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VIA E-MAIL

November 9, 2020

Honorable James M. Moody, Jr.
United States District Judge
U.S. Courthouse
500 W. Capitol Ave. - Rom C446
Little Rock, Arkansas 72201

Re: Little Rock Downtown Neighborhood Association, Inc. et al v.
Federal Highway Administration, et al.
U.S. District Court, Eastern Division of Arkansas No. 4:19-cv-362JM

Dear Judge Moody:

As you are aware, the final hearing in the captioned case is scheduled for this Thursday. To the best of my knowledge, the briefs in support of each party's Motion or Cross-Motion for Summary Judgment have been filed and responded to.

There have been numerous briefs filed in this case, a number of which have covered and re-covered the same legal issues and portions of the Administrative Records. My briefs in support of Plaintiffs' Motion for Preliminary Injunction and the Plaintiffs' Motion for Summary Judgment are examples. The Court has stated that it read the former Brief, and I am sure that you will likewise read the latter Brief.

Thus, I am sure that the Court is very familiar with the issues that are presented by the Briefs, and would gain little additional knowledge, if any, by hearing another oral presentation of those issues. Therefore, with one exception, I propose that at the hearing on Thursday, I will not repeat any oral argument on those issues, but will be ready, willing, and hopefully able to respond to any questions that the Court might have about them. That would probably be a better use of the Court's time and should limit the discussion to the issues which the Court may be most concerned.

The one exception referred to above is embodied in a Motion that I filed today in the case (Doc. 101) requesting that the Court order the Defendants to re-evaluate or to perform a supplemental environmental assessment on the financial ability of the Arkansas Department of Transportation to fully construct and complete the 30 Crossing Project as currently planned.

As you are aware, on October 29, 2020, the Arkansas Supreme Court, in the case of *Buonaiuto v. Gibson*, 2020 Ark. 352, 2020 WL 6375915, held that funds derived from the sales tax assessed by Amendment 91 could not be expended on expansion of highways to greater than four lanes, and specifically stated that ArDOT lacked authority under Amendment 91 to expend such funds “for major improvements to six-lane interstate highways, such as projects CA0602 [The “30 Corridor Project”] and CA0608 [The “I-630 Widening Project”]”

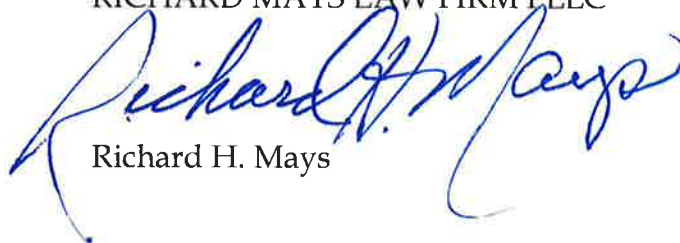
Approximately seventy-two percent (72%) of the funds that Defendants approved for use on the planning and construction of the 30 Crossing Project are derived from the Amendment 91 sales tax, according to Defendants’ Financial Plan for the Project and numerous other documents generated by ArDOT. The Financial Plan is attached to the above-mentioned Motion filed today. It is Plaintiffs’ position, as expressed in that Motion, that those funds are no longer available for use on the Project; that Defendants are violating the Supreme Court’s opinion if they are continuing construction by using those funds; and that until Defendants can demonstrate that they have funds readily available to construct and complete the project, it should be stopped or severe environmental consequences may result. In addition, several Federal regulations discussed in my Motion also require, in my interpretation, that this situation be addressed by the agencies before proceeding.

That issue, having existed only since October 29, has not been discussed in briefs or in hearings with the Court. I would like to have the opportunity to address that issue at the hearing on Thursday. I realize that Defendants have not had an opportunity to respond to the Motion that I filed today, and I am willing to accommodate them in doing so, even if the hearing needs to be rescheduled.

If the Court has any questions or concerns with this proposal for the procedure to be followed at the hearing, I would be happy to address them. This has been an unusual case, and we appreciate the Court’s usual attention to it.

Sincerely,

RICHARD MAYS LAW FIRM PLLC

A handwritten signature in blue ink, appearing to read "Richard H. Mays", is written over the typed name below.

Richard H. Mays

RHM/nj

cc: Counsel of Record