



## MEMORANDUM

**TO:** Mayor and Council

**CC:** Marc A. Ott, City Manager  
Robert Goode, P.E., Assistant City Manager  
Sue Edwards, Assistant City Manager

**FROM:** Robert Spillar, P.E., Director, Austin Transportation Department *Robert Spillar P.E.*  
Victoria J. Li, Director, Watershed Protection Department *Victoria Li*

**DATE:** July 22, 2014

**SUBJECT:** CIUR 1321 - Report to Council on SH45SW – Resolution 20140515-063

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This memo provides an update on the progress in responding to Council Resolution 20140515-063 regarding SH45 Southwest. Staff from the Watershed Protection Department, Transportation Department, and Law Department have been working to review recent transportation studies, environmental studies, and environmental regulations which will be summarized in a report and briefing as requested.

As you may know, the Central Texas Regional Mobility Authority recently issued the draft Environmental Impact Statement (DEIS) for SH45 SW. This is an approximately 1,000 page document and the public comment period closes on August 13, 2014. The Council resolution requested a report during a work session within 90 days. The resolution was passed on May 15, 2014 and the 90 day deadline is also August 13, 2014.

Because the same team is tasked with responding to the Council resolution and reviewing and commenting on the DEIS, we must delay the work session briefing until September 2014. This will allow a detailed review and comment on the DEIS, which is a critical environmental document. The first available work session briefing is September 30<sup>th</sup> and the briefing is scheduled for that date. As required by the resolution, the written report will be provided to Council and posted on the City's website two weeks prior to the briefing.

Also attached, please find an initial communication to TxDOT related to the South Mopac intersections projects that highlights staff's concerns over the Barton Springs portion of the Edwards Aquifer.

If you have any questions, please contact Rob Spillar at (512) 974-2488 or Chuck Lesniak, at (512) 974-2699.

xc: Chuck Lesniak, Watershed Protection Department



# City of Austin

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July 17, 2014

Mr. Greg Malatek, P.E.  
Austin District Engineer  
Texas Department of Transportation  
P.O. Drawer 15426  
Austin, Texas 78761-5426

RE: NEPA Categorical Exclusion for Proposed MoPac South Intersections Improvements

Dear Mr. Malatek:

On behalf of the City of Austin allow me to express my appreciation for the opportunity to participate in the environmental studies associated with potential mobility improvements for the South MoPac corridor, including potential improvements to the intersections at Slaughter Lane and La Crosse Avenue.

My purpose for writing is to bring to your attention several concerns about the proposed intersection improvements, specifically the "preferred alternative" of constructing underpasses at Slaughter Lane and La Crosse Avenue. My staff recently met with TXDOT Austin District staff, including Deputy District Engineer Terry McCoy, to discuss the City's concerns, but I thought it would be helpful to bring these issues directly to your attention.

While we agree that improvements to these intersections are needed, we have concerns about the potential environmental impacts of the preferred alternative and the potential implications of such impacts to the Federal permit for the Balcones Canyonlands Conservation Program. Together these concerns also bring into question whether a Categorical Exclusion under the National Environmental Policy Act (NEPA) is appropriate. In addition, given that there are several major TXDOT and Central Texas Regional Mobility Authority projects that are within the Barton Springs segment of the Edwards Aquifer Recharge Zone (BSEARZ) and which are currently undergoing environmental review, the City believes that a comprehensive review of the potential cumulative environmental impacts to this sensitive habitat of all of the projects is warranted.

**Potential Environmental Impacts** - It is our understanding that the preferred alternative is to construct underpasses to allow the primary travel lanes of South MoPac to pass under Slaughter Lane and La Crosse Boulevard. Given the project location within the recharge zone of the Barton Springs Segment of the Edwards Aquifer, and because the preferred alternative will require significant excavation (i.e., 30+ feet below grade), we believe there is a high potential to encounter sensitive recharge features (i.e. caves and voids). Disturbance of such features creates the potential for adverse impacts to both water quantity and quality. And, because of the proximity of the project location to known flow paths that direct groundwater flow to Barton Springs, with very rapid travel times and little or no natural attenuation of pollutants, we believe construction of underpasses could adversely impact the Barton Springs Salamander and the Austin Blind Salamander, both of



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which are federally listed as endangered species and are protected under an "incidental take" permit held by the City. This concern is heightened due to the presence of three pipelines that carry hazardous liquids (e.g., crude oil) that traverse the recharge zone very near where excavation of the underpasses would occur.

**Potential Impacts to BCCP Protected Caves** - The City of Austin and Travis County jointly hold a federal permit under the Endangered Species Act for the Balcones Canyonlands Conservation Program (BCCP). Under this permit there are 62 protected caves, two of which are in proximity to the proposed intersection improvements - the Blowing Sink Preserve and Flint Ridge Cave. Due to the depth and extent of these caves, there is the potential that excavation of the underpasses could affect the quality of water reaching the caves or disrupt subsurface flows to the caves, either of which presents a risk of impact to species of concern that reside in the caves. Under the terms of the BCCP permit, adverse impacts to protected caves must be avoided, minimized, and otherwise fully mitigated. Failure to demonstrate protection could place the City and Travis County in violation of the permit, which in turn could trigger a major amendment to the permit. A major amendment of the BCCP permit could be time consuming and costly, and could jeopardize both public infrastructure development and private development activity throughout western Travis County, resulting in a significant economic and social impact to the affected communities.

**Appropriateness of a Categorical Exclusion** - We understand that roadway improvements that are within an existing ROW are eligible for a Categorical Exclusion under NEPA, which allows for a limited and expedited environmental review with an assumption of "no significant impact". Because of our concerns about the potential impacts of the preferred alternative, we question whether the level of analysis allowed under a Categorical Exclusion is adequate. In our view it is imperative that the potential impacts of the preferred alternative be fully evaluated and weighed against the impacts of the "no-build" alternative and other build alternatives such as overpasses or at-grade improvements to improve traffic flow.

**Comprehensive Environmental Review** - As noted, there are several major surface transportation projects within the BSEARZ that are currently undergoing environmental review. These are the Oak Hill Parkway, the South MoPac improvements, the South MoPac intersection improvements, and State Highway 45 Southwest. Each of these is being reviewed as a stand-alone project, but it is my belief that these projects should be viewed as components of an interconnected regional transportation system that overlies a sensitive natural resource that is also regional in its extent. Accordingly, I believe that a thorough evaluation of the potential cumulative environmental impacts of all these projects on this critical habitat and environmental resource is warranted and should be conducted as a single study. Such an analysis, I believe, is entirely consistent with the intent of federal NEPA requirements, as well as similar State requirements. Most importantly, such a review will ensure that decisions are based on the best available scientific and technical information to ensure "superior" protection of important natural resources.

In closing, the City of Austin would like to engage in a dialog with you and your staff about how best to proceed with the South MoPac Intersections Study and with the environmental studies that are ongoing on other area state road projects. As with other ongoing environmental reviews for other



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proposed mobility projects, the City wants to be an active partner in finding and implementing appropriate solutions.

I appreciate your consideration of our concerns. If you have any questions or require additional information please don't hesitate to contact Mr. Rob Spillar at (512) 974-2488 or Mr. Chuck Lesniak at (512) 974-2699.

Sincerely,

Marc A. Ott  
City Manager

cc: Sue Edwards, Assistant City Manager  
Robert Goode, Assistant City Manager  
Victoria J. Li, P.E., Director, Watershed Protection Department  
Robert Spillar, P.E., Director, Austin Transportation Department  
Mike Personett, Assistant Director, Watershed Protection Department  
Chuck Lesniak, Environmental Officer, Watershed Protection Department  
Terry McCoy, Texas Department of Transportation, Austin District  
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