

July 19, 2017

Mr. James Bass, Executive Director  
Texas Department of Transportation  
Dewitt C. Greer State Highway Building  
125 East 11th Street  
Austin, TX 78701-2483

RE: FM 1093 (Westpark Tollway) Project

Dear Mr. Bass:

On December 19, 2011, Fort Bend County and the Texas Department of Transportation (TxDOT) entered into a "Financial Assistance Agreement" (FAA) regarding the development and construction of about 8 miles of 4-lanes of frontage roads (FM 1093) and an extension of 4-lanes of the Westpark Tollway to west of FM 1463. A copy of the agreement, including Attachment "C" "Project Budget", is attached. The "Project" (Phase I) is defined as 4-lanes of frontage road of FM 1093 from SH 99 to just east of FM 1463 and the extension of the Westpark Tollway to just west of Spring Green Blvd. (FM 723). The "adjacent project" (Phase II), to be delivered by Fort Bend County, is 4-lanes of frontage road of FM 1093 from just east of FM 1463 to James Lane in Fulshear, Texas and the extension of the Westpark Tollway to west of FM 1463. Fort Bend County and TxDOT agreed that the original cost estimate, excluding interest cost, for the Project of \$125 million was reasonable. The agreement between the parties is based on that original Project cost estimate.

However, actual and estimated Project costs have increased dramatically to \$229 million as shown on the attached schedule prepared by our Project Engineer. Including interest, the total Project costs are currently estimated to be \$356.8 million. We understand that the Agreement provides that the County is responsible for the increases in Project costs. However, if the County funds this entire increase in Project Costs, we will have to sacrifice completing a number of needed county road projects and we will greatly hinder the County's ability to participate with TxDOT in improving more state roads within the county.

Efforts to improve FM 1093 began in earnest in 2008 when Fort Bend County began negotiations with TxDOT on a "Tolling Agreement", whereby the county would fund and construct 8 miles of four-lanes of frontage roads and TxDOT would refund the county's costs based on the additional vehicle miles on FM 1093. Not long after environmental work on the

Project began, the county ran into a requirement from the Federal Highway Administration (FHWA) that an Environment Impact Statement (EIS) would be required for the “adjacent project” (Phase II). Preparation and approval of an EIS was estimated to take 5-6 years. Preparation and approval of an Environmental Assessment (EA) was estimated to take 9-12 months. Fort Bend County pursued several avenues over a two year period to get FHWA to change its requirement of an EIS and accept an EA for the “adjacent project” without success.

To move both Phase I and Phase II of the Project forward, in 2010 the county began negotiations with TxDOT on a Toll Equity Agreement, which culminated in the attached Financial Assistance Agreement. Essentially, TxDOT would contribute \$40 million to Phase I, from SH 99 to FM 1463, and Fort Bend County would use its own funds to construct an “adjacent project (Phase II) from FM 1463 to James Lane in Fulshear, Texas. Since no state or federal funds would be used to construct Phase II, an Environmental Impact Statement for Phase II would not be required and the county would save 4-5 years. Language in Minute Order 112757 reflects the essence of the agreement and states “...*the commission grants preliminary approval in the amount of \$4 million per year for 10 years to be used for the purposes described herein with a requirement that the county then deliver an adjacent project with a value which exceeds \$40 million...*” The original estimated cost for the “adjacent project” (Phase II of the Project) was \$63 million, but today it is estimated to be \$112 million. Construction of Phase I of the FM 1093/Westpark Tollway Project finally began in 2016. Completion of Phase I is expected in the last quarter of 2017. Phase II is scheduled to be constructed in two segments. The first is scheduled to begin in late 2017 with the second segment to start in early 2018.

The multiyear delay in the start of the Project, partly a result of the delay in environmental approvals, was the main cause in the dramatic increase in Project costs. Explosive growth in the area over the last few years has driven land prices from \$5 to \$10-13 per sq. ft., dramatically increasing right-of-way costs. In addition to other Project cost increases construction costs have continued to increase at TxDOT’s estimated 3% per year during the Project approval process. A portion of the cost increase is due to the statutory requirement under Transportation Code Section 203.092, modified in 2005, that requires the “department” (TxDOT) to pay for 50% of utility relocation costs on tollway projects, as opposed to the utility companies paying 100% of utility relocation costs for non-tolled roads. The utility companies maintained that the county “is standing in the shoes of the department” in this instance. Since litigating this issue would have delayed this Project many years, the County was forced to pay 50% of the utility relocation costs in order to keep the Project moving forward. All of these increases are beyond the county’s control.

Previous discussions with TxDOT's staff on these Project cost increases resulted in an alternative funding plan whereby TxDOT would pay the County a discounted amount upon completion of Phase I in lieu of \$40 million over 10 years. This discounted advance payment does nothing to address the dramatic Project cost increases the County will incur. The amount of discount is approximately the same as the Counties borrowing costs resulting in no additional TxDOT funding to the County.

In following, Fort Bend County requests that TxDOT help fund the increase in Project costs by agreeing to pay \$80 million upon completion of Phase I. When Fort Bend County completes the total Project, the motoring public will get a \$229 million road project, excluding interest costs, at a cost of \$80 million to the great state of Texas.

We would greatly appreciate TxDOT's consideration of our request. If you should have any questions or need any additional information please contact Richard Stolleis our County Engineer.

Sincerely,

County Judge Robert Hebert

Commissioner Pct. 1 Vincent M. Morales, Jr.

Commissioner Pct. 2 Grady Prestige

Commissioner Pct. 3 W. A. "Andy" Meyers

Commissioner Pct. 4 James Patterson

cc: Quincy Allen, Houston District Engineer TxDOT  
Richard Stolleis County Engineer, Fort Bend County  
Roy Cordes County Attorney, Fort Bend County