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January 10, 2020

Mr. Finch Fulton
Deputy Assistant Administrator for Transportation Policy
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, DC 20590

Re: Docket No. DOT-OST-2019-0165

Dear Assistant Administrator Fulton:

The Texas Department of Transportation (TxDOT) appreciates the opportunity to provide you with comments on projects, issues, and topics that the Department of Transportation should consider through the Non-Traditional and Emerging Transportation Technology (NETT) Council.

Attached are TxDOT's comments on eight of the thirteen questions posed by the Department in the Federal Register for the NETT's consideration.

If you have any questions concerning TxDOT's comments, please contact me directly at (512) 305-9508 or at Darran.Anderson@txdot.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Darran Anderson", is written over a horizontal line.

Darran Anderson
Director, Innovation and Strategy

cc: James Bass, Executive Director
Marc D. Williams, P.E., Deputy Executive Director
Jerry Haddican, Director, Government Affairs

1. **Question:** Are there existing Federal transportation laws or regulations that inhibit innovation by creating barriers to testing, certifying or verifying compliance, or operating non-traditional and emerging transportation technologies? Please provide specific examples, explain why the requirement imposes a barrier, and identify the specific law or regulation that you believe should be changed and describe how it should be changed. Please identify all associated regulations that should be changed, including specific citations to the Code of Federal Regulations and explain the need for the change.

Response: Currently there are no Federal laws or regulations that are creating barriers for TxDOT.

2. **Question:** Are there existing design or performance requirements that may contribute to a reduced safety purpose or impose more cost or restriction on the design of non-traditional and emerging transportation technologies than is warranted?

Response: We have not found any design or performance requirements that are inhibiting these areas.

5. **Question:** Do you believe that there are international bodies or organizations (at any level) that the Department should be working with to develop standards or best practices for potential application to non-traditional and emerging transportation technologies in the United States?

Response: The current American Association of State Highway and Transportation Officials (AASHTO) body in combination with the National Operations Center of Excellence (NOCoe) should be further reinforced as the clearing house for best practices and developing standards.

In addition, the Department should work with the:

- **5G Automotive Association (5GAA);**
- **European Telecommunications Standards Institute (ETSI);**
- **Society of Automobile Engineer (SAE) International to develop standards and best practices; and, the**
- **OmniAir Consortium for interoperability and certification for connected vehicles, ITS, and transportation payment systems.**

6. **Question:** Does the current landscape of State/ local/Tribal regulation for nontraditional and emerging transportation technologies hinder or support innovation? More specifically:

- a. What laws or regulations do State, local, or Tribal governments rely upon, other than Federal transportation laws and regulations, to regulate the safe design, construction, and operational safety of non-traditional or emerging transportation technologies (e.g., hyperloop and non-traditional tunneling)? In what ways do these laws or regulations hinder or support innovation? (Please be specific in your response.)

Response: Currently there are no state, or local, -laws or regulations that are hindering or supporting innovation.

- c. Are there State/local/Tribal laws that assist innovators in developing safe prototypes, road testing, deploying, or commercializing new transportation technologies? (Comments on regulatory gaps or feasibility studies and analyses are encouraged.)

Response:

- **Texas Senate Bill 2205 (passed in 2017) supports automated vehicle development in the state;**

- **Texas House Bill 1791 (passed in 2017) allows for vehicle platooning using connected braking systems; and,**
- **Texas Senate Bill 969 (passed in 2019) governs the operation of a personal delivery or mobile carrying device in a pedestrian area or on the side or shoulder of a highway.**

7. **Question:** Would intermodal or cross-sector regulations support or inhibit innovation and ensure safety of transportation infrastructure, as well as the safe movement of goods, services, capital and the traveling public? Please explain why or why not. Include specific examples, studies, or other data if available.

Response: Intermodal and cross-sector regulations would inhibit innovation and would not ensure transportation safety. Regulations cannot "ensure" safety but can support it. Once innovation leads to normalization and a clear path forward, some regulation may be appropriate and helpful to ensure safety, consistency, and ongoing interoperability.

8. **Question:** Would cross-sector or cross-modal transportation safety regulations support or inhibit investments in non-traditional and emerging transportation technologies? Please explain why or why not. Include specific examples, studies, or other data if available.

Response: In the early stages of emerging or new technologies, cross-sector or cross-modal safety regulations could inhibit investments in non-traditional and emerging transportation technologies. Adding regulations that limit the breadth of new transportation concepts could slow down investment in innovation, thereby inhibiting overall investment for testing new transportation concepts.

12. **Question:** Local, State, Tribal, and Other Public Entities: What support should the NETT Council consider providing when non-traditional/emerging transportation technology companies propose a non-traditional or emerging transportation technology or system in your jurisdiction?

- a. In what way could Federal action help maintain the overall safety of the design, construction, and operation system? What aspects do you believe are best addressed by State, local, and Tribal entities? Please provide specific examples to support your comment.

Response: Federal action that would provide the private sector an easy method to ascertain where there are bordering states with identical or similar automated vehicle laws or regulations would aid in the development and testing of automated vehicles across state lines; thereby providing a significant benefit and acceleration to the industry in fostering new endeavors.

- b. In what way could Federal actions assist you in overseeing any risks (safety or other) and unintended consequences that are local in nature? In what way could they interfere with your oversight and enforcement authorities? Please provide specific examples to support your comment.

Response: Federal actions that are taken without state and local review could lead to unintended consequences. Allowing for adequate review by impacted state agencies would help to ensure that Federal actions do not lead to the preemption of state and local laws and regulations.

- c. In what way could Federal actions improve or clarify oversight roles? Please provide specific examples to support your comment.

Response: Federal actions would be welcome especially in areas where there is little in the way of State/local legislation. Providing model legislation would be beneficial to help develop consistency throughout the country. Testing and certification of new transportation methods could be developed by Federal action then be used as a template for State/local agencies. Otherwise there will continue to be splintered and piecemeal progress as currently seen with automated vehicles, scooter/bike rental, and other emerging transportation methods. Inaction is the biggest risk.

13. **Question:** Local, State, Tribal, and Other Public Entities: Has a company approached you about a non-traditional or emerging transportation technology? If so, are there any best practices you can share from working with companies that could shape how the NETT Council approaches non-traditional or emerging transportation proposals?

Response: Yes. TxDOT has a:

- ***Texas Emerging Technology Task Force;***
- ***Texas Innovation Alliance;***
- ***State Transportation Innovation Council;***
- ***Connected and Automated Vehicle (CAV) Task Force;***
- ***Texas Connected Freight Corridor project; and, a***
- ***Cooperative Automated Transportation plan.***

These efforts have included input from the FHWA, TxDOT, other state agencies, local governments and other transportation elements, consultants, academia, special focus area associations and private companies. Ensuring that each of these efforts has regular input keeps these projects moving forward towards solutions that are grounded, while pioneering transportation development.