

TEXAS TRANSPORTATION COMMISSION

FORT BEND County

MINUTE ORDER

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HOUSTON District

The Texas Department of Transportation (department) and Fort Bend County (county) have been proceeding with the extension of the Westpark Tollway facility in the county, including frontage roads, from the Grand Parkway (SH 99) to FM 1463 (Westpark Toll Road Phase II or project), for a total length of approximately 4.2 miles.

The project is consistent with the Statewide Transportation Plan (Plan) and the Metropolitan Transportation Plan of the Houston-Galveston Area Metropolitan Planning Organization (HGAC). The frontage roads portion of the project will be included in the HGAC Transportation Improvement Program in 2013, and is listed in the FY 2011-2014 Statewide Transportation Improvement Program (STIP). HGAC is currently revising the conformity model to move the tolled mainlanes portion of the project forward to a construction year between 2015 and 2018.

The tolled mainlines will consist of four lanes extending for a total length of 3.0 miles and will include grade separations over Katy-Gaston Road and FM 723/Spring Green Drive. The mainlanes will transition to the frontage roads which will continue west to FM 1463. The project also includes a direct connector from the eastbound Westpark Tollway mainlanes to the northbound mainlanes of SH 99.

Transportation Code, §284.008 authorizes the Texas Transportation Commission (commission) to provide for and contribute toward the acquisition, construction, improvement, operation, maintenance, or pooling of a project under that chapter and under terms agreed to by the commission and the county. 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 commission.

Pursuant to Transportation Code, §222.103, the commission adopted Title 43, Texas Administrative Code, §§27.50-27.58 (toll equity rules) 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 112757, dated July 28, 2011, granted preliminary approval of the request for financial assistance in the amount of \$4 million a year for 10 years to pay for the development and construction of the Westpark Toll Road Phase II, with a requirement that the county deliver an adjacent project with a value which exceeds \$40 million as soon as the environmental approvals for the adjacent project are received.

The county is proposing to fully fund with local funds a further extension of the Westpark Tollway facility, consisting of frontage roads and tolled mainlanes, from FM 1463 to James Lane in the City of Fulshear, with an estimated cost of \$88.78 million.

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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 has been developed.

The county has committed that the project will comply with all applicable environmental laws, and has committed that all environmental permits, issues, and commitments will be implemented.

Section 27.54(b) of the toll equity rules provides that prior to receiving final approval of the grant or loan of funds for the construction of a project, (1) a study of the social, economic, and environmental impacts of the project be completed, and public involvement be provided for in the manner required in the department's rules relating to environmental review and public involvement for transportation projects, and (2) an investment grade traffic and revenue report for the project be obtained from a nationally recognized traffic engineer. The executive director may waive those requirements if the director determines that the study or report is inapplicable or unnecessary due to the nature of the requested assistance.

The executive director has determined that the requirements of Section 27.54(b) should be temporarily waived as funding from the financial assistance will not be made available to the county until after the project has been environmentally cleared and construction is complete, and the financial assistance is not intended to be repaid from project revenues.

The completion of the project will benefit the state and the traveling public and improve the efficiency of the state's transportation system by improving safety, mobility, traffic operations, and travel time, and by reducing traffic delays along the congested and developing FM 1093 corridor. Without the financial assistance, the timeline to complete the project and realize the benefits described above could be delayed indefinitely.

The financial assistance will improve the efficiency of the state transportation system by adding capacity to the FM 1093 corridor. The request for financial assistance indicates that a majority of project costs will be funded through bonds. With the requested financial assistance, the project has the potential to expand the availability of funding for transportation projects or to reduce direct state costs. Based on the above information, the commission has determined that providing financial assistance will 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.

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by Fort Bend County meets the applicable requirements of 43 TAC §27.53 and §27.54 and, in accordance with those provisions, the commission grants final approval of the request for financial assistance in the amount of \$4 million per year for 10 years to be used for the purposes described herein.

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IT IS FURTHER ORDERED that final approval is conditioned on the project receiving the necessary environmental approvals and that funding from the financial assistance will not be made available to Fort Bend County until one year following completion of the project and opening of the roadway to traffic.

IT IS FURTHER ORDERED that the financial assistance will be repaid through Fort Bend County fully funding with local funds an extension of the Westpark Tollway facility, consisting of frontage roads and tolled mainlanes, from FM 1463 to James Lane in the City of Fulshear as soon as the necessary environmental approvals for the project are received.

IT IS FURTHER ORDERED that the executive director is authorized to enter into a financial assistance agreement with Fort Bend County that includes terms consistent with the requirements of this order, and any other necessary agreement in connection with the extension of the Westpark Tollway facility to be funded by the county.

Submitted and reviewed by:



Chief Financial Officer

Recommended by:



Executive Director
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Minute Number Date Passed