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Comment of the New York Civil Liberties Union, The New York Affiliate of the American Civil Liberties Union, in Response to New York State Department of Transportation’s 2021 Draft Environmental Impact Statement for the redevelopment of Interstate 81

Mark Frechette, Project Director,

The New York Civil Liberties Union (“NYCLU”) submits this comment to the New York States Department of Transportation (“NYSDOT”) in response to the 2021 Draft Environmental Impact Statement (“2021 DEIS”) released July 2021.

The NYCLU supports, in part, the NYSDOT’s preferred option of the community grid, and in particular, the permanent removal of the 1.4-mile raised viaduct and supports its replacement with a walkable user-friendly street-grid option. The removal of the viaduct is the first step in restoring a community that the original construction of Interstate 81 (“I-81”) destroyed. However, we do not support the 2021 DEIS’s conclusion that the environmental justice community—primarily Black neighborhoods adjacent to the viaduct—will not be impacted by the I-81 Project. This conclusion is unsupported and the result of NYSDOT’s failure to adequately examine the impact of the Project on lead exposure, air quality, and the potential displacement on the largely Black residents adjacent to the I-81 Project. As set forth in the NYCLU report, *Building a Better Future: The Structural Racism Built in I-81, and How to Tear it Down* (“*Building a Better Future Report*”),¹ NYSDOT must take steps to protect the health and livelihoods of these residents.

The NYCLU is an important stakeholder in the environmental impact statement process because of our participation and advocacy for an equitable outcome of the I-81 Project. The NYCLU’s mission is to advocate for all New Yorkers to have equal access to opportunities and the equal ability to participate in government decisions that affect them. This includes planning and development decisions, which have historically excluded or intentionally discriminated against Black, Indigenous, and Latinx New Yorkers— much like the original design and construction of I-81. The NYCLU’s goal is to achieve racial and environmental equity by advocating that the I-81 Project improve educational, housing and health outcomes for Black communities living adjacent to the raised viaduct. Along with the submission of this written public comment, the NYCLU will be

¹ NYCLU, *BUILDING A BETTER FUTURE: THE STRUCTURAL RACISM BUILT IN I-81, AND HOW TO TEAR IT DOWN* 12 (2021), <https://www.nyclu.org/en/publications/building-better-future>. See Attached Appendix A.

hand-delivering thousands of comments submitted by community members, advocating for an equitable outcome.²

I. NYSDOT Must Address the Environmental Justice Impacts of the I-81 Construction Project

The Federal Highway Administration (“FWHA”) has delegated project review and oversight responsibilities to the NYSDOT, which accordingly must comply with the National Environmental Policy Act (“NEPA”) and other applicable state and federal regulations. NEPA requires state agencies “to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations.” 42 U.S.C § 4331(a). Under NEPA, NYSDOT is required to review the environmental impacts from its construction plan and to take the steps to address alternatives to any adverse effect from agency action through an Environmental Impact Statement. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348 (1989) (requiring agencies to provide a “detailed statement” on the adverse effects of and potential alternatives to the proposed action). In doing so, transit agencies such as NYSDOT must also consider discrimination as effects within the meaning of NEPA and eliminate discrimination when found to exist. 23 C.F.R. § 200.9(b)(14).

Like NEPA, the New York State Environmental Quality Review Act (“SEQR”) requires the agency to balance social, economic and environmental factors to be incorporated into the planning and decision-making processes of state, regional and local agencies. 6 N.Y.C.R.R. § 617.1(d). As part of this consideration, the Act defines “environment” as not only the physical conditions which will be affected by a proposed action, but existing neighborhood character as well. 6 N.Y.C.R.R. § 617.2(1); Env’t. Conserv. § 8-0105(6). SEQR requires agencies to consider existing patterns of populations and distribution in the communities that will be impacted by agency action. *Ordonez v. City of N.Y.*, 60 Misc. 3d 1213 (N.Y. Sup. Ct. 2018).

Together, NEPA and SEQR require NYSDOT to take a “hard look” at the economic and social impacts of the I-81 Project. *See* 42 U.S.C. § 4321; *Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 374 (1989) (agencies must employ a “hard look” when reviewing the environmental impacts of a proposal, alternatives capable of achieving the objectives of the proposal, and any measures to mitigate adverse impacts). A “hard look” occurs when an agency “adequately considered and disclosed the environmental impact of its actions.” *Baltimore Gas & Elec. Co. v. Nat. Res. Def. Council, Inc.*, 462 U.S. 87, 98 (1983). But the 2021 DEIS does not take a “hard look” with respect to the lead exposure, air quality, and land use concerns of the predominately Black community that will be affected by the I-81 Project.

In addition to the procedural requirements of NEPA and SEQR, NYSDOT must actively ensure that the Project does not cause disproportionate and adverse impacts on the basis of race and ethnicity. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, mandates federal agencies and their designees to identify and address the disproportionate environmental impacts to



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environmental justice populations, defined as communities that are majority “minority” or majority low-income. Exec. Order No. 12898, 59 Fed. Reg. 7629 (Feb. 16. 1994) (“E.O. 12898”). E.O. 12898 requires agencies to take the appropriate and necessary steps to identify and address disproportionately high and adverse effects of federal projects on the health or environment of minority populations and low-income populations to the maximum extent practicable and permitted by law. *Id.*; see also *Coal. for Healthy Ports v. U.S. Coast Guard*, No. 13-CV-5347, 2015 WL 7460018, at *2-*3 (S.D.N.Y Nov. 24, 2015) (agencies must consider the environmental justice impacts from the proposed agency action).³ The NYSDOT has identified the community adjacent to the viaduct as a majority Black community and therefore an environmental justice community. 2021 DEIS, Section 6-2-3 at 6-87 . As such, the NYSDOT has a heightened responsibility to this environmental justice community to ensure that the disproportionate impacts of the Project are remedied.



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Further, as a recipient of federal funding, NYSDOT is required to comply with Title VI of the Civil Right Act of 1964.⁴ 42 U.S.C. § 2000d; 49 C.F.R. § 21; Title VI provides that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” *Id.* But, as identified in this comment and in the Building a Better Future Report, and in the detailed analysis attached as Appendix B, NYSDOT has failed to meet the standards set in E.O. 12898 and Title VI to use all practicable means permitted by law to address disproportionate or adverse impacts that the I-81 Project will have on the adjacent Black communities, when a lessor option is available or without identifying and mitigating these impacts. NYSDOT has failed to meet the standards set in E.O. 12898 and Title VI to use all practicable means permitted by law to address disproportionate or adverse impacts that the I-81 Project will have on the adjacent a Black community, when a lessor option is available or without mitigating these impacts.

a. The 2021 DEIS Fails to Address the Elevated Levels of Lead in the Black Community Adjacent to the I-81 Viaduct

Under NEPA, the NYSDOT must present a “detailed statement by the responsible official” that enables the public to “weigh a project’s benefits against its environmental costs.” *Sierra Club v. U.S. Army Corps of Eng’rs (Sierra Club I)*, 772 F.2d 1043, 1049 (2d Cir. 1985). Yet, the NYSDOT has failed to do that with respect to the lead exposure

³ In accordance with 2011 Federal Highway Administration guidance on environmental justice and NEPA: “After defining the Environmental Justice Study Area, the assessment of the potential for disproportionately high and adverse effects to environmental justice communities must follow these steps (4)If effects would remain adverse after mitigation is considered, identify whether those effects would be predominately borne by the environmental justice communities or are appreciably more severe or greater in magnitude on the environmental justice community than the adverse effect suffered by the non-minority or non-low-income community (i.e., disproportionately high and adverse effects); and (5) if disproportionately high and adverse effects on environmental justice communities are anticipated, evaluate whether there is a further practicable mitigation measure or practicable alternative that would avoid or reduce the disproportionately high and adverse effects.” FED. HIGHWAY ADMIN., HEP-1, GUIDANCE ON ENVIRONMENTAL JUSTICE AND NEPA (2011), https://www.environment.fhwa.dot.gov/env_topics/ej/guidance_ejustice-nepa.aspx.

⁴ See 2021 DEIS Section 4(f) Evaluation 1-1 (receipt of federal funds).

by the I-81 Project, even after the NYCLU and others raised this issue with respect to the 2019 Preliminary Draft Impact Statement (“2019 Preliminary Draft”). Remarkably, the NYSDOT failed to test the 1.4-mile viaduct for lead paint and specifically notes that “[n]one of the structures were analyzed for the presence of lead paint.” *Id.*; 2021 DEIS, Section 4(f) Evaluation 6-510.

Instead of analyzing lead on the 1.4-mile raised viaduct, the 2021 DEIS makes a perfunctory statement that painted structures constructed prior to 1988 “are considered hazardous.”⁵ 2021 DEIS at 6-508. But this statement fails to account for lead embedded in the highway in addition to the lead paint, such as lead deposited from decades of leaded-gasoline use. The complete absence of data on lead levels prevents the public from being able to make a “reasoned decision” regarding the potential impacts of lead from the Project and thus fails to provide the type of detailed statement by a responsible official required by law. *Sierra Club v. U.S. Army Corps of Eng’rs (Sierra Club II)*, 701 F.2d 1011, 1029, 1031 (2d Cir. 1983). In *Sierra Club II*, three agencies submitted comments on the draft environmental impact statement raising concerns that it relied on incorrect data or outdated data regarding the impact of the project on fisheries. *Id.* at 1017. When the final environmental impact statement was issued, the agency purported to address those concerns, but “no new studies were performed, no additional information was collected, no further inquiry was made; and the FEIS essentially reiterated or adopted the statements in the DEIS.” *Id.* at 1030. The court held that the EIS was insufficient because the agency “could not have fully considered and balanced the environmental factors” because it relied on inaccurate data and outdated data. *Id.* at 1031. So too here, NYSDOT cannot fully consider and balance the environmental factors or inform the public if it does not have any data on the actual lead exposures to the environmental justice community adjacent to the viaduct. *See id.*

NEPA requires agencies to consider cumulative impacts, which are impacts on the environment that result from the “incremental impact of the action when added to other past, present, and reasonably foreseeable future actions,” 40 C.F.R. § 1508.7 (repealed 2020), as well as the direct and indirect effects, meaning effects that are “later in time or farther removed in distance, but are still reasonably foreseeable.” 40 C.F.R. § 1508.8(b). The areas in the Project zone is a “hot spot” for lead poisoning: more than 26 percent of children tested in this community have elevated lead levels, more than three times the national average.⁶ *See Building Better Future Report* at 12. The 2021 DEIS does not consider the current lead problem in the evaluation of the cumulative or indirect impacts of lead exposure created by the demolition of the I-81 viaduct.

Again, this is another example of the NYSDOT failing to meet its obligations to identify and address the disproportionate environmental impacts to environmental justice populations related to the Project. *See E.O. 12898*. This predominately Black community is riddled with existing lead. Syracuse has one of the worst lead poisoning crises in the

⁵ Specifically, bridges constructed prior to 1988 and that have not previously received “100% abrasively blasted to a surface preparation standard of Steel Structures Painting Council (SSPC) Specification (SP) 10 near-white blast cleaning metal standard.” 2021 DEIS at 6-508. By contrast, the 2021 DEIS identified and tested 108 structures for asbestos and acknowledges in Appendix K which structures tested positive for asbestos.

⁶ *Lead in CNY*, LEAD SAFE CNY, <https://www.lead safecny.org/lead-in-cny.html> (last visited Oct. 10, 2021) (“more than three times higher than the national average and the highest in the Syracuse area”).



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nation.⁷ The Lead poisoning exists at the intersections of race and class. The neighborhoods with the highest rates of poisoning also have the highest populations of low-income children of color, specifically in the Black communities in the zone of the Project.⁸ This is exactly the type of lack of consideration E.O. 12898 was enacted to mitigate. Therefore, it is especially important that NYSDOT undertake a full analysis so that this community can obtain the mitigation measures required to protect children's health.

b. The DEIS Fails to Conduct Independent Air Quality Test Impacting the Black Community Closest to the Viaduct.



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The 2021 DEIS concludes that there will be no adverse cumulative effects related to air quality because either the viaduct or community grid alternative will not exceed the National Ambient Air Quality Standards (“NAAQS”) limits.⁹ But this conclusion is without any support in actual data. Without proper tests of the air quality within the footprint of the environmental justice community, the NYSDOT simply has no basis to arrive at this conclusion, and in any event, that is not the standard the NYSDOT must meet when proposing a project in an environmental justice community. Rather, the NYSDOT must determine if there will be a disproportionate impact on the environmental justice community, when compared to non-environmental justice communities. *See* E.O. 12898.

The NYSDOT responded to public concerns regarding air quality in the vicinity of I-81, and performed additional testing. However, the NYSDOT placed air monitors outside the environmental justice area, specifically at the cross section of Burt Avenue and Almond Street, arguably the closest residential community to the viaduct. The NYSDOT used the median average of those air monitoring test to draw the conclusion that the community will not be adversely impacted by increased air pollution. 2021 DEIS Section 6-4-4, at 6-249. Moreover, the NYSDOT failed to adequately consider the cumulative impacts of the I-81 project on air quality as this community is already overburdened with air pollution. 40 C.F.R. § 1508.7 (repealed 2020). In the footprint of the Project there is the Midland Avenue Regional (sewage) Treatment Facility and the Syracuse University Steam Plant. Shockingly, the NYSDOT failed to consider or address any of the existing air pollutants. In *City of Carmel v. U.S. Dept. of Transportation*, the Court of Appeals for the Ninth Circuit explained that an EIS must “catalogue adequately the relevant past projects in the area” and include a “useful analysis of the cumulative impacts of past, present, and future projects.” 123 F.3d 1142, 1160 (9th Cir. 1997). The 2021 DEIS does not do this and thus cannot adequately take a hard look at the cumulative effects of the I-81 Project on air quality.

Furthermore, as explained in the Building a Better Future Report, the Black communities in the footprint of the Project have elevated Asthma rates as compared to non-minority population in Syracuse. Building a Better Future Report 12. Again, the NYSDOT air

⁷ Sydney Gold, *Some Syracuse Families Suffer Generations of Lead Poisoning: First Report in Series on Lead Crisis*, WAER (Mar. 23, 2021), <https://www.waer.org/local-news/2021-03-23/some-syracuse-families-suffer-generations-of-lead-poisoning-first-report-in-series-on-lead-crisis>.

⁸ *Id.*

⁹

quality test fails meet the standards set by Title VI and E.O. 12898 by failing to ensure federal dollars will not be used in a way that will disproportionately overburden the environmental justice community with higher rates of air pollution than non-minority populations in the footprint of the project.

The 2021 DEIS's cursory NAAQS review does not consider if there is a disproportionate impact on air quality for an environmental justice community, which is highly likely given the pollution burdens already present in the neighborhood. *See* Building a Better Future Report 22. The Court of Appeals for the Fourth Circuit's decision in *Friends of Buckingham v. State Air Pollution Control Board*, is instructive on the limits of reliance on the NAAQS. 947 F.3d 68, 88 (4th Cir. 2020). There, the court determined that the State Air Pollution Control Board of Virginia failed to ensure that the developers did not impose a disproportionate impact on the predominantly African American community because they simply relied upon the fact that the air quality surrounding the proposed project will fall within the NAAQS limits. *Id.* at 86. The court held that simply staying within the confines of the NAAQS does not mean that a disproportionate impact on minority or disadvantaged communities did not take place. *Id.* at 93.

The 2021 DEIS further contends that each of the alternatives, including the community grid, would be below the NAAQS limits. But this is assertion is insufficient in two ways. First, the NAAQS is limited to reviewing 24-hour and annual average exposures, and thus misses the maximum exposure time periods that can have significant health impacts, specifically for school-aged children. Review of the National Ambient Air Quality Standards for Particulate Matter, 85 Fed. Reg. 82684 (Dec. 18, 2020). Periods of maximum exposure should not be ignored here because STEAM at Dr. King Elementary School and Toomey Abbott Towers, a senior residential building, are adjacent to where construction equipment, omitting harmful pollution into the air. 2021 DEIS Section 4(f) Evaluation 3-33. The NYSDOT must take a hard look at the air pollution exposure during prime traffic times in connection with school travel schedules, outdoor play time, and heavy travel times.

c. NYSDOT Must Move the Roundabout More than 600 feet from STEAM at Dr. King

The 2021 DEIS, community grid alternative recommends a roundabout access ramp to be constructed at the end of Martin Luther King, Jr. East Steet, just past Leon Street. 2021 DEIS Section 4(f) Evaluation 3-33.¹⁰ The roundabout will abut STEAM at Dr. King Elementary school and be less than 175 feet from where school-aged children learn and

¹⁰ We are pleased to learn that NYSDOT are considering these concerns and considering moving the Roundabout away from STEAM at Dr. King. Teri Weaver, *NY DOT hears 'loud and clear' almost no one wants I-81 roundabout near school*, SYRACUSE.COM (Sep. 10, 2021), <https://www.syracuse.com/state/2021/09/ny-dot-hears-loud-and-clear-almost-no-one-wants-i-81-roundabout-near-school.html> ("Mark Frechette, the state official overseeing the I-81 project, says the message is getting through. 'One of the things we've heard loud and clear from the public is concerns about the roundabout,' Frechette said. ...[E]ngineers are taking another look at what other alternatives would effectively slow down highway traffic and bring it to ground level along what is Almond Street now. 'More to come on the roundabout,' Frechette said. 'Give us a chance to do the appropriate analysis.'")



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play.¹¹ The 2021 DEIS does not evaluate the potential long-term health effects that emissions and exhaust from cars and trucks on the roundabout could have on the children who attend STEAM at Dr. King. The 2021 DEIS states that “there would be no appreciable difference in overall” Mobile Source Air Toxics between (“MSAT”) between the community grid alternative and the no build alternative. *Id.* at 6-250. However, the report does concede that “there may be localized areas of increased ambient concentrations of MSATs” in locations where “traffic volumes are predicted to increase, or re-designed roadway sections would be located closer to nearby residences, *schools*, and businesses.” *Id.* The blanket statement fails to provide *any* detail of what the impact may be. And again the 2021 DEIS reiterates that air quality will not exceed NAAQS, which is not the burden the NYSDOT must meet. The 2021 DEIS must determine if there is a disproportionate impact on air quality for the environmental justice community as compared to communities not defined as environmental justice communities. *See Buckingham*, 947 F.3d at 87.

While we recognize the benefits generally for a roundabout to calm traffic, the placement of any major roadway access within 200 feet of an elementary school is a major concern. *See Building a Better Future Report 25.* The negative impacts of air pollution on school-aged children, specifically from vehicle pollution, is well-documented. For example, the EPA’s Best Practices for Reducing Near-Road Pollution recommends schools be at least 500-600 feet away from a major roadway.¹² The 2021 DEIS estimates 38,000 per day will travel along the roundabout. Appendix M-5, R 4-14 pg. 79. The Centers for Disease Control’s Health Disparities and Inequalities Report makes clear that exposure to air pollution is greatest for communities that are within 500-600 feet of a major roadway, which is defined as 30,000 cars or more per day.¹³

The complete failure to analyze disproportionate impacts of air pollution to a majority Black student population at STEAM at Dr. King or utilize best practices is particularly problematic because the NYSDOT failed to meet the mandates set in E.O. 12898. In addition, the 2021 DEIS recognizes that there may be increases in ambient MSAT’s in localized areas, including schools, in close proximity to the redesigned roadway sections yet fails to provide the requisite “hard look” at how air pollution will impact the environmental justice community. The NYCLU provided a detailed explanation in the Building a Better Future Report for moving the roundabout or any access ramp at least 600 feet away from the STEAM at Dr. King, and the NYSDOT must reconsider its approach. Building a Better Future Report 25.

The NYSDOT must undo the harm the viaduct created by overexposing children to air pollution.¹⁴ Shockingly, however the 2021 DEIS places a major roadway even closer than the current viaduct. Approximately 23 states regulate the placement of major roadways

¹¹ A computer-generated visual rendering shows the distance between the proposed roundabout and STEAM at Dr. King Elementary School in 2021 DEIS, Figure 3-38.

¹² ENV’T. PROT. AGENCY, BEST PRACTICES FOR REDUCING NEAR-ROAD POLLUTION EXPOSURE AT SCHOOLS (2015), https://www.epa.gov/sites/default/files/2015-10/documents/ochp_2015_near_road_pollution_booklet_v16_508.pdf.

¹³ CTR. DISEASE CONTROL, RESIDENTIAL PROXIMITY TO MAJOR HIGHWAYS — UNITED STATES (2013), <https://www.cdc.gov/mmwr/preview/mmwrhtml/su6203a8.htm>.

¹⁴ NEPA COMM. AND FED. INTERAGENCY WORKING GRP. ENV’T. JUSTICE, PROMISING PRACTICES FOR EJ METHODOLOGIES IN NEPA REVIEWS 40 (2016), https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf; 23 C.F.R. § 200.9(b)(14).



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near schools through legislation.¹⁵ For example, California enacted a law prohibiting the construction of major highways within 500 feet of a school. The legislative intent is to address the "strong links between particulate and other pollutants and asthma, which is the most common chronic illness affecting children. Asthma causes more missed school days than any other chronic condition and is associated with poorer academic performance."¹⁶ Similarly, The NYS legislatures introduced the SIGH act prohibiting the construction of major roadways within 600 feet of schools and vice versa. S.B. 6887, 2016 Leg. (N.Y. 2016); Assemb. B. 10998, 2020 Leg. (N.Y. 2020). The law has not passed but § 2 of the legislative intent demonstrates the need for the bill, stating, "The purpose of this act is to address the disproportionate impact of environmental hazards on Black and Brown communities, specifically to protect children and young adults from the health risks associated with long-term exposure to pollutants which derive from living and attending school in close proximity to major roadways and highway projects. Traffic is one of the most significant sources of air pollution in both the indoor and outdoor school."¹⁷ NYSDOT is completely ignoring established best practices to undo acts that created disproportionate harm to the Black school community.¹⁸

II. The NYSDOT Must Consider the Future Land Use: Displacement of Majority Black Residents in the Environmental Justice Community.

The 2021 DEIS estimates the project will result in "approximately 10 to 12.5 acres" of surplus property located mostly near Almond Street and Erie Boulevard, where the raised viaduct currently is located, and where other ramps will be removed. 2021 DEIS, Appendix M-5 at 92. In response to the submission of public comments the NYSDOT has committed to creating a "land use working group" to evaluate the transfer and development of these surplus parcels. Appendix M-5 at 92. This land use working group is a great first step in achieving an equitable outcome in the I-81 Project, but there are additional steps the NYSDOT should do to protect and restore the community adjacent to the I-81 Project.

The 2021 DEIS states any new use or development of the land would be subject to the city's zoning ordinances, which are currently being updated through the city's "Rezone Syracuse" project. *Id.* at 93. However, the NYSDOT cannot avoid its obligations simply by stating the land is subject to zoning ordinances. The NYSDOT must take active steps and attach conditions to the transfer of the land, creating a land trust to prevent disruption to the character of the community. Attaching conditions to the transfer of the 10-12-acre parcel of land to the City of Syracuse will prevent negative and disproportionate adverse impacts from the I-81 Project and also ensure the Black community benefits from the Project. So, while the preferred community grid option does not create immediate displacement of residents, there are significant community concerns regarding future land

¹⁵ THE NEW SCH.: THE TISHMAN ENV'T. & DESIGN CTR., LOCAL POLICIES FOR ENVIRONMENTAL JUSTICE: A NATIONAL SCAN (2019), <https://doi.org/doi:10.7282/t3-pywf-p055>.

¹⁶ S.B. 352, 2003 Leg. (Cal. 2003).

¹⁷ Assemb. B. 10998, 2020 Leg. (N.Y. 2020).

¹⁸ For further details on the impact of the original build of I-81 please refer to BUILDING A BETTER FUTURE REPORT 4.

use and potential for displacement that have not been considered by the 2021 DEIS. *See Building a Better Future Report 17 for in depth analysis on future land use.*

III. Conclusion

The 2021 DEIS's conclusion that the environmental justice community will not be impacted by construction and post construction is inaccurate and a result of NYSDOT's failure to evaluate the environmental justice community's exposure to lead, air quality and future land use properly. As a result of this failure, the NYSDOT did not take a hard look at the impacts faced by the environmental justice community and fails to meet its obligations. NYSDOT is not able to provide the necessary protections, avoidance, and mitigations required to have an equitable outcome from I-81 Project.

For reasons discussed above, the Building a Better Future Report, and the comments submitted by community members, and other attachments, the 2021 DEIS does not satisfy the standards to address the environmental, economic, and social impacts to the Black community in the footprint of construction, identified in the 2021 DEIS as an environmental justice community. It is crucial to the health, safety, and long-term quality of life of the Black community that the NYSDOT re-evaluate its proposed plan of action to sufficiently consider and mitigate environmental, social, cultural, and impacts to the environmental justice community.

Regards,

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