

TEXAS TRANSPORTATION COMMISSION

SMITH County

MINUTE ORDER

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TYLER District

The Texas Department of Transportation (department) and the North East Texas Regional Mobility Authority (NETRMA) have been proceeding with the development of the Toll 49 facility in Smith County, a project under the jurisdictional limits of the NETRMA.

The project is consistent with the Statewide Transportation Plan (Plan) and the Metropolitan Transportation Plan of the Tyler Metropolitan Planning Organization, and is listed in the FY 2008-2011 Statewide Transportation Improvement Program (STIP).

The project is the development and construction of Segment 3B of Toll 49 from SH 31 north to I-20. The proposed 10-mile toll facility includes two lanes of an ultimate four-lane toll road, with a connection to the existing Toll 49 facility at SH 31, and ramps connecting to I-20. The project is located within the boundaries of the NETRMA, and is subject to the market valuation and primacy requirements of Transportation Code, §228.0111. Pursuant to Transportation Code, §228.0111, the NETRMA has exercised its option to develop, construct, and operate the project.

Transportation Code, §370.301 authorizes the department to provide for or contribute to the payment of costs of the design, financing, construction, operation, or maintenance of a turnpike project by a regional mobility authority (RMA) on terms agreed to by the department and the RMA. 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 (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 of the toll equity rules, the commission, in Minute Order 112498, dated November 18, 2010, granted final approval of financial assistance in an amount up to \$90 million, in the form of a loan, to pay for the development and construction of Segment 3B of Toll 49.

In Minute Order 112498, the commission ordered that interest on the loan accrue from the date of disbursement at 4.18 percent per annum, compounding annually if not paid. The commission further ordered that if, at the end of the term of the State Infrastructure Bank (SIB) loan approved for the project, any amount of the financial assistance cannot be repaid by NETRMA, that amount will be considered equity in the project, and repaid through the payment to the department in perpetuity of a share of revenues generated by Segments 1, 2, 3A, 3B, 4 and 5 of Toll 49, with the revenue sharing terms to be determined at the end of the term of the SIB loan.

To allow the department to obtain a lien on revenues used to repay the SIB loan and this loan, and in accordance with the negotiated terms of the financial assistance agreements, the NETRMA must obtain approving opinions from the Attorney General with respect to the notes evidencing the loans. The Attorney General has indicated that in order to obtain the approving opinions, the NETRMA must demonstrate that the loans are capable of being paid in full from project revenues, rather than relying on the ability of the NETRMA to refinance the loans.

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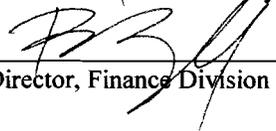
TYLER District

The executive director of the department has negotiated, for both the SIB loan and this loan, a revised amortization period of 28 years with 4.18 percent interest per annum for the first eight years and then increasing the rate to the 20 year Baa- Index 86 Delphis Hanover rate in effect in year eight plus 200 basis points for the remaining 20 years if the loans are not paid in full. If the SIB loan is prepaid before the end of its term, the outstanding amount of this loan would continue to be subject to conversion to equity in the project if not paid in full at that time.

IT IS THEREFORE ORDERED that the revised amortization period of 28 years with interest at 4.18 percent per annum for the first eight years and at the adjusted interest rate (the 20 year Baa- Index 86 Delphis Hanover rate in effect in year eight plus 200 basis points) for the remaining 20 years if the loan is not paid in full, is approved.

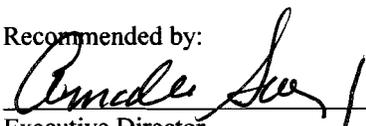
IT IS FURTHER ORDERED that if the SIB loan is prepaid before the end of its term, the outstanding amount of the loan would continue to be subject to conversion to equity in the project if not paid in full at that time, with a return on investment to be paid through the payment to the department in perpetuity of a share of revenues generated by Segments 1, 2, 3A, 3B, 4 and 5 of Toll 49, with the revenue sharing terms to be determined at the end of the term of the SIB loan.

Submitted and reviewed by:



Director, Finance Division

Recommended by:



Executive Director

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Minute Number Date Passed