

TEXAS TRANSPORTATION COMMISSION

TARRANT County

MINUTE ORDER

Page 1 of 3

FORT WORTH District

The Texas Department of Transportation (department) and the North Texas Tollway Authority (NTTA) have been proceeding with the preliminary development of the SH 121 toll project from I-30 to Altamesa Boulevard in Tarrant County (Southwest Parkway).

The Southwest Parkway project is located within the boundaries of the NTTA, and the NTTA is authorized to construct, operate, maintain, expand, or extend the Southwest Parkway project pursuant to Transportation Code, §228.0111(s) and other applicable law.

The Southwest Parkway project crosses over and affects railroad facilities known as the Davidson Yard, which are owned and operated by the Union Pacific Railroad Company (UPRR). The NTTA and the City of Fort Worth (city) have reached an agreement with UPRR regarding the design, construction, and operation of the Southwest Parkway across the Davidson Yard, documented in the "Union Pacific Railroad/Project Partners Formal Agreement," dated January 8, 2009 (Formal Agreement). The department is also a party to the Formal Agreement to document the department's agreement to convey certain real property necessary for the proposed Union Pacific facilities contemplated in the Formal Agreement.

To acquire right-of-way interests needed for the Southwest Parkway, obtain access to the Davidson Yard to construct the Southwest Parkway, and otherwise close the settlement described in the Formal Agreement (obligations), the NTTA and the city agreed to each fund an equal share of the \$95 million cost of the obligations. The failure of the NTTA and the city to demonstrate by August 20, 2009 their ability to fund the \$95 million is one of several events entitling any party to the Formal Agreement, including UPRR, to terminate that agreement.

On June 11, 2009, the Regional Transportation Council (RTC) of the North Central Texas Council of Governments (NCTCOG), the metropolitan planning organization for the Dallas/Fort Worth region, adopted a resolution committing to program \$49.87 million of Surface Transportation Program – Metropolitan Mobility funds to fund the first portion of the \$95 million.

Transportation Code, §366.301 authorizes the department to provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, construction, operation, or maintenance of a turnpike project or system by the NTTA on terms agreed to by the department and the NTTA. Transportation Code, §222.103 authorizes the department to participate, by spending money from any available source, in the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the Texas Transportation Commission (commission).

Pursuant to Transportation Code, §222.103, the commission adopted Title 43, Texas Administrative Code, §27.50-27.58 to prescribe conditions for the commission's financing of a toll facility of a public or private entity.

In accordance with Sections 27.53 and 27.54(a) of the toll equity rules, the commission, in Minute Order 111856, dated June 25, 2009, granted preliminary approval of financial assistance in the amount of \$49.87 million to pay for a portion of the costs of the obligations. The financial assistance was approved in the form of a grant.

TEXAS TRANSPORTATION COMMISSION

TARRANT County

MINUTE ORDER

Page 2 of 3

FORT WORTH District

In accordance with Section 27.54 of the toll equity rules, negotiations have been conducted and a financial assistance agreement that complies with Section 27.55 of those rules will be developed.

The department previously conducted environmental studies and analyses of the Southwest Parkway, and has secured environmental clearance in the form of a reevaluation of the Final Environmental Impact Statement for the Southwest Parkway, which was approved by the FHWA on June 3, 2009.

The NTTA has, subject to establishing feasibility for, and committing to develop, the Southwest Parkway, committed that the Southwest Parkway project will comply with all applicable local, state and federal environmental laws, regulations and requirements, and has, with respect to any construction regarding the Southwest Parkway undertaken by the NTTA, committed that the NTTA will assume all liability and responsibility for existing and future EPIC.

The completion of the Southwest Parkway will benefit the state and the traveling public and improve the efficiency of the state's transportation system by enhancing local and regional mobility, decreasing congestion, increasing safety, increasing economic development opportunities, decreasing travel time, decreasing air pollution, and enhancing quality of life in the Southwest Parkway corridor.

The Southwest Parkway project will expand the availability of funding for transportation projects or reduce direct state costs. The financial assistance will reduce the amount of funding required from the city and realize the benefits described above. This financial assistance will enhance the ability of Southwest Parkway to go forward as a toll facility, improving the efficiency of the state transportation system. Without the financial assistance, the timeline to complete the Southwest Parkway and realize the benefits could be indefinitely delayed.

Based on the above information, the commission has determined that providing financial assistance will prudently provide for the protection of public funds, and that, given the level of project development to date, the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate adverse environmental impacts.

NTTA has not yet completed an investment-grade traffic and revenue report for the project. The department has determined, pursuant to 43 TAC §27.54(b)(2), that the requirement for such a report is inapplicable or unnecessary due to the nature of the requested financial assistance as the toll equity grant will not be used to construct the Southwest Parkway project.

The Southwest Parkway project is consistent with the approved Statewide Transportation Plan, the Statewide Transportation Improvement Program, and the approved metropolitan transportation plan (MTP) of the NCTCOG. The US DOT (FHWA/FTA) found the MTP to conform to the State Implementation Plan on June 12, 2007 and found the 2008-2011 Transportation Improvement Program to conform on October 31, 2007.

TEXAS TRANSPORTATION COMMISSION

TARRANT County

MINUTE ORDER

Page 3 of 3

FORT WORTH District

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the North Texas Tollway Authority meets the requirements of 43 TAC §27.53 and §27.54 and, in accordance with those provisions, the commission grants final approval of financial assistance in the amount of \$49.87 million, to be used to pay for a portion of the costs to acquire right-of-way interests needed for the Southwest Parkway, obtain access to the Davidson Yard to construct the Southwest Parkway, and otherwise close the settlement described in the Formal Agreement, and authorizes the executive director to enter into a financial assistance agreement with the North Texas Tollway Authority.

Submitted and reviewed by:



Director, Finance Division

Recommended by:



Executive Director

111889 JUL 30 09

Minute Number Date Passed