

August 31, 2009

Mr. Craig Hebebrand  
Project Manager  
Ohio Department of Transportation  
5500 Transportation Blvd.  
Garfield Heights, Ohio 44125

Re: Comment on the Final Environmental Impact Statement for the Cleveland Innerbelt Project

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Dear Mr. Hebebrand:

This public comment is being filed on behalf of MidTown Cleveland, Inc. ("MidTown") and the Cleveland Clinic to oppose the removal of highway interchanges from the Innerbelt Trench as proposed in the Final Environmental Impact Statement (the "FEIS") and to oppose the issuance of a Record of Decision approving the FEIS. MidTown is a community development corporation that represents over 650 businesses that employ roughly 18,000 citizens of Northeast Ohio, and the Cleveland Clinic is the largest employer in Northeast Ohio, with over 39,000 employees. Both of these entities and a significant number of citizens they employ and/or represent rely on direct access from the Carnegie and Prospect Avenue interchanges of the Innerbelt for their success and livelihood.

MidTown and the Cleveland Clinic oppose the FEIS because it fails to adequately address the issues raised in the comment on the Draft Environmental Impact Statement ("DEIS") submitted by MidTown and the Cleveland Clinic on May 21, 2009 (the "Comment").

First, no comprehensive or completed economic impact study has been provided as promised, and yet the FEIS reiterates the unsubstantiated assertions that no substantial negative economic effects will result from the loss of direct highway access within the Trench. However, there is nothing in the record that justifies making economic impact conclusions based solely on traffic mitigation models.

Second, the FEIS rejects the alternative proposed in the Comment by arguing that under Section 4(f) regulations, the project cannot maintain the existing highway access point at Carnegie Avenue because avoidance of the Juvenile Justice Center (the "Center") remains feasible and prudent. In fact, in view of Cuyahoga County's position that the Center will soon be empty and may be torn down, removing highway access to save the Center is imprudent.

Third, the assertions in the Fact Sheet submitted by the Northeast Ohio Areawide Coordinating Agency ("NOACA") do not adequately address ODOT's failure to achieve the Purpose and Need of the Innerbelt Project with regard to traffic congestion that will, as demonstrated in an expert report submitted by MidTown and the Cleveland Clinic, result from the removal of numerous highway interchanges within the Trench. This document was never provided for the public record previously and it contains no concrete data related to the connectivity/congestion issue raised in the Comment.

Fourth, failure of the federal and state agencies' to follow their published Project Development Process ("PDP") demonstrates that decisions regarding the FEIS were made without the required systematic, progressive analysis and public feedback thereon required by the National Environmental Policy Act ("NEPA").

Finally, the FEIS fails to substantiate the assertion that segmentation now of the EIS, or other postponement of a decision regarding the "Trench" area, is not possible to allow continued consideration of developing options, such as Opportunity Corridor.

Contrary to assertions in the FEIS, the rationale for discouraging segmentation is inapplicable here, and segmenting the EIS as to the Trench would actually *promote* the fact gathering and public disclosure goals inherent in the EIS process. Where the public participation process has produced an agreeable solution that recommends segmenting the EIS as it pertains to the Trench, the assertion that the EIS cannot be segmented "because the public participation process has been conducted with the understanding that decisions regarding the Innerbelt Project would be made on all elements identified in the DEIS" is irrelevant. (FEIS, p. 25). Because the record shows that a great deal of the public, as represented by the government, business and health care communities, supports the segmentation of the EIS as to the Trench,<sup>1</sup> Courts allow the segmentation of Projects where necessary so long as NEPA principles are respected.

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<sup>1</sup> See Exhibit G to the Comment.

In fact, it is admitted at page 25 of the FEIS that plans can later be modified after the approval of the EIS and even after construction has begun, providing that:

"[e]ven if the agency could at this point segment out just Trench elements, it is unnecessary to do so in order to address concerns raised in comments. The state transportation agency is required to track development of a project following publication of a Record of Decision to determine if any conditions have changed or if the analysis of potential impacts has changed so significantly as to warrant further review. FHWA regulations provide for either a re-evaluation or supplementation process in certain circumstances to determine whether the previous NEPA analysis and final decision remain appropriate." (FEIS, p. 25).

Because ODOT and the FHWA possess sufficient knowledge *today* of the likely destruction of the Center, and the destruction of the Center would also remove all impediments to the implementation of the Carnegie Avenue access ramp proposed in the Comment, there is no reason to delay segmentation of the EIS or otherwise postpone approval of plans for the Trench.

Finally, the FEIS failed to address any of the other numerous procedural and substantive failures of the DEIS. The Comment, incorporated herein by reference, thoroughly highlighted these other issues, and as a result, they need not be reiterated again herein.

Thus, for all of these reasons, the FEIS should not be approved, as submitted, in any Record of Decision – but instead modified or segmented as suggested herein.

Respectfully submitted,

**MidTown Cleveland, Inc.**

**The Cleveland Clinic**

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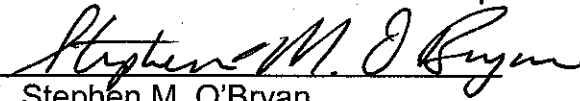
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