will “serve as a barrier between the newly developed Northside people-oriented area and the Port and industrial facilities located to the west of the red alternative.” This statement completely ignored (or intentionally excluded) the residents of the Hillcrest neighborhood, who would be left on the “industry side” of this new “barrier.”

Throughout the planning process for a new Harbor Bridge in Corpus Christi, residents of the Northside neighborhoods and other concerned citizens and advocacy groups have expressed their objections to the disproportionate harm the Red Route would have on these historically African American neighborhoods. See, e.g., Exhibit B, Comments on Draft Coordination Plan and Scoping Presentation; Exhibit C, Comments on Draft EIS; Exhibit D, Letter to TxDOT from Hillcrest Residents; and Exhibit E, Comments on Final EIS filed by concerned civil rights and environmental justice groups. However, Hillcrest residents who attended TxDOT’s meetings about the bridge have stated that it was clear from the very beginning that TxDOT intended to choose the Red Route and not offer meaningful mitigation for the Northside neighborhoods, despite residents’ concerns. See, Exhibit D.

Despite these comments and the history of discrimination and environmental health disparities in the Northside neighborhoods, TxDOT ignored residents’ input and selected the Red Route for the reconstruction of the Harbor Bridge as its recommended alternative in the Final EIS. The Red Route will be built between the only two historically African American neighborhoods in Corpus Christi. See Exhibit F, Map of Harbor Bridge Reasonable Alternatives.

V. TxDOT’s violations of Title VI

Title VI prohibitions apply to TxDOT’s decisions related to siting, public participation, and accepting bids for the Harbor Bridge Project. Title VI and DOT’s implementing regulations prohibit recipients of federal funding from excluding persons from participation in programs or denying persons the benefit of programs on the basis of race. See 42 U.S.C. § 2000d; 49 C.F.R. § 21.25(a); 28 C.F.R. § 42.104(a). Recipients of federal transportation funding are prohibited from making project site selections that discriminate on the basis of race, 49 C.F.R. § 21.5(3), and from locating or designing a highway in such a manner that requires the relocation of any persons on the basis of race, 49 C.F.R. Pt. 21, App. C (2)(vi). FHWA’s guidance document covering Title VI compliance states that consideration should be given to (1) changing highway alignment

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so that there are not displacements, or (2) rerouting or shifting a highway segment to reduce displacements.9

Moreover, where prior discriminatory practice or usage has tended to subject individuals to discrimination under any program or activity to which Title VI applies, the applicant or recipient “must take affirmative action to remove or overcome the effects of the prior discriminatory practice or usage.” 49 C.F.R. § 21.5(7).

 TxDOT’s recommended route for the new Harbor Bridge will benefit the City of Corpus Christi at the expense of the Hillcrest and Washington Coles neighborhoods, which, as stated in the demographics section above, have both a substantially higher percentage of African Americans and total minority population than the city as a whole.

a. Disparate impacts suffered by the Hillcrest and Washington Coles Neighborhoods

The residents of the Northside neighborhoods will disproportionately suffer from the harmful impacts of the new Harbor Bridge. TxDOT has failed to properly address and mitigate the impacts that the new Harbor Bridge will have on the Northside communities, including increased air and noise pollution, increased isolation, and decreased property values.

i. Increased Air Pollution

Locating the new Harbor Bridge between two historically black neighborhoods ensures that these neighborhoods will receive increased exposure to mobile source air toxics due to the increased traffic flow in these communities. Numerous studies have shown that pollution from highways is very localized. These studies have also shown that those living in close proximity to the highways face significantly elevated exposure to a complex mixture of pollutants including air toxics, diesel particulate matter, and other highway emissions including tire wear, brake wear, resuspended road dust, and various metals.10

Living, working, or attending school near major roadways or highways has been associated with negative respiratory effects such as:

- Asthma and bronchitis: exposure to diesel exhaust can induce histamine releases that result in allergic conjunctivitis, rhinosinusitis, pharyngitis, laryngitis, and chronic cough. This exposure can also lead to degradation of lung tissue.11

Children are especially vulnerable to chronic negative respiratory issues, as living

10 U.S. Environmental Protection Agency, Near-Road Air Quality Monitoring Research (Nov. 3, 2009).
11 Irina N. Krivoshto et al., The Toxicity of Diesel Exhaust: Implications for Primary Care, J. AM. BOARD FAM. MED. 55, 58 (2008).
in close proximity to highway traffic can inhibit lung development during childhood and lead to lifelong weakened lung function.\textsuperscript{12}

- Negative cardiovascular effects: long-term exposure to air pollution from high traffic has been shown to increase incidences of coronary artery calcification\textsuperscript{13} as well as increased coronary heart disease and strokes in women.\textsuperscript{14}

- Adverse birth outcomes and developmental effects: living in close proximity to heavy-traffic roadways can cause an increase in term low birth weight and preterm infants. This is especially concerning for African-American women, who already have a higher risk of term low birth weight than white or Latino women.\textsuperscript{15}

- Premature mortality: epidemiological surveyors have discovered high acute and chronic respiratory disease morbidity rates from proximity exposure to diesel exhaust, as well as incidences of acute coronary syndrome (heart attacks) and ischemic effects (strokes).\textsuperscript{16}

- Increased incidences of cancer: many emissions released by heavy traffic flow, such as diesel exhaust fumes and particulate matter, have carcinogenic properties.\textsuperscript{17}

Although TxDOT failed to perform local modeling of air pollution impacts, it contends in the Final EIS that the air quality impacts from the increased traffic will be minor. It does, however, acknowledge that there may be toxic air pollution hot spots and that such impacts would be predominately borne by minority and low-income populations. Given the history of these neighborhoods, their minority make-up, their past exposure to mobile sources air toxics such as benzene, and the high diesel truck fleet mix that will be accessing the Port on the proposed highway, a detailed modeling study of toxic and diesel particulate matter should have been conducted. Such study should allow a comparison of the air pollutant impacts on local populations from the various proposed highway routes. Further, despite the widely-known and well-documented negative health effects associated with long-term exposure to highway emissions, TxDOT's FEIS does not discuss these negative health effects and how they will impact the Northside neighborhoods.

In comments on the Final EIS, the U.S. Environmental Protection Agency (EPA) critiqued TxDOT for failing to analyze the localized increases in air emissions in

\textsuperscript{12} W. James Gauderman et al., \textit{Effect of Exposure to Traffic on Lung Development From 10 to 18 Years of Age: A Cohort Study}, The LANCET 571, 574 (Jan. 26, 2007).

\textsuperscript{13} B. Hoffman et al., \textit{Residential Exposure to Traffic is Associated with Coronary Atherosclerosis}, 116 CIRCULATION 489 (2007).

\textsuperscript{14} Kristin A. Miller et al., \textit{Long-Term Exposure to Air Pollution and Incidence of Cardiovascular Events in Women}, 356 NEW ENG. J. MED. 447, 453-56 (2007).


\textsuperscript{16} Irina N. Krivoshto et al., \textit{The Toxicity of Diesel Exhaust: Implications for Primary Care}, J. AM. BOARD FAM. MED. 55, 56-59 (2008).

\textsuperscript{17} Rachel A. Morello-Frosch, Tracey J. Woodruff, Daniel A. Axelrad, Jane C. Caldwell, Air Toxics and Health Risks in California: The Public Health Implications of Outdoor Concentrations, Risk Analysis, Volume 20 Issue 2, February 2000 (predicting 8600 excess cancer cases).
Hillcrest and Washington Coles: "by primarily analyzing air impacts at the regional level, the FEIS does not give adequate consideration of near-road air emission impacts to minority and low-income populations in the Northside community." See Exhibit G, EPA Comments on Final EIS. In addition, EPA noted TxDOT's failure to take into consideration "factors that may amplify near-road emissions (e.g. community asthma rates)," and its failure to address the cumulative effect of new pollutants on already high air emissions. For example, EPA cited studies showing four times the concentration of diesel particulate matter in the Northside neighborhoods compared with the county in general.

**ii. Increased Noise**

TxDOT also concedes that traffic noise impacts will be borne predominately by the low-income and minority populations of the Northside. Though the recommended alternative will include some noise barriers as a form of mitigation, 351 residential receivers will still experience noise impacts—the highest number of any of the alternatives—even after the placement of the noise barriers. The high number of Northside residents that will be affected by these noise impacts further reinforces that the recommended alternative places the new Harbor Bridge in a discriminatory location.

Populations that live in close proximity to noise can suffer various adverse health effects. Acute exposure to noise can cause increased blood pressure, heart rate, and release of stress hormones. ¹⁸ Furthermore, exposure to normal urban levels of noise during the night has been associated with sleep disturbances.¹⁹ Residential exposure to road traffic noise is also associated with a risk of stroke, with a 14% higher risk per 10 decibels higher exposure.²⁰

The Final EIS, while recognizing that the Hillcrest residents will face increased noise exposure from highway traffic, does not address or mitigate any of these adverse health effects associated with increased exposure to noise. The U.S. Department of Housing and Urban Development (HUD) criticized the Final EIS for not adequately addressing "the incessant drone of traffic noise with which properties in the immediate vicinity of highways must cope." See Exhibit H, HUD Comments on Final EIS. In particular, HUD noted, TxDOT should have taken into account the sensitive populations in the neighborhood, including low-income and elderly populations.

**iii. Increased Isolation and Decreased Property Values**

Segregating the Hillcrest neighborhood from the rest of residential Corpus Christi will cause residential property values to diminish, hasten its conversion from residential use, and adversely impact the availability of low-income housing in Corpus Christi.

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Numerous studies have demonstrated that residential properties located near major roadways experience a drop in value. Detached single-family homes experience the greatest drop in property values as compared to commercial properties or condominiums, with a high drop in value for homes both abutting the highway and located in the highway’s impact area.21

The location of the new Harbor Bridge will also cause property values in the Hillcrest neighborhood to drop due to the increased noise and air pollution. Numerous studies have shown that as levels of noise and air pollution increase, property values decrease in a directly proportional manner.22 Decreased property values also make it more difficult for the owner to sell their property and relocate.

In the Final EIS, TxDOT fails to analyze the drop in property values that will occur due to highway construction. Though the Final EIS acknowledges that displacement of Northside residents will occur as a result of the project, it does not discuss that these residents will also suffer from a loss of value to already low-income properties.

In comments to TxDOT about its bridge study, HUD also faulted TxDOT for not including in its study adequate mitigation for harms to the Northside neighborhoods, thereby “justify[ing] inaction at the expense of the host community’s quality of life and property value appreciation.” To remedy the additional harms to these neighborhoods, HUD “recommends that property owners be compensated for the taking of property value by the new highway.” See Attachment H, HUD Comments on Final EIS.

b. Inadequate Public Participation

FHWA’s Title VI Handbook acknowledges that decisions that identify one or more planned improvements over other options “may result from procedures and processes that exclude a group from the process, or from the failure to consider the impacts of various transportation system alternatives and programs or projects on one or more identified groups.”23 Thus, adequate and meaningful public participation is key to complying with the nondiscrimination requirements of Title VI.

In order to comply with Title VI, DOT recommends that the public involvement process be proactive and provide complete information, timely public notice, full public access to key decisions and an opportunity for early and continuing involvement.24 Moreover, the agency notes that “seeking out and considering the needs of those who are

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22 Ian Bateman et al., The Effect of Road Traffic on Residential Property Values: A Literature Review and Hedonic Pricing Study (Jan. 2001) at 5-18.
24 Id.
traditionally ignored or underserved” is a key element in the public involvement process.\textsuperscript{25}

Inadequate efforts to reach and involve low income or minority populations during the planning process can result in denying these groups the opportunity to participate in decisions directly affecting them.\textsuperscript{26} Thus, DOT guidance encourages state and local agencies to consider: making notification processes and documents accessible in minority and diverse language media; contacting minority groups and leaders to identify information needs and planning/programming issues of concern; ensuring the accessibility of technical information; addressing whether persons traditionally underserved are sought out for active and meaningful involvement; and encouraging adequate minority participation.\textsuperscript{27} Additionally, states and MPOs are required under both the statewide and MPO planning processes to hold any public meetings at convenient and accessible locations and times “to the maximum extent practicable.”\textsuperscript{28}

However, simply involving minority groups is not enough. As DOT emphasizes, failure to seriously consider comments by minority groups/persons is discriminatory.\textsuperscript{29} FHWA and DOT also require state DOTs to take steps to mitigate adverse environmental effects of highway construction, including increased air and noise pollution and any adverse environmental justice effects.\textsuperscript{30}

TxDOT’s Northside workshop on January 29, 2015 provided a clear example of how TxDOT has not valued or meaningfully solicited the input of residents living in the neighborhoods most affected by the Harbor Bridge project in creating true mitigation. Despite the stated goal of the workshop to “encourage a meaningful dialogue between community members and agencies on the future of the Northside area,” the notice and structure of the January 29 TxDOT workshop failed to create this dialogue.

First, TxDOT did not provide adequate notice to residents in Hillcrest:

- While it was clear that a lot of agency time and resources went into bringing many TxDOT officials and consultants to the meeting, TxDOT did not let most Hillcrest residents know about this workshop intended to solicit their input until TxDOT handed out flyers in the neighborhood the day before the meeting.
- At the meeting, a TxDOT official stated that Texas RioGrande Legal Aid helped correct the “oversight” of not providing notice to the Hillcrest neighborhood.

\textsuperscript{25} Id.  
\textsuperscript{26} Id. 7-3.  
\textsuperscript{27} Id. at 7-4.  
\textsuperscript{29} Id. 7-4.  
\textsuperscript{30} See, e.g., http://www.fhwa.dot.gov/environment/noise/.
• Organizations such as the NAACP and individual Hillcrest residents who submitted written comments on the Final EIS in early January critiquing the inadequate mitigation for the Northside were given less than three days’ notice

• The workshop directly conflicted with a Martin Luther King Jr. civil rights event with Michael Eric Dyson at Del Mar College that many Hillcrest residents had been planning to attend for weeks

Second, the format of the workshop did not meaningfully solicit input about residents’ concerns or answer residents’ questions:

• Neighborhood residents were not asked for their input on the format of the meeting, topics discussed, or questions asked at the breakout sessions

• Rather than objectively recording input from residents, facilitators “translated” that input into written notes

• No public questions or comments were allowed, despite requests by attendees for clarification about the Harbor Bridge generally and the timing, funding, and goals of the community sustainability plan in particular

• Answers were not recorded in attendees’ own words and TxDOT did not state at the meeting how the feedback would be compiled in an objective manner way

• TxDOT facilitators, none of whom were from the Northside neighborhoods or were persons of color, reported back the input in their own words rather than allowing residents to speak for themselves

TxDOT’s proposed mitigation for the Northside neighborhoods ignores residents’ input and does not reduce the disproportionate harms the residents will suffer. The proposed mitigation in the Final EIS includes a Livability Summit, a hike and bike trail, a “community sustainability plan” (with no specifics or funding commitments), oral histories, workforce support, and aesthetic enhancements. A city-wide meeting and a hike-and-bike trail that elderly, minority residents have no interest in using in no way mitigate the negative impacts the project will have on the community.

For example, TxDOT’s Livability Summit, held on October 15, 2014, is not a proper mitigation measure. This day-long meeting was held on a Wednesday during working hours and had only five community attendees from the city as a whole. TxDOT has not made it clear whether any of these attendees were from the Northside neighborhoods. Thus, any plans produced at the Livability Summit for the Hillcrest neighborhood is not representative of the community’s input.

The mitigation measures in the final EIS fail to take into account the desires and needs expressed by Hillcrest residents. Despite the fact that many Hillcrest residents have stated they would not use a hike and bike trail and requested mitigation that includes: funding to move to safer neighborhoods, more affordable housing in Corpus Christi, and a community-led plan for the future of Hillcrest that addresses concerns about health and
safety, TxDOT has not included any of these proposals in its mitigation nor explained to residents why they are not feasible. See Exhibit D, Hillcrest Residents Letter to TxDOT.

c. Perpetuation of Past Discrimination

Rather than taking “affirmative action to remove or overcome the effects of the prior discriminatory practice or usage” as required under 49 C.F.R. § 21.5(7), TxDOT’s selection of the Red Route for the new Harbor Bridge will do the exact opposite – it will perpetuate the government’s history of discrimination against the historically black Northside neighborhoods. As described above, the Hillcrest and Washington Coles neighborhoods have already borne the brunt of the impacts from the construction of the Port, the industrial district, and I.H. 37 over the past few decades by being forced to live with frequent refinery accidents, emissions exceedances, and myriad health problems. The original construction of I.H. 37 segregated Corpus’ historic African American neighborhoods, leaving the Hillcrest neighborhood bordered on two sides by the Port and petrochemical plants and on one side by the new highway. The proposed Harbor Bridge project would finish that segregation by entirely severing Hillcrest from other residential neighborhoods.

Despite its awareness of disparate and adverse impacts to the historically black Northside communities, TxDOT has not proactively solicited or created proper avoidance and mitigation measures to address these impacts, as described in the previous sections. An recent op-ed during Black History Month by Sociology Professor Isabel Araiza in the Corpus Christi Caller Times called attention to the Harbor Bridge’s perpetuation of a discriminatory past: “Events related to the new Harbor Bridge proposal reveal a city still steeped in customs/practices that devalue/undervalue black people’s lives, especially those on the Northside. Unequivocally, the Northside community is a product of past, overtly racist public policies.” See Exhibit I, Araiza Op-Ed, What about neighbors of new bridge?.

VI. DOT and FHWA should take all necessary steps to correct TxDOT’s violations of Title VI

For the reasons set forth above, TxDOT is not in compliance with Title VI of the Civil Rights Act of 1964. Accordingly, FHWA should take all necessary steps to ensure that TxDOT comes into full compliance with the requirements of Title VI pursuant to the FHWA and DOT’s powers under 23 C.F.R. § 200.11, 28 C.F.R. § 42.108, and 49 C.F.R. § 21.13. If necessary, such steps should include launching an investigation, discontinuing all present and future federal funding to TxDOT for road projects including the Corpus Christi Harbor Bridge project, requiring TxDOT to take any necessary steps to comply with Title VI into the future, and/or referring the matter to the U.S. Department of Justice for further investigation. See 49 C.F.R. § 21.23.

Thank you for your prompt attention to prevent further discrimination related to the proposed Corpus Christi Harbor Bridge. Please let us know if we can provide any additional information to assist FHWA in addressing these serious concerns.
Sincerely,

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