



## Travis County Commissioners Court Voting Session Agenda Request

**Meeting Date:** July 14, 2020

**Agenda Language:**

Consider and take appropriate action on Chapter 28 performance agreement with Colorado River Project, LLC, Tesla, Inc., sole owner  
Note 1 Gov't Code Ann 551.071, Consultation with Attorney  
Note 5 Gov't Code Ann 551.087, Economic Development Negotiations

**Prepared By/Phone Number:** Diana A. Ramirez/512.854.9694

**Elected/Appointed Official or Department Head:** Jessica Rio, County Executive PBO

**Commissioners Court Sponsor(s):** County Judge Sam Biscoe,

**Press Inquiries:** Hector Nieto, PIO@traviscountytx.gov or (512) 854-8740

**Background/Summary of Request and Attachments:**

On May 26, 2020, the Travis County Commissioners Court approved lifting the moratorium on Chapter 28 applications for one special project for up two months. The Commissioners Court further directed staff to revise the application form required under Chapter 28 and require an application fee of \$150,000.

On June 2, 2020, Commissioners Court approved the use of \$50,000 in one-time salary savings within PBO-EDSI to hire third party expertise to assist with a potential economic development agreement.

On June 11, 2020, Colorado River Project, LLC, submitted a formal application seeking an economic development agreement with Travis County. The application was signed by an authorized representative of the company and was notarized. In addition, the company paid the \$150,000 application fee.

On June 12, 2020, Travis County entered into a contract with TXP, Inc. for contracted services to assist the County in weighing the benefit to the County and the community of Tesla locating the Colorado River Project, LLC, within Travis County and to develop measures of the economic and fiscal impact the Project would bring to the community with a successful negotiated agreement.

TXP, Inc. conducted an economic and tax revenue impact analysis, reviewed the company's standing in its industry and its competitive advantages, developed a benefit/cost analysis to Travis County, and assisted in negotiating the agreement with the company.

On June 23, 2020, staff presented an overview of the project, a list of community benefits that would be negotiated with the company, a description of a performance

**AGENDA REQUEST & BACKUP MATERIALS DEADLINE:** Agenda requests and backup materials must be submitted in PDF format via email to [agenda@traviscountytx.gov](mailto:agenda@traviscountytx.gov) by **12 noon on Tuesday** in order to be considered for inclusion in the following week's voting session.

agreement, and the reasons the County is considering entering into such an agreement. Mr. Jon Hockenyo, Travis County's consultant, presented an economic impact and tax revenue analysis and a review of the company. Tesla representatives presented an overview of the project and the various training, education, and community programs the company would bring to Travis County. The Commissioners Court then took public comment.

On June 30, 2020, Commissioners Court took public comment on the proposed agreement.

On July 7, 2020, Commissioners Court took public comment on the proposed agreement.

### **Public Input**

As noted in the timeline above, the Commissioners Court took live public comment through a call-in number on June 23, June 30, and July 7. Besides the approximately 70 people who called into Commissioners Court to comment directly on the agenda items posted on this topic, Commissioners Court members and EDSI received over 400 emails and letters from neighbors to the proposed Tesla site, Del Valle residents, county residents, regional and state residents, union and labor representatives, Chambers of Commerce representatives, Tesla car club members, religious leaders, minority and women business owners, the commercial real estate community, and representatives of large companies and associations, among others. The majority of the input expressed support for Tesla locating in Travis County and supported an economic development incentive agreement that required compliance verification by Travis County. Other public comment requested specific deal terms on wage floors, unionization rights and worker safety be included in the contract. A smaller amount of the input requested that Commissioners Court refrain from entering into an agreement that provides property tax rebates to a large corporation.

### **Deal Points**

Attached please find a listing of deal points included in the performance agreement.

### **Staff Recommendations:**

Staff recommends approval of the performance agreement with Colorado River Project, LLC, Tesla Inc., sole owner.

### **Issues and Opportunities:**

The local economy is in the midst of a pandemic-induced recession, and those most vulnerable to job loss possess the skill and educational levels that tend to align with the requirements of many of the jobs that Tesla will provide.

In February of this year, the Texas Workforce Commission reported that there were 19,342 unemployed in Travis County (an unemployment rate of 2.6%); in May, that figure had risen to 81,466 (an unemployment rate of 11.6%). Workforce Solutions Capital Area has reported that fully half of those 80,000+ county residents filing for unemployment reported earning wages below \$30,000/year and the majority were in the hospitality industry.

As dramatic as the increase in unemployment has been, the economic impacts of the pandemic likely have been masked, at least to some degree, by unprecedented levels of public financial support through programs such as the Payroll Protection Program (PPP), the Economic Injury Disaster Loan (EIDL) program, direct household stimulus payments, and enhanced unemployment benefits. However, some federal support will run out of funding soon; the enhanced unemployment benefits program will end July 25, 2020.

Meanwhile, early efforts to reopen the economy have yielded a surge in cases, suggesting that the pandemic will have an impact for the foreseeable future. In addition, the surge is resulting in the reopening being scaled back to bring the infection rate under control.

The terms of the incentive, as negotiated, strike a balance between incentivizing the firm to both locate and expand in Travis County, securing significant community benefits, and ensuring protection of workers and the environment. Specifically:

1. *The structure of the baseline incentive has been reworked to encourage greater overall investment, to the mutual benefit of both parties.* Originally, Tesla requested an 80% incentive for the first ten years and a 65% incentive for the second ten years on its Travis County Operations & Maintenance (O&M) tax liability related to incremental real and business personal property (there is no incentive related to the Interest & Sinking (I&S) tax liability). The restructured parameters drop the initial incentive amount to 70%, tied to approximately the first \$1.1 billion invested, and then increase the incentive amount to 75% for second incremental billion and then to 80% of the increment past the \$2 billion mark. If Tesla invests the original amount (\$1.1 billion) the restructured deal is essentially a wash with the original proposal; above that amount is a net gain for the community, both in terms of jobs and economic activity, and fiscal gains for the County.
2. *Tesla agreed to a formula that uses actual jobs and investment to reduce incentive amounts if targets are not met.* This formula combines proportional ratios and hard minimums to create both flexibility and certainty for both parties. The formula also reduces the rebate if Tesla does not hire Travis County residents for at least 50% of their required annual jobs.
3. *The minimum wage to be paid to Company workers is set at \$15/hour (aligning with the current County baseline) but this minimum will grow over time.* Beyond this initial threshold, Tesla has agreed to an annual escalator tied to the Consumer Price Index, specifically using the trailing 10-year compound annual growth rate. This rate strikes the balance between being market-responsive and mitigating the impact of unexpected short-term spikes in the Index. Construction workers working for contractors and subcontractors engaged directly by the Company or its Affiliates will be paid a minimum wage of \$15/hour.

4. *Tesla will commit the equivalent of 10% of its pre-incentive O&M tax liability to community not-for-profits and/or educational institutions.* Over the course of the negotiations, Tesla consistently emphasized their desire to invest in the community, especially as it related to job training and workforce development (to include Huston-Tillotson University and Del Valle schools), public transportation, and affordable housing. Travis County had as its goal creating a long-term philanthropic partnership with Tesla, not just a transactional agreement to be reviewed once a year.
5. *Tesla committed to various provisions related to green building and worker safety.* Specifically, the company committed to working with the Austin Energy Green Building Program or a similar entity to achieve zero emission energy ratings. The company also committed to implementing an Owner Controlled Insurance Plan (“OCIP”) for the construction of the Colorado River Project that includes a strong accident and injury prevention program to enhance the safety for workers on the project.
6. *Tesla committed to developing a HUB program for both construction and ongoing procurement, using Travis County programs as a guideline.* While the language in the contract remains largely based on “good-faith” efforts, the hiring of Cloteal Haynes by Tesla to develop the program’s parameters is an indication of a serious commitment to a substantive program.
7. *Tesla committed to partner with the County to construct a road that serves as a flood evacuation route for the residents of Austin’s Colony, the Tesla site’s closest neighbor.* Tesla will donate the right of way for the road and design and build a road that meets County standards. Any costs of design and construction beyond the amount to be paid by the County will be paid by the company. The construction of this road is critical to public safety for Austin’s Colony and satisfies federal fair housing requirements.

**Fiscal Impact and Source of Funding:**

The site identified by Tesla for the Colorado River Project, LLC, is currently a sand and gravel mining site which provides estimated property tax revenue to Travis County of approximately \$6,400 per year.

The analysis of the tax revenue benefit to Travis County from the Tesla agreement is estimated at a net *\$8.8 million over 10 years*. This tax benefit was derived using the following assumptions: (1) the company meets the investment, jobs, and County resident hiring requirements in the contract; (2) the Operations & Maintenance tax rate is static at \$0.312263 per \$100 of property value over the next ten years; and (3) the investment maxes out at just over \$1.1 billion.

This \$8.8 million estimate is conservative given that the property tax rate is likely to change over time. In addition, it is likely that Tesla will invest more than \$1.1 billion in the facility, yielding greater taxable value. Finally, the agreement has a 20-year term that will yield additional property tax revenue over the second ten years of the agreement.

The number of jobs that the project creates will also provide a significant fiscal impact to the community as a whole. Travis County has over 80,000 unemployed workers. Fully half of those workers are reported to have been earning less than \$30,000/year before being laid off primarily from hospitality jobs. Tesla's jobs will pay more than \$35,000/year with benefits such as health insurance, paid leave, and equity in the company (or its cash equivalent).

In addition, given the size of the project and the speed at which Tesla works, thousands of construction jobs will be created almost immediately upon the approval of this agreement. In the construction of the gigafactory in Nevada, more than 8,000 construction workers were hired to construct the facility.

Travis County has kept the national and local economic context in mind as it negotiated this agreement. The COVID-19 pandemic is requiring intermittent lockdowns of businesses and schools and social distancing that keeps those non-essential employees who still have a job teleworking. The response, while necessary to ensure public health, is causing a recession that economists are projecting will take, at best, 5 years to recover from. In the two most recent recessions, Travis County's employer diversity (technology, government, university, entertainment) resulted in shallower recessions than the rest of the country with the County being one of the last into the recession and earliest out of the recession.

Recent analysis prepared by EDSI, beyond that already described in this memo, finds:

- An estimated 32% of mortgage holders nationwide are delinquent on their mortgage payments
- As the pandemic lingers, employers that did not lay off employees during the first wave of infections may find it difficult not to down-size over the next few months
- Locally, sales tax and alcoholic beverage tax collections are heavily impacted by the closings and some partial reopening of restaurants, bars, entertainment venues, music and arts festivals, and sporting events
- Locally, the County eviction moratorium expires on July 25<sup>th</sup> (although it may be extended even further)
- Late mortgage payments as well as a downturn in the commercial sector will likely translate to delinquent tax payments and eventually lower property valuations.

These issues will negatively impact the Travis County budget by lowering tax revenue and increasing the need for County service delivery and assistance. The additional investment from Tesla's construction and operation of a gigafactory, as well as the creation of thousands of construction jobs in the near-term and 5,000 ongoing jobs in the mid-term, will help the community weather the recession. If Tesla's siting in Travis County attracts additional companies to the region, the impact of that additional investment and jobs will further buoy the local economy as well as further diversify it.

**Required Authorizations:**

Jessica Rio, County Executive, PBO

Barbara Wilson, County Attorney's Office

**cc:**

Christy Moffett, Michael G'Benoba, Travis Gatlin, Katie Gipson, PBO

Cynthia McDonald, Morgan Cotten, Anna Bowlin, TNR

Tom Nuckols, Sherine Thomas, Ann-Marie Sheely, County Attorney's Office

The Honorable David Escamilla, Travis County Attorney

Jon Hockenyos, TXP, Inc.



**Travis County - Colorado River Project, LLC/Tesla  
Performance Agreement Major Deal Points  
July 14, 2020**

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- ✓ Will bring investment and manufacturing jobs to Travis County Precinct 1, an area with historic underinvestment in infrastructure and economic development, lower levels of opportunity, higher levels of poverty, and greater concentrations of people of color
- ✓ Investment of \$1.1 billion in first five years with additional investment incentivized
  - 70% rebate on Operations & Maintenance (O&M) taxes on first \$1.1 billion
  - 75% rebate on O&M taxes on incremental investment from \$1.1 - \$2 billion
  - 80% rebate on O&M taxes on incremental investment over \$2 billion
- ✓ Property tax revenue to Travis County of approximately \$8.8 million net over first 10 years based on \$1.1 billion investment
- ✓ Additional property tax value for Del Valle ISD, Central Health, Austin Community College, and Emergency Services District #4
- ✓ Construction jobs starting in 2020 with a minimum wage of \$15/hour
- ✓ Owner Controlled Insurance Plan during construction to enhance accident and injury prevention program and its ability to use HUB contractors and subcontractors
- ✓ Seeking participation in OSHA Voluntary Protection Program, offered to employers that maintain injury and illness rates below national averages for their industry
- ✓ 5,001 ongoing jobs by year 4 of a 20-year term
- ✓ Minimum wage of \$15/hour for employees with a built-in Consumer Price Index escalator and health insurance, paid leave and other benefits
- ✓ Recruit workers from Del Valle schools, Historically Black Colleges & Universities, Workforce Solutions Capital Area, local training and apprenticeship programs, and the County's workforce program for residents exiting the criminal justice system
- ✓ At least 50% of ongoing employees will be Travis County residents
- ✓ Tesla investment of the equivalent of 10% of its County O & M tax liability to community programs such as affordable housing and public transportation
- ✓ Commitment to partner with County to donate right of way and build a road through the site to serve as Austin's Colony flood evacuation route



## Administrative

- ✓ Must comply with applicable federal, state and local laws, regulations and orders
- ✓ Performance-based rebate formula reduces the rebate proportionally if investment, jobs, and Travis County resident jobs performance requirements are not met
- ✓ Performance-based rebate formula sets the rebate at \$0 if performance is <75% of the required investment or jobs in any year
- ✓ Establishes annual reporting, compliance, and verification process
- ✓ Rebate of taxes paid by Tesla is authorized only after compliance is verified
- ✓ Tesla pays for County's costs to verify compliance with the agreement
- ✓ Breach of contract by Tesla triggers clawback of last two years of rebate