



TESTIMONY

Regional Implementation: Fort Worth

**Testimony Before the
Legislative Study Committee on Private Participation in Toll Projects**

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August 12, 2008**

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The Texas Department of Transportation (TxDOT) includes 25 districts which oversee the construction and maintenance of the state highways within their jurisdictions. District staff members are familiar with local projects and with needs of local customers, and the TxDOT Fort Worth District is no exception.

Composed of nine counties in North Central Texas – Erath, Hood, Jack, Johnson, Palo Pinto, Parker, Somervell, Tarrant and Wise – the Fort Worth District is responsible for 8,705 lane miles of roadway system. In Tarrant County alone, the district coordinates with 41 incorporated cities. As part of North Central Texas, there are 71 incorporated cities with citizens driving 107 million vehicle miles a day impacting the Dallas and Fort Worth Districts' roadways.

The Dallas/Fort Worth region is home to over one-third of the total population growth in Texas, and this region is the fourth-largest metropolitan area in the United States. With an estimated 2007 population of 6.6 million people, the 16-county area that makes up North Central Texas has more regional population than 36 states. In addition, the Dallas/Fort Worth region is expected to grow to more than 9 million people by 2030 due to the growing job market and affordable housing.

With all of the economic and population growth factors, it requires a large amount of coordination and cooperation between TxDOT staff and our local partners. We have established productive working relationships with the North Central Texas Council of Governments (NCTCOG), the North Texas Tollway Authority (NTTA) and transit providers such as the Fort Worth Transit Authority and the Dallas Area Rapid Transit (DART). These relationships are pivotal to a successful transportation system for such a dynamic region of the state.

SB 792 from the 80th Legislative Session further requires TxDOT to maintain and cultivate these relationships. Our continued communications have helped our region to explore opportunities which will further improve upon our existing transportation system.

Regional Toll Policy

The North Central Texas Council of Governments' Regional Transportation Council (RTC) developed the toll and managed lane policies for the region. The local policy board also prioritizes the region's mobility project funding. TxDOT implements these priorities and applies the region's toll/managed lane policy to the comprehensive development agreements (CDAs).

The RTC recognizes the need for several funding resources to address the region's mobility needs as there are not enough public funds available to reduce congestion. Public-private partnerships and the regional toll authority must work in tandem with the gas tax dollars to bring many of these projects to fruition. We acknowledge the need for collaboration and cooperation between the RTC, NTTA and TxDOT, and the need to match our specific strengths and funding mechanisms.

Regional Implementation

There are three projects within the Fort Worth District that are exempted from the requirements of SB 792 – SH 121 from I-30 to Alta Mesa Boulevard, the DFW Connector and the North Tarrant Express. SB 792 gives the NTTA the opportunity to have the first right to develop toll-element projects, and it designates the NTTA as the toll operator for the region. A summary of the current Fort Worth District projects impacted by the bill are listed below. As other toll projects are identified and studies progress, the requirements of SB 792 will have to be met.

- DFW Connector

The DFW Connector will reconstruct and expand SH 114 and SH 121 including five interchanges across seven highways: FM 1709, FM 2499, I-635, SH 26, SH 114, SH 121 and SH 360. With a total project length of approximately 16 miles, this project will add tolled managed “express” lanes and additional general purpose lanes on SH 114.

As a CDA project, the DFW Connector is planned as a design-build project. Toll revenues collected will provide a revenue stream for the region. SB 792's only impact is the requirement that NTTA be the toll operator of the managed lanes on SH 114. A Toll Services Agreement will be necessary between the NTTA and TxDOT before the managed “express” lanes are placed in service and tolls collected.

While there is no requirement for private sector equity/financing, we had to pursue this project as a CDA because TxDOT does not have pure design-build authority. The toll element along SH 114 allows us to use the CDA authority. Even though the managed lanes provide a small revenue stream, the greater anticipated benefits are that the design-build approach will implement the improvements sooner.

An environmental document has been submitted to the Federal Highway Administration (FHWA) by TxDOT for approval. We anticipate release of approval for the public hearing process soon.

- North Tarrant Express

The North Tarrant Express CDA includes both a concession element and a planning element. The concession element includes developing, designing, constructing, financing, operating, and maintaining Northeast Loop 820 from I-35W to the Northeast Interchange, including a new I-35W interchange. The developer would also assist TxDOT in planning and developing the remaining five segments of the North Tarrant

Express along SH 121/183, East Loop 820, and I-35W. Tolled managed “express” lanes and additional general purpose lanes are planned for the ultimate 36-mile facility.

During the first phase of the CDA process in the Request for Qualifications, which occurred prior to SB 792, collection of tolls on the managed lanes was included as a service to be provided by the proposers. Through SB 792, NTTA was designated the region’s toll operator. This required updates and agreements in the second phase in the Request for Proposals. Additional agreements between NTTA, the proposers and TxDOT in the form of a project specific Toll Services Agreement had to be developed and executed.

A public hearing on the I-820 segment was held July 1, 2008. Environmental clearance from the FHWA is expected for this segment by this fall. A draft environmental document has been submitted to FHWA on the SH 121/SH 183 segment. We anticipate release for further processing including scheduling of the public hearing on this segment soon.

- SH 121

North Portion

The project on SH 121 from I-30 to Alta Mesa Boulevard will construct a toll road on a new location. With a total project length of 8.2 miles, this project will provide a connection from southwest Fort Worth to the central business district. It is a cooperative toll road project in Tarrant County between NTTA, TxDOT and the city of Fort Worth. The three partners are currently negotiating a final funding agreement in accordance with the Interlocal Agreement.

No direct impacts are identified for this project due to the exempt status of the project and due to the existing three-party Interlocal Agreement executed on November 28, 2000.

South Portion

SH 121, from Alta Mesa Boulevard in Fort Worth to U.S. 67 in Tarrant and Johnson Counties, is a 19-mile project that includes the construction of a 4 to 6-lane divided, controlled-access toll road on a new alignment.

This section of SH 121 connects to the SH 121/Southwest Parkway section from I-30 to Alta Mesa Boulevard. The two projects combined are 27 miles long. Both are environmentally clear but will require reevaluation due to changes in the proposed tolling operations and additional items required by the FHWA.

The southern portion is subject to market valuation based on SB 792, and the Fort Worth District and the NTTA have had initial discussions to begin this process. We have indicated to NTTA that TxDOT is open to offers on all or part of SH 121 to fulfill the requirements of both the Interlocal Agreement and SB 792.

We acknowledge that the SH 121 north portion and south portion should be assessed and modeled as a system because they compliment one another. Texas Transportation Commission members have had preliminary discussions with members of the NTTA board regarding how to proceed with market valuation on this corridor.

- SH 170 and SH 360

This include SH 170 from SH 199 to SH 114 and SH 360 from I-20 south to U.S. 67. Prior to the passage of SB 792, the RTC identified these two corridors along with three others in the region as possible toll projects for the NTTA to analyze for toll viability. These projects are now subject to market valuation according to SB 792. Preliminary discussions have begun between NTTA and TxDOT to determine scopes for the corridors. We expect that the RTC's toll policies would apply to these corridors as well as future tolled projects. Environmental evaluations will be necessary for the development of these projects.

Summary

In review, the impacts of SB 792 on the Fort Worth District's tolled projects are varied. Toll roads and managed lane projects do not generate the same level of revenue. Revenues from a managed lane project generally do not cover all of the costs to develop, construct and maintain a project. Toll roads have a better chance to be revenue positive. Therefore, market valuation is somewhat different for these two types of tolled facilities.

Knowing the market valuation process can be long and arduous, all parties have worked together to be sure all interests are well represented and keep the negotiations process to a limited level. As everyone around the state is still learning how to handle the market valuation process for their respective projects, we are hopeful to create a model that can be efficient and effective without being overbearing. While this has not been an easy task, cooperation from all parties involved will be a key component to our successful negotiations.

On CDA projects within the service area of a regional toll authority, the provisions of SB 792 have created some challenges that must be overcome. It appears the law requires proposers to employ or subcontract with the local toll authority, yet it does not impose any restrictions or performance requirements on this subcontractor. For our exempt projects where NTTA will provide toll collection services, we have heard from proposers that a toll services agreement must be executed that outlines the services to be provided, the costs of these services, and a legal mechanism to ensure tolls collected will be paid to the developer. While negotiations were lengthy, NTTA took a positive step forward at their July meeting in authorizing their staff to negotiate individual toll services agreements. In addition, the RTC approved a backstop in the form of an escrow account for the agreements in July.

The bill had little impact on the DFW Connector CDA because a design-build model was utilized and did not require private financing for the project. This model was utilized because public funding was identified for the project, and it provided for an accelerated

design and construction schedule to minimize the impacts to area businesses and DFW International Airport. Three proposers began the CDA process for the DFW Connector, and each has submitted detailed proposals for review.

The proposers on the North Tarrant Express CDA have commented that SB 792 added some uncertainty to the CDA process, and valuable time was lost while legislation was being deliberated. The North Tarrant Express CDA began with seven proposers in 2007 and then short listed to four with a total project cost of nearly \$4 billion for a 52-year contract. Approximately \$600 million has been identified in public funds. There are currently two remaining proposers with detailed proposals due soon. The region and TxDOT will evaluate these proposals closely to determine the best value for the region.

Due to uncertainty with actual requirements of SB 792 and the subsequent update to documents, deadlines had to be extended. With the increasing rate of inflation for transportation related materials, the buying power of available funds has eroded. Over the last year – due to the escalation of construction costs, complications in the environmental process and the change in the financial markets – there are even more challenges and instabilities for future funding.

Conclusion

Fort Worth and the North Central Texas region are certainly facing transportation challenges which require collaboration and discussion efforts from all transportation partners in the region. The exemption of area projects from the provisions of SB 792 will allow this region to further explore the potential of private sector financing. As a State and as a region, we must continue to find a mechanism that increases our financial resources, imposes a manageable level of risk, and maintains control of future revenue streams for the benefit of the people of Texas.

The authority for the funding mechanism known as Comprehensive Development Agreements expires on August 31, 2009 by the terms of SB 792, 80th Legislative Session. The public-private partnership mechanism is a valuable tool, and not allowing this option decreases our ability to meet the transportation demands of our State.

The members of the Texas Transportation Commission, the Texas Department of Transportation and the Fort Worth District look forward to working with this Legislative Study Committee and the Legislature to ensure all available methods of financing transportation facilities are utilized.