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April 13, 2007

**VIA FACSIMILE: 512-475-3070 and
CERTIFIED MAIL/RRR #7004-1160-0000-1950-6978**Robert W. Jackson
Office of General Counsel
Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701-2483Re: Notice Regarding Preservation of Electronic Data; SH 121 Freeway
Conversion to a Tollway

Dear Mr. Jackson:

The Law Firm of Blackburn Carter, P.C. has been retained to represent the City of Frisco regarding potential litigation against the Texas Department of Transportation and/or Federal Highway Administration. This letter is sent to request the preservation of electronic data associated with SH 121 and its conversion from a freeway to either a privatized or public tollway.

Recently, on March 8, 2007, comments were submitted on behalf of the City of Frisco in connection with a portion of the project to convert SH 121 into a tollway, specifically the Environmental Re-Evaluation performed for SH 121 from Dallas North Tollway to US 75, Collin County, Texas. These comments were sent to consultants working for TxDOT and FHWA and identified some of the City of Frisco's concerns with that specific portion of project. The City of Frisco expects to be profoundly and adversely impacted by this project and maintains concerns that may not be addressed. Therefore, the purpose of this letter is to notify the Texas Department of Transportation (TxDOT) that a potential exists for litigation in connection with the conversion of SH 121 into a tollway. This being the case, preserving any and all information related to this project is of the utmost importance.

As TxDOT maintains and continues to create critical evidence in the form of electronic data regarding this project in its computer system(s), this is a notice and demand that such evidence, as enumerated below, be immediately preserved and retained by TxDOT until further written notice from the undersigned. You must act immediately to preserve potentially relevant Electronic Data including, without limitation information with the earlier of a Created or Last Modified date on or after January 1, 2004 through the date of this demand and concerning:

1. For the purposes of this notice, "Electronic Data" shall be afforded the broadest possible definition and include, but not be limited to, all text files (including word processing documents), spread sheets, e-mail files and information concerning e-mail (including logs of e-mail history and usage, header information and "deleted" files), internet history files and preferences, graphical image files (including but not limited to ".JPG, .GIF, .BMP and .TIFF" files), databases, calendar and scheduling information, computer system activity logs, and all file fragments and back-up files containing Electronic Data.

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2. Please preserve and retain all Electronic Data which relates to, mentions, and/or is received or generated by TxDOT, or any TxDOT representative, in connection with the plan and/or project to convert SH 121 into a tollway or any subsequent related work/project, including specifically any Electronic Data relevant to any contract between TxDOT and Cintra or other bidders regarding the conversion of SH 121 from freeway to tollway.
3. Please preserve and retain all communications in Electronic Data form received from the City of Frisco and/or generated to the City of Frisco.
4. Please preserve and retain all communications in Electronic Data form, in connection with the plan and/or project to convert SH 121 into a tollway or any subsequent related work/project, received from or sent to the Regional Transportation Council (RTC), the Texas Transportation Commission, the Office of the Governor, Rick Perry, and any member or staff member of the Texas Legislature, including both House and Senate.
5. Please retain and preserve all backup tapes or other storage media, whether on-line or off-line, and refrain from overwriting or deleting information contained thereon, which may contain Electronic Data identified in paragraphs 2, 3, and 4.

This request is vital because a paper printout of text contained in a computer file does not completely reflect all information contained within the electronic file. Furthermore, the day-to-day operation of TxDOT's computer system(s) could likely result in the destruction of relevant evidence due to the fact that electronic evidence can be easily lost, altered, deleted or otherwise modified.

TxDOT is required to preserve potentially relevant evidence from all sources of electronically stored information in connection with this request, even if TxDOT does not anticipate producing such information. Hence you must intervene to prevent the loss of information as a result of routine operations, protocols and/or destroying policies as well.

It is not our intent to obstruct TxDOT's everyday operation. However, your diligent and good faith compliance of this request should also include modification or suspension of features of your information system, which in routine operation may cause the loss of relevant information connected with the project subject of this request. Examples of features or operations of your system that may result in the loss of information may include purging of email by age, time, capacity or criteria, overwriting, defragmentation or compression.

This request in no way alters or replaces any obligation to produce any information on paper or print form in TxDOT's possession or control. However, it does extend to electronically stored information in the custody of representatives or individuals in the control of TxDOT. Such individuals may include current or former contractors, employees, or agents. Because this request extends to such individuals, TxDOT should immediately notify any individual who may possess information relevant to this request.

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We expect that TxDOT will cooperate and act promptly in response to this request. Nevertheless, we should advise you that TxDOT's failure to preserve and retain electronic data in connection with this request constitutes spoliation of evidence and will subject TxDOT to legal claims for damages and/or evidentiary and monetary sanctions.

You should know that we are open to a discussion about appropriate or reasonable preservation methods. We can work towards a solution that would preserve evidence and result in a fair balance of burden. I look forward to hearing from you and learning of any steps or actions taken by TxDOT in response to this notice.

Thank you for your attention to this very important matter. Should you have any questions I can be reached at (713) 524-1012.

Sincerely,

BLACKBURN CARTER, P.C.

by


James B. Blackburn, Jr.