

TEXAS TRANSPORTATION COMMISSION

COMAL County

MINUTE ORDER

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SAN ANTONIO District

On April 18, 2005, Comal County (county) submitted a proposal for a pass-through toll agreement. The proposal provided for the county to finance construction improvements to SH 46 from Loop 337 in New Braunfels to west of US 281 in Bulverde and the expansion of US 281 to a 4-lane divided highway from the Guadalupe River to the Blanco County line, with purchase of right of way to accommodate construction of express lanes on US 281 in the future.

In accordance with Section 222.104(b), Transportation Code, the Texas Transportation Commission (commission) granted preliminary approval on September 29, 2005 by Minute Order 110236 authorizing 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 design, development, financing, 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 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.

The department and the county have agreed to a reimbursement through pass-through tolls of \$16 million for the financing of each of the projects in their proposal for a total of \$32 million. The reimbursement rate will be \$0.10 per vehicle mile. The minimum amount to be reimbursed in any year with all projects open to traffic is \$2,666,667 and the maximum amount will be \$4 million. Each agreement will expire once the total amount of that agreement has been reimbursed. The project will be authorized and reimbursed from Strategic Priority funds. The department will fund any overruns to the project out of funds other than Strategic Priority funds, and any additional costs due to overruns will not increase the amount to be reimbursed as part of the pass through toll agreement.

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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 department's UTP, thereby identifying committed funding for each project; (2) prior to construction, must be included in the department's Statewide Transportation Improvement Program; and (3) 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 execute pass-through agreements with Comal County, on both SH 46 and US 281, in accordance with the negotiated terms and such other terms the department determines are necessary.

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