



For a thriving New England

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Via Electronic Mail

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The Honorable Stephanie Pollack, Secretary
Massachusetts Department of Transportation
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Subject: Allston Multimodal Project Recommendations for Draft Environmental Impact Statement

Dear Secretary Pollack and Administrator McEwen:

Conservation Law Foundation (CLF) appreciates the opportunity to submit comments in advance of a decision by the Massachusetts Department of Transportation (MassDOT) and the Federal Highway Administration (FHWA) on the alternatives to be considered in the environmental review processes for the Allston Multimodal Project.

CLF adds its voice to the chorus of stakeholders recommending that MassDOT and FHWA select an all at-grade design option, while continuing to identify measures to avoid and minimize impacts to the Charles River. MassDOT and FHWA must also proceed now to identify and develop appropriate mitigation measures to address project impacts from each alternative that cannot be avoided.

CLF is a nonprofit, member-supported, regional environmental organization working to conserve natural resources, protect public health, and promote thriving communities for all in the New England region. CLF protects New England's environment for the benefit of all people. We use the law, science, and the market to create solutions that preserve our natural resources, build healthy communities, and sustain a vibrant economy. We are working to cut pollution from our cars and trucks, create alternatives to driving, and push for more affordable and equitable public transit options across New England.

The intersecting public health crises of the COVID-19 pandemic, climate change, and systemic racism call for a new normal, in which our governments must strive to reduce air pollution and redress longstanding injustice, including when planning and executing new infrastructure. As MassDOT has recognized, this project must contribute to an improved transit and active transportation system that reduces greenhouse gas emissions, improves air quality, and increases mobility options for residents and workers in Boston, Cambridge, MetroWest neighborhoods,

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and central Massachusetts. Consistent with MassDOT's stated aspirations for the project and the Commonwealth's mandates under the Global Warming Solutions Act, the Allston Multimodal Project must not increase car capacity and should include increased transit and active transportation options, which, when constructed and operational, promote mode shifts that will improve air quality and public health.

As MassDOT and FHWA approach the selection of a preferred alternative, the agencies are considering four design options: I-90 and Soldiers Field Road (SFR) at-grade (Modified All At-Grade); I-90 on a new viaduct structure (Modified Highway Viaduct); I-90 at-grade with SFR on a viaduct (Hybrid); and repairing the existing viaduct (No Build).

I. The All At-Grade Alternative Should be Selected as the Preferred Alternative.

CLF thanks Secretary Pollack and the MassDOT Team for revising its at-grade option to incorporate designs developed by A Better City and the City of Boston as one of the alternatives to review in the environmental review process. While we acknowledge that MassDOT sought FHWA approval for a Modified All At-Grade Option that diverges from the A Better City / City of Boston design, CLF contends that the Modified All At-Grade Option is the best option compared to the Hybrid, Modified Highway Viaduct, and No Build options. The Modified All At-Grade option best meets the project purpose and need. An all at-grade option has the greatest potential to maximize non-driving transportation modes, including the Grand Junction rail bridge across I-90 and Soldiers Field Road, West Station, and continuous bidirectional all-day service on the Worcester Main Line. The all at-grade option would also maximize connections to an improved Charles River and minimize public health impacts for the nearby residents, including environmental justice populations.

The Modified All At-Grade option improves roadway conditions by reducing curves and steep grades, which will reduce excessive speeds and crash rates. It further improves connectivity to the Charles River, a regional asset. The Modified All At-Grade Option would allow for an improved Paul Dudley White pedestrian and bike path by altering the route of the current path around the little Grand Junction Bridge. It would further replace the existing ninety-year old Grand Junction Bridge with a new bridge, which would allow for a two-track Grand Junction right of way to connect West Station to the edge of the river and one day connect to track traveling to Cambridge and North Station. The Modified All At-Grade Option can maintain two-track service during peak periods throughout a six-to ten-year construction period. Moreover, the Modified All At-Grade option can maintain service on the Grand Junction track while the MBTA constructs a southside maintenance facility to support the implementation of the Rail Vision plan for increased service on multiple commuter rail lines. MassDOT's Modified All At-Grade Option includes a living shoreline, a critical component of the Allston Multimodal Project to increase climate resiliency, improve habitat for living resources, and enhance active and passive recreation. CLF contends that a living shoreline, or other nature-based solution, should be a component of all design options. Finally, the Modified All At-Grade option best reduces noise impacts by reducing the noise impacts caused by medium- and heavy-duty vehicle acceleration on steep curves.

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MassDOT’s Modified All At-Grade option requires further consideration to minimize impacts to the Charles River. MassDOT’s October 2020 assessment of the Modified All At-Grade option’s potential impacts to the Charles River include:

- the addition of approximately 600 square feet of solid fill in the river to support Soldiers Field Road;
- installation of 250 piles in the river to support a bike and pedestrian boardwalk;
- permanent narrowing of the water sheet by approximately 38 feet;
- permanent impact on navigation due to narrowing of the water sheet;
- approximately 29,000 square feet of shading impacts from the boardwalk; and
- the addition of approximately 20,000 square feet of fill in the river for a living shoreline.

There are ample opportunities to avoid and minimize these impacts while maintaining the integrity and benefits of the all at-grade approach. Narrowing the lane widths of Soldiers Field Road and I-90, acquiring land offered by Boston University, and other measures identified by stakeholders would help to refine the design and further minimize impacts to the Charles River.

II. The Alternatives Analysis Must Incorporate Mitigation for all Alternatives.

The federal and state environmental review processes require analysis of Project mitigation options now and preclude delaying mitigation planning until the permitting phase or limiting it to the preferred alternative. The law requires the agencies to consider each alternative along with mitigation plans tailored for each alternative. Such mitigation measures must be included as commitments in the environmental review documents.¹ Consequently, CLF recommends the following Project components to be integrated into each alternative.

¹ 23 C.F.R. § 771.109; *Geer v. Federal Highway Administration et al.*, 975 F.Supp. 47, 78 (1997) (The court noted that “the December 1993 FSEIS/R provide an outline of the various broad mitigation measures which would need to be implemented in order to minimize harms to the § 4(f) properties” and that “[t]he various federal regulations cited establish that the FHWA administration is bound to make all effort to ensure that the mitigation they call for in the December 1993 FSEIS/R is implemented.”); 23 CFR 774.3 (land use approval under Section 4(f) requires a finding that no feasible alternative exists and that all possible planning has been taken to minimize harm to the Section 4(f) land or a finding that the use of the Section 4(f) land, when combined with measures to minimize or mitigate harm, will have a *de minimis* impact on the property). *See also Enos v. Secretary of Envtl. Affairs*, 432 Mass. 132 (2000) ([G.L. c. 30, §§ 62-62H](#) establishes a process for thorough consideration of the potential environmental impact of certain projects through preparation of draft and final environmental impact reports (EIR)); *Ten Persons of the Commonwealth v. Fellsway Dev. LLC*, 460 Mass. 366 (2011) (the Secretary ruled that the project proponent’s draft EIR did not adequately address mitigation); [301 Code Mass. Regs. § 11.07\(4\)](#) (“the draft and final EIRs shall present a complete and definitive description and analysis of the Project and its alternatives, and assessment of its potential environmental impacts and mitigation measures sufficient to allow a Participating Agency to fulfill its obligations in accordance with [G.L. c. 30, § 61](#)”).

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A. Maximize transportation options during construction and upon project completion.

- Implement a four-track West Station that is operational beginning early in the construction period;
- Add new bus connections from West Station to Kendall Square;
- Add a Cambridge Street bypass linking Allston Village to West Station;
- Commit to future service on the Grand Junction Line with two tracks to extend to Kendall Square and separately to North Station;
- Operate frequent all-day bidirectional service on the Worcester Main Line throughout the construction period and upon project completion with a plan to operate electric commuter rail trains;
- Install improved cyclist and pedestrian infrastructure with a cycle track;
- Maintain the Paul Dudley White path with during construction and on a permanent basis;
- Implement a high-occupancy vehicle lane or bus lane on I-90;
- Construct a People's Pike path with connections to Franklin Street, Agganis Way Connector, Paul Dudley White Path, and the Charles River; and
- City street design to meet City of Boston Complete Streets guidelines.²

B. Maximize connections to an improved Charles River and Parkland.

- Improve public pedestrian access to the Charles River;
- Implement new ecosystem services, such as constructed wetlands, to stabilize erosion, protect water quality, and increase flood storage capacity;
- Restore the riverbank with vegetation to provide fish habitat;
- Reduce untreated stormwater;
- Implement infrastructure that is resilient to a changing climate; and
- Construct a buffer park in the Pratt Street neighborhood to reduce noise and vibration impacts of a turnpike realignment.

C. Minimize public health impacts for the abutting residential community.

- Update the Layover Facility Alternatives Analysis³ that selected Allston as a preferred location for a midday layover yard in light of the MBTA Fiscal and Management Control Board Rail Vision resolutions supporting all-day frequent regional rail service and the Project;
- Build decking over all highway and rail infrastructure as part of the construction to minimize and mitigate noise and air pollution and improve neighborhood cohesion and urban design; and
- Install sound barriers to minimize the noise impacts associated with roadway operations.

² Boston Complete Streets Guidelines, 2013,
https://www.boston.gov/sites/default/files/file/2019/12/BCS_Guidelines.pdf.

³ MassDOT Layover Facility Alternatives Analysis, March 2013,
<https://www.mass.gov/files/documents/2018/08/01/C-LayoverFacilityAlternativesAnalysisReport.pdf>.

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D. Maximize Climate Resiliency.

- Investigate the feasibility of a living shoreline, or other nature-based solution, to ensure flood control that will also enhance biodiversity and improve water quality;
- Ensure that as much space as possible will function to absorb and buffer flood waters and minimize flood risk at neighboring sites;
- Maximize tree canopy and minimize impervious surface to mitigate heat effects. The project's landscape design needs to include adequate space for tree pits, soil specifications, and a maintenance plan for trees and other native planting to ensure the success and drought-resistance of the park and parkway;
- Reduce flooding by providing adequate stormwater storage and treatment. The Allston neighborhood periodically floods during heavy rainstorms, which are only expected to intensify. In addition to reducing impervious surface, the project needs to provide adequate space for green stormwater infrastructure, such as bioswales and constructed wetlands, supplemented by constructed storage to alleviate flooding;
- Consider climate risks like heat and flooding in road design and incorporate climate resilient design standards where appropriate (e.g., road elevation, appropriate side slopping, use of permeable materials, etc.);
- Improve the water quality and ecology of the Charles River, including but not limited to minimizing sediment disruption during construction, providing a vegetated riverbank to support aquatic life, and treating all runoff from to reduce nutrient loading; and
- Consider the lifecycle carbon emissions to source materials, build, maintain and eventually replace transportation infrastructure.

III. MassDOT and FHWA Must Follow the Appropriate Procedures to Reach Concurrence under the One Federal Decision.

Under the One Federal Decision created by Executive Order 13807, which sets a goal for agencies to complete environmental reviews to an agency average of not more than two years from publication of a Notice of Intent to prepare an environmental impact statement (EIS) under the National Environmental Policy Act (NEPA),⁴ federal agencies overseeing a major infrastructure project must improve efficiency of project delivery.⁵ As the FHWA is the lead agency for the Project, it is required to work with MassDOT to study the range of alternatives to be analyzed in the draft EIS (DEIS), identify ways to avoid environmental damage, and analyze ways to minimize damage and pursue robust mitigation associated with each design alternative. Clarifying the Project scope and mitigation commitments in the DEIS and Massachusetts Environmental Policy Act (MEPA) Notice of Project Change and final EIR are necessary for efficiency of project delivery.

⁴ The FHWA issued a notice of intent to prepare a DEIS on October 18, 2019. 84 Fed. Reg. 56,009-56,010 (October 18, 2019).

⁵ E.O. 13807 “Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects,” 82 Fed. Reg. 40,463, 40,464 (August 24, 2017).

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In a Memorandum for the Heads of Federal Departments and Agencies dated March 20, 2018 (the Agency Memorandum), the Office of Management and Budget and the Council on Environmental Quality issued guidance for the implementation of the One Federal Decision framework. The Agency Memorandum advised each federal agency with responsibility to conduct environmental reviews or make authorization decisions with respect to major infrastructure projects to enter into a Memorandum of Understanding for Implementation of One Federal Decision (MOU), in the form attached to the Agency Memorandum. The MOU outlines the roles and responsibilities for agencies, and the process by which they should jointly and cooperatively process environmental reviews and make authorization decisions for major infrastructure projects.

To fulfill the One Federal Decision purpose of agency cooperation in the NEPA process, FHWA as lead agency should include the City of Boston, through its Transportation Department and its Environment, Energy and Open Space Cabinet, as a cooperating agency pursuant to the MOU.⁶ Because the Project area is entirely within the City of Boston and will have a significant and lasting impact, it is imperative that the City of Boston be an active participant in the development of Project design alternatives and mitigation measures under NEPA and MEPA and given decision-making authority.

The One Federal Decision framework requires concurrence among the agencies involved in the environmental review of the Project. The MOU provides that the lead agency shall obtain written concurrence from other agencies at the three milestones of “(1) Purpose and Need, (2) Alternatives to Be Carried Forward for Evaluation, and (3) the Preferred Alternative.”⁷ At the current point in the Project’s NEPA review, MassDOT, FHWA, and other stakeholders are collaborating to reach consensus on an all at-grade Project design alternative to be evaluated with other alternatives before the selection of a preferred alternative can take place. By its terms, the MOU requires concurrence on multiple design alternatives before a preferred alternative may be selected. MassDOT states that Concurrence Point No. 2 was achieved in August.⁸ On September 28, 2020, MassDOT submitted a request to FHWA to replace MassDOT’s previously

⁶ Section VIII. A. 2 of the MOU provides that “[t]o the fullest extent possible and at the earliest time practicable, the lead agency should seek the cooperation of State, tribal or local agencies of similar qualifications in accordance with 40 C.F.R. 1506.2. The lead agency should also identify and invite participating agencies.”

⁷ Section XI. B. 1. of the MOU provides that “[t]he environmental review process will be conducted concurrently with the applicable authorization decision processes, and, as such, the lead agency should obtain a written concurrence from all cooperating agencies whose authorization is required for the project at three key milestones: 1) Purpose and Need, 2) Alternatives To Be Carried Forward for Evaluation, and 3) the Preferred Alternative. Lead agencies, in consultation with the relevant cooperating agencies with applicable authorization decision responsibilities, have discretion to add other concurrence points as necessary to meet project specific circumstances.”

⁸ Presentation to the Fiscal and Management Control Board, slide 6, September 19, 2020, <https://www.mass.gov/doc/allston-multimodal-board-presentation-09212020/download>.

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identified All At-Grade option with the Modified All At-Grade option that incorporates design components from A Better City and the City of Boston.⁹ Because MassDOT seeks to replace the at-grade option, which occurred after concurrence point 2, the lead agencies are required to revisit the concurrence point 2 process to reflect the Modified All At-Grade option, if they have not done so already.

IV. MassDOT and FHWA Must Expand and Improve Stakeholder Engagement.

The Project affects areas containing environmental justice populations on the basis of race and income as defined by existing Massachusetts law and policy.¹⁰ Since 1964, I-90 has cut off low-income and residents of color from the Charles River and other parts of the neighborhood. MassDOT and FHWA have legal obligations to ensure that the Allston Multimodal Project results in improvements for impacted environmental justice populations. Federal law also requires FHWA to identify and address disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on populations of color and low-income populations.¹¹ Moreover, state law and policy require enhanced outreach to environmental justice populations and meaningful consideration of public input.¹²

As the nation comes to terms with historic and ongoing disinvestment in predominantly Black and brown communities, it is imperative that MassDOT and FHWA prioritize the needs of the communities who have been long underserved and overburdened by Boston's transportation infrastructure. Thus, MassDOT and FHWA must guarantee, through commitments in the DEIS and FEIS, that the Project will include a buffer park for the Pratt Street neighborhood; increased transit options, including affordable fare to access West Station; improved cycling and pedestrian options; noise abatement; and safer streets, while continuing to engage environmental justice populations to understand the impacts of and needs associated with this project.

CLF has observed the significant amount of time MassDOT has invested already into the Project and encourages continued commitment to engage with stakeholders while fulfilling the need for a robust and meaningful environmental review. CLF further encourages MassDOT to ensure that Task Force meetings are scheduled regularly and include opportunities for meaningful dialogue in a virtual format.

⁹ Presentation to the Fiscal and Management Control Board, slide 9, October 19, 2020, <https://www.mass.gov/doc/allston-multimodal-board-presentation-101920/download>.

¹⁰ According to the Massachusetts Environmental Justice Viewer implemented pursuant to Executive Order 552 and Executive Office of Energy and Environmental Affairs Environmental Justice Policy (2017), there are affected residential communities that meet the Commonwealth's definition of environmental justice populations: http://maps.massgis.state.ma.us/map_ol/ej.php.

¹¹ Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, EO 12898, Sec. 1-101.

¹² According to the Massachusetts Environmental Justice Viewer, there are affected residential communities that meet the Commonwealth's definition of environmental justice populations for meeting the low-income and people of color criteria: http://maps.massgis.state.ma.us/map_ol/ej.php.

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Thank you for your consideration of these comments and commitment to robust environmental review processes. You may contact me with questions at SRubin@clf.org.

Sincerely,

A handwritten signature in black ink that reads "Staci K." with a long horizontal flourish extending to the right.

Staci Rubin
Senior Attorney