

## AGENDA ITEM

26

FORT BEND COUNTY FY 2010  
COMMISSIONERS COURT AGENDA REQUEST FORM

Return Completed Form by E-Mail to: Agenda Coordinator, County Judge's Office

Date Submitted: 3/15/10

Submitted By: Delynn Davis

Department: Commissioner, Pct. 3

Court Agenda Date: 3/23/10

Phone Number: 281-494-1199

SUMMARY OF ITEM: Discuss and consider taking action on Resolution for FM1093/Westpark Toll Road Extension Pass-Through Toll Project.

RENEWAL AGREEMENT/APPOINTMENT YES ☐ NO ☒  
REVIEWED BY COUNTY ATTORNEY'S OFFICE: YES ☐ NO ☐

List Supporting Documents Attached: Resolution/ Minute Order

## FINANCIAL SUMMARY:

BUDGETED ITEM: YES ☐ NO ☐FUNDING SOURCE: Accounting Unit: Account Number:  
Activity (If Applicable):

DESCRIPTION OF LAWSON ACCOUNT:

## Instructions to submit Agenda Request Form:

- Completely fill out agenda form: incomplete forms will not be processed.
- Agenda Request Forms should be submitted by e-mail, fax, or inter-office mail, and all back-up information must be provided by Wednesday at 2:00 p.m. to all those listed below.
- All original back-up must be received in the County Judge's Office by 2:00 p.m. on Wednesday.

## DISTRIBUTION:

Original Form Submitted with back up to County Judge's Office ☒ (✓ when completed)If by E-Mail to [ospindon@co.fort-bend.tx.us](mailto:ospindon@co.fort-bend.tx.us)

If by Fax to (281) 341-8609

Distribute copies with back-up to all listed below. If by fax, send to numbers below:

<input checked="" type="checkbox"/> Auditor (281-341-3774)	<input checked="" type="checkbox"/> Comm. Pct. 1 (281-342-0587)
<input checked="" type="checkbox"/> Budget Officer (281-344-3954)	<input checked="" type="checkbox"/> Comm. Pct. 2 (281-403-8009)
<input checked="" type="checkbox"/> Facilities/Planning (281-633-7022)	<input type="checkbox"/> Comm. Pct. 3 (281-242-9060)
<input checked="" type="checkbox"/> Purchasing Agent (281-341-8642)	<input checked="" type="checkbox"/> Comm. Pct. 4 (281-980-9077)
<input checked="" type="checkbox"/> Information Technology (281-341-4526)	<input checked="" type="checkbox"/> County Clerk (281-341-8697)
<input type="checkbox"/> Other:	<input checked="" type="checkbox"/> County Atty (281-341-4557)

## RECOMMENDATION / ACTION REQUESTED:

Special Handling Requested (specify):

3-25-10 orig. ret. to Delynn at Comm. Pct. 3

THE STATE OF TEXAS     §

COUNTY OF FORT BEND   §

**RESOLUTION ACCEPTING TERMS OF MINUTE ORDER #111977**  
**FM 1093/WESTPARK TOLL ROAD EXTENSION**  
**PASS-THROUGH TOLL PROJECT**


**WHEREAS**, Fort Bend County Commissioners Court formally supports and endorses the FM 1093/Westpark Toll Road Extension Pass-Through Toll Project approved by the Texas Department of Transportation through the actions of the Texas Transportation Commission as detailed in Minute Order # 111977, dated September 24, 2009; and


**WHEREAS**, the County finds that this resolution serves a public purpose.

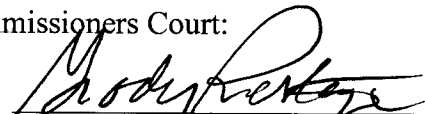
**NOW, THEREFORE BE IT RESOLVED** that the Commissioners Court of Fort Bend County does hereby accept the terms set forth under the referenced order.


**Passed and Approved this 23rd day of March, 2010.**

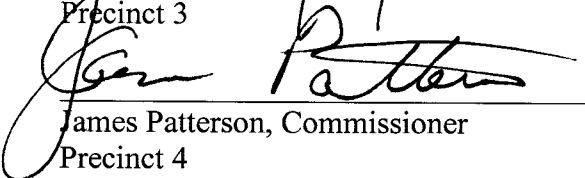
Fort Bend County Commissioners Court:

  
\_\_\_\_\_  
Robert E. Hebert, County Judge


  
\_\_\_\_\_  
Richard Morrison, Commissioner  
Precinct 1

  
\_\_\_\_\_  
Grady Prestage, Commissioner  
Precinct 2

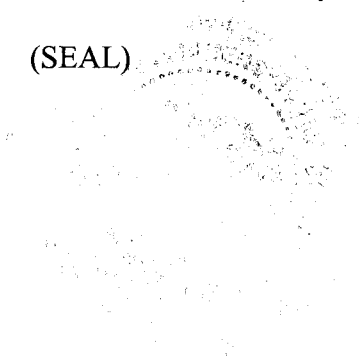
  
\_\_\_\_\_  
W. A. "Andy" Meyers, Commissioner  
Precinct 3

  
\_\_\_\_\_  
James Patterson, Commissioner  
Precinct 4

ATTEST:

  
\_\_\_\_\_  
Dianne Wilson, County Clerk

(SEAL)



## TEXAS TRANSPORTATION COMMISSION

ALL Counties

### MINUTE ORDER

Page 1 of 2

ALL Districts

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 entity as reimbursement for the design, development, construction, maintenance, or operations of a tolled or non-tolled 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 the facility.

On January 29, 2009 by Minute Order 111669 the Texas Transportation Commission (commission) adopted revised rules, codified as Title 43 Texas Administrative Code §§5.51-5.60 (rules), that prescribe the policies and procedures governing the department's implementation of the program under Section 222.104(b), Transportation Code.

Section 5.54 of the rules provides that if the commission determines that funds available for use in the program are limited, it may periodically limit the periods of time during which the department will accept proposals for pass-through toll projects to be developed and, for each specific period, prescribe conditions for submission and the costs that may be reimbursed under a pass-through agreement (agreement).

On February 26, 2009 by Minute Order 111710 the commission approved a program call for highway projects to be developed on the state highway system under a pass-through toll agreement (program call). The commission further determined that (i) monies available that can be allocated among all proposals selected under the program call will be limited to an estimated total of \$300 million in Category 12 funds, and (ii) only the following category of project costs will be considered as eligible for reimbursement under the program call: construction cost, exclusive of construction engineering cost, and in the case of a pass-through toll project submitted as a design-build project, the construction cost, exclusive of construction engineering costs must be broken out separately as one component of the total project cost. The cost categories of design, development (including environmental clearance, right of way acquisition, utility adjustment), financing, maintenance, and operation are specifically excluded.

Pursuant to Minute Order 111710 and §5.54 of the rules, the department published in the Texas Register a notice designating a 60-day period commencing on March 13, 2009 for acceptance of proposals from both public and private entities for projects to be developed under the program call. The deadline for submitting proposals was May 12, 2009. Department staff evaluated the public entity proposals that were timely submitted under the program call using the items of consideration set forth in §5.55 of the rules and provided its analyses of the pass-through toll proposals to the commission. No private entity pass-through toll proposals were received in this program call.

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 2 of 2

ALL Districts

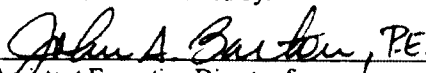
After considering the factors described by §5.55 of the rules and the criteria set forth in Minute Order 111710, it is determined that the pass-through toll proposals set forth in Exhibit A represent the best value to the state for a total of approximately \$300 million in authorized funds.

Before the projects in the selected proposals are designed, developed, or constructed using funds administered by the department, the proposals: (1) must be included in the department's UTP, thereby identifying committed funding for the 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.

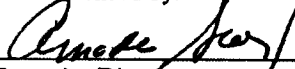
IT IS THEREFORE ORDERED by the commission that the pass-through toll proposals submitted under the current pass-through toll program call and set forth in Exhibit A are hereby selected as providing the best value to the state.

IT IS FURTHER ORDERED that the executive director or designee is authorized to negotiate the financial terms of potential pass-through toll agreements for each of the selected pass-through toll proposals from public entities as set forth in Exhibit A. If negotiations are successful, the executive director shall submit to the commission a summary of the final terms of each agreement so that the commission may consider final approval of the agreement under §5.57 of its rules. If the financial terms of a pass-through toll agreement for one or more of the selected pass-through toll proposals set forth in Exhibit A cannot be successfully negotiated with the proposer(s) by October 23, 2009, the unsuccessful proposal or proposals will be rejected and the commission may, in accordance with §5.55 of the rules and the criteria set forth in Minute Order 111710, consider selection of additional proposals that were timely submitted under the program call.

Submitted and reviewed by:

  
Assistant Executive Director for  
Engineering Operations

Recommended by:

  
Executive Director

111977 SEP 24 09

Minute Number	Date Passed
------------------	----------------

**EXHIBIT A**  
**PROJECTS APPROVED FOR NEGOTIATION**  
**PASS-THROUGH TOLL PROGRAM CALL**

CSJ	DIST	Local Entity Name	Reimburs. Value	Highway	Limits	Region
1	1258-03-902	HOU	FT. BEND CO.	FM 1093	SH 99 to WEST of FULSHEAR, etc.	EAST
2	3544-03-002, etc.	SAT	BEXAR CO.	SH 211/FM 1957	FM 1957 to FM 471, etc.	SOUTH
3	0203-01-042, etc.	PAR	SULPHUR RIVER RMA	US 69	BU 69D to FM 513	NORTH
4	0188-03-019, etc.	HOU	BRAZORIA CO.	SH 36	THRU CITIES of WEST COLUMBIA, BRAZORIA and FM 1495 GRADE SEPARATION	EAST
5	0215-07-016, etc.	SAT	CITY of BULVERDE	SH 46	OLD BOERNE ROAD to RIVER WAY/STAHL LANE	SOUTH
6	0231-03-103, etc.	WAC	CITY of KILLEEN	US 190/FM 2410	EAST of FM 3470 to WEST of FM 2410, etc.	NORTH
7	0976-02-085, etc.	HOU	CITY of PEARLAND	FM 865	ALAMEDA-GENOA ROAD to FM 518, etc.	EAST
8	0113-09-052	AUS	CITY of AUSTIN	LOOP 1/US 290	TWO DIRECT CONNECTORS	SOUTH
9	0080-04-081	FTW	HOOD CO.	US 377	SH 144 to OLD ACTON HIGHWAY	NORTH
10	0902-38-075, etc.	FTW	CITY of HUDSON OAKS	US 180/H 20	I/C of US 180, IH 20 and LAKESHORE DRIVE, etc.	NORTH
<b>TOTAL =</b>			<b>\$273,057,000</b>			

* 11	0046-04-034, etc.	ATL	BOWIE CO.	US 82	FM 1840 to SH 98	NORTH
*12	0260-02-038	DAL	CITY of MIDLOTHIAN & MDA	US 67	US 67 at RAILPORT PARKWAY	NORTH
*13	Not Available	DAL	CITY of MIDLOTHIAN	FM 663	FM 663 OVERPASS WIDENING at US 287 RELIEF RT.	NORTH
*14	2350-01-045, etc.	YKM	CITY of VICTORIA, VICTORIA Co. & MPO	LP 463	WEST of FM 1315 to EAST of FM 1315, etc.	SOUTH

\* The Commission grants conditional authority to pursue negotiations with the sponsors of these projects in priority order for a total Pass-Through Toll program amount not to exceed \$300 million, if staff is unable to successfully negotiate any of the top 10 listed projects.