TEXAS TRANSPORTATION COMMISSION

MINUTE ORDER

On January 20, 2006 Brazoria County (county) submitted a proposal for a pass-through toll agreement. The county's proposal provided for the county to expand and upgrade SH 36 from SH 35 to FM 1495.

Section 222.104(b), Transportation Code, authorizes the Texas Department of Transportation (department) to enter into an agreement with a public or private entity that provides for the payment of pass-through tolls to the public or private entity as reimbursement for the construction, maintenance, or operation of a toll or non-toll facility on the state highway system by the public or private entity. A pass-through toll is a per-vehicle fee or a per-vehicle-mile fee that is determined by the number of vehicles using a facility.

The Texas Transportation Commission (commission) previously adopted rules, codified as 43 TAC §§5.51-5.59, that prescribe the policies and procedures governing the department's implementation of Section 222.104(b), Transportation Code.

Section 5.54 of the commission's rules provide that the commission may authorize the department's executive director or his designee to negotiate a pass-through toll agreement with a public entity after considering the following factors: (1) financial benefits to the state; (2) local public support for the projects; (3) whether the projects are in the department's Unified Transportation Program (UTP); (4) the extent to which the projects will relieve congestion on the state highway system; (5) the potential benefits to regional air quality that may be derived from the projects; (6) compatibility of the proposed projects with existing and planned facilities; and (7) the entity's experience in developing highway projects.

After considering factors described by §5.54, the commission determines that: (1) the proposal has the potential to provide significant financial benefits to the state, subject to the outcome of the negotiations with the county; (2) the county's proposal indicated broad support for the projects and did not identify any opposition; (3) none of the projects identified in the proposal are in the current UTP, therefore future funding sources should be identified; (4) the projects identified in the proposal demonstrate the potential to relieve congestion on the state highway system, and the extent of the relief to the system will be quantified and documented in consultation with the Houston-Galveston Area Council (H-GAC); (5) potential benefits to regional air quality must be quantified and documented by H-GAC through the air quality conformity process in accordance with all state and federal regulations; (6) the projects are compatible with existing and planned transportation facilities; and (7) the county lacks significant experience developing highway projects, but has delegated responsibility to a Program Manager that has extensive experience in roadway conceptual planning, preliminary engineering, and design and construction support services for highway projects.

Before the projects in this proposal are planned, developed, or constructed using funds administered by the department, the projects: (1) must be included in the H-GAC Metropolitan Transportation Plan; (2) must be included in the department's UTP, thereby identifying committed funding for each project; (3) prior to construction, must be included in the H-GAC Transportation Improvement Program and the department's Statewide Transportation Improvement Program; and (4) will be subject to any and all applicable planning and environmental processes and approvals as mandated by state and federal regulations regarding such matters.

IT IS THEREFORE ORDERED that the executive director or his designee is authorized to negotiate a pass-through toll agreement with Brazoria County. If the negotiations are successful, the executive director shall submit to the commission a summary of the final terms of the agreement so that the commission may consider final approval under §5.56 of its rules.

Submitted and reviewed by:

James M Bass

Chief Financial Officer

Recommended by:

M. W. Behrens

Executive Director

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Minute Number | Date Passed