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February 21, 2019

Brandye L. Hendrickson, Acting Administrator
Federal Highway Administration
Office of the Administrator
1200 New Jersey Ave., SE
Washington, DC 20590

RE: Renewal of TxDOT Memorandum of Understanding pursuant to 23 USC 327

Dear Ms. Hendrickson:

Thank you for providing the Texas Department of Transportation (TxDOT) the opportunity to continue performing federal responsibilities for approving environmental documents under the National Environmental Policy Act (NEPA). Since December 2016, TxDOT has met the performance measures specified in a Memorandum of Understanding (MOU) under which the Federal Highway Administration (FHWA) assigned, and TxDOT assumed, federal NEPA and other environmental responsibilities. The current MOU, executed on December 16, 2016, expires on December 16, 2019.

TxDOT intends to renew the MOU with the FHWA and continue performing federal NEPA duties for highway projects, as defined in Title 23 of the Code of Federal Regulations (CFR), 773.103. Please consider this to be TxDOT's renewal package and formal request to renew the MOU. This letter and enclosed documentation comprise TxDOT's Renewal Package pursuant to 23 CFR 773.115(c). This package includes materials required for posting to the *Federal Register* pursuant to 23 CFR 773.115(f).

Pursuant to 23 CFR 773.115(f), this package includes:

- TxDOT's November 8, 2018, description of changes to key information in TxDOT's 2014 Application pursuant to 23 CFR 73.115(c)(1) (Attachment A). The description includes:
 - TxDOT's formal notice of intent to renew the MOU pursuant to 23 CFR 73.115(a)
 - a link to TxDOT's 2014 application <http://ftp.dot.state.tx.us/pub/txdot-info/env/nepa-assignment/fhwa-nepa-assignment.pdf>;
 - TxDOT's certification of waiver of sovereign immunity pursuant to 23 CFR 773.115(c)(2);
 - TxDOT's certification of state laws equivalent to FOIA pursuant to 23 CFR 773.115(c)(2); and
 - TxDOT's request for concurrence that changes to the original application are not sufficient to warrant statewide public notice pursuant to 23 CFR 773.115(b).

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- FHWA's November 30, 2018, concurrence that changes to the original application are not sufficient to warrant statewide public notice, and that TxDOT's certifications are valid (Attachment B).
- Link to TxDOT's original application (embedded in Attachment A);
- Draft of the renewal MOU (Attachment C); and
- List of links to FHWA audit reports developed as part of the program (Attachment D).

Because FHWA does not propose to retain responsibilities sought by TxDOT, the package does not contain a list of such responsibilities as specified in 23 CFR 773.115(f).

Discussions between FHWA and TxDOT in January 2019 led to agreement that FHWA would not retain responsibility for the South Padre Island Causeway 2 project under section 3.3.1(A) of the proposed draft MOU. Section 773.106(b)(1) and Appendix A of the TxDOT's original application are amended to indicate that FHWA would not retain responsibility for any projects under the proposed draft MOU.

Please direct questions to Carlos Swonke, Division Director, Environmental Affairs Division, at (512) 416-2734 or carlos.swonke@txdot.gov.

By my signature below, I approve this renewal package pursuant to 23 CFR 773.115(c)(4).

Sincerely,



James M. Bass
Executive Director

Attachments