

**GUIDING PRINCIPLES
SB 1420 COMMITTEE REQUEST FOR RTC RESOLUTION
FOR THE DEVELOPMENT OF THE IH 35E PROJECT**

WHEREAS, Interstate Highway 35 East (IH 35E) is of Statewide, National, and International importance for the movement of people and commerce now and for the long term future;

WHEREAS, IH 35E serves as “Main Street, DFW;”

WHEREAS, the expansion of IH 35E consists of adding managed/toll lanes, general purpose lanes and frontage road lanes from IH 635 in Dallas County to US 380 in Denton County and is herein after referred to as the IH 35E project;

WHEREAS, the IH 35E project has been designated as a high priority project by the Regional Transportation Council (RTC);

WHEREAS, Local Partners, including Denton County, Dallas County, cities along the corridor, the RTC, the Texas Department of Transportation (TxDOT), the North Texas Tollway Authority (NTTA), and Denton County Transportation Authority (DCTA), Congressional representatives and state legislators have been working for years to advance the IH 35E project;

WHEREAS, the Local Partners also recognize Dallas Area Rapid Transit (DART), TxDOT and the RTC for their impact on the corridor through the “Immediate Action HOV” lanes constructed in the late 1990’s through a funding partnership;

WHEREAS, the Local Partners have developed innovative funding methods to advance the project such as the partnership between Denton and Dallas counties where Denton County Regional Toll Revenue (RTR) funds were loaned to complete the IH 635 project and will be repaid by Dallas County RTR funds;

WHEREAS, the region prioritized funding for the DCTA A-train to be operational before the IH 35E managed lane project commences in order to mitigate traffic impacts during construction;

WHEREAS, currently identified funding of \$639 million includes: \$484 million in RTR funds, \$78 million in Congestion Mitigation and Air Quality (CMAQ) funds, \$10 million in Surface Transportation Program - Metro Mobility (STP-MM) funds, \$44 million in Proposition 14 Bond proceeds, and \$23 million in Demonstration and/or Congressional Earmark funds.

WHEREAS, the NTTA has waived primacy for the IH 35E project;

WHEREAS, the Texas Legislature has authorized the development of the IH 35E project as one of the few public-private partnerships that can proceed in Texas; and,

WHEREAS, Senate Bill 1420 (82nd Texas Legislature, Regular Session) requires for certain TxDOT toll projects, including the IH 35E project, that a committee comprised of representatives from local and regional stakeholders and TxDOT (The SB 1420 Committee) be formed to make determinations concerning the distribution of the project’s financial risk, the method of financing for the project, and the project’s tolling structure and methodology that will determine the project’s delivery method in order to ensure local and regional input into the process.

NOW, THEREFORE, BE IT HEREBY AGREED THAT:

- Section 1.** The SB 1420 Committee requests a Resolution from the RTC, agreeing to the Guiding Principles outlined in this document to be addressed by TxDOT on the IH 35E project.
- Section 2.** The RTC will request that the SB 1420 Committee issue a report containing determinations that are consistent with the findings of Mobility 2035 and the National Environmental Policy Act (NEPA) documents related to the IH 35E project.
- Section 3.** The RTC will work with Denton County to advance the IH 35E project, recognizing Denton County's commitment of local funds for the project in exchange for CMAQ funds.
- Section 4.** The RTC will assist local stakeholders in initiating conversations with local governments, regional leaders, the Texas Transportation Commission and other interested public and private partners to allocate additional resources to the project, including private equity, local, state and federal funds in order to build as much of the IH 35E project as possible, including additional general purpose capacity in the first phase of construction.
- Section 5.** The RTC will request that the SB 1420 Committee commit to meeting TxDOT's schedule to make the required determinations as soon as possible.
- Section 6.** The RTC requests that revised cost estimates and financial analyses of the IH 35E project be completed during the Request For Qualifications (RFQ) process for the project, and this information and information concerning any additional funding identified for the project be provided to the SB 1420 Committee on or before the completion of the RFQ process, and requests that the SB 1420 Committee make determinations that result in one delivery method for the IH 35E project, and that the SB 1420 Committee submit its report to the Executive Director of TxDOT prior to the issuance of a Request for Proposals (RFP) for the project.
- Section 7.** The RTC will request that TxDOT complete the procurement process for the IH 35E project as expeditiously as possible.
- Section 8.** The RTC will commit that excess revenue derived within the limits of the project, is utilized for the development of projects in order to complete the full build out of the IH 35E project.

SIGNED,



Michael Morris, NCTCOG
Committee Chair

**REGIONAL TRANSPORTATION COUNCIL RESOLUTION
ON THE DEVELOPMENT OF THE IH 35E PROJECT
(R12-01)**

WHEREAS, Interstate Highway 35 East (IH 35E) is of Statewide, national, and international importance for the movement of people and commerce now and for the long-term future; and,

WHEREAS, IH 35E serves as “Main Street, DFW”; and,

WHEREAS, the expansion of IH 35E consists of adding general purpose lanes, managed/toll lanes, and frontage road lanes from IH 635 in Dallas County to US 380 in Denton County and is herein after referred to as the IH 35E project; and,

WHEREAS, the IH 35E project has been designated as a high-priority project by the Regional Transportation Council (RTC); and,

WHEREAS, Local Partners, including Denton County, Dallas County, cities along the corridor, the RTC, the Texas Department of Transportation (TxDOT), the North Texas Tollway Authority (NTTA), and Denton County Transportation Authority (DCTA), Congressional representatives and State legislators have been working for years to advance the IH 35E project; and,

WHEREAS, DART and TxDOT paid the local match for early RTC improvements on IH 35E in the form of HOV lanes that will be updated as part of this project; and,

WHEREAS, the Local Partners have developed innovative funding methods to advance the project such as the partnership between Denton and Dallas Counties where Denton County RTR funds were loaned to complete the IH 635 project and will be repaid with interest; and,

WHEREAS, the region prioritized funding for the DCTA A-train to be operational before the IH 35E project commences in order to mitigate traffic impacts during construction; and,

WHEREAS, currently identified funding of \$639 million includes: \$484 million in RTR funds, \$78 million in Congestion Mitigation and Air Quality (CMAQ) funds (\$55 million in repayment for Denton County bonds previously submitted to RTC), \$10 million in Surface Transportation Program-Metropolitan Mobility (STP-MM) funds, \$44 million in Proposition 14 Bond proceeds, and \$23 million in Demonstration and/or Congressional Earmark funds; and,

WHEREAS, the NTTA has waived primacy for the IH 35E project; and,

WHEREAS, the Texas Legislature has authorized the development of the IH 35E project as one of the few public-private partnerships that can proceed in Texas; and,

WHEREAS, Senate Bill 1420 (82nd Texas Legislature, Regular Session) requires for certain TxDOT toll projects, including the IH 35E project, that a committee comprised of representatives from local and regional stakeholders and TxDOT (The SB 1420 Committee) be formed to make determinations concerning the distribution of the project’s financial risk, the method of financing for the project, and the project’s tolling structure and methodology that will determine the project’s delivery method in order to ensure local and regional input into the process; and,

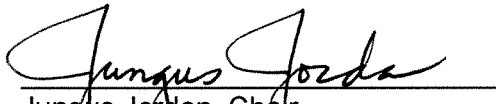
WHEREAS, the SB 1420 Committee on IH 35E has requested the RTC to take action on the principles guiding the construction of this project.

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT:

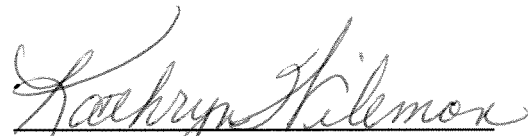
- Section 1.** The RTC requests the Texas Transportation Commission provide supplemental funding to expand general purpose freeway lanes in addition to the managed/toll lanes and frontage road improvements in the initial expansion of Interstate Highway 35 East. The initial phase of the Interstate Highway 35 East project should also include bridge structures across Lake Lewisville sufficient for frontage roads and additional capacity improvements.
- Section 2.** The RTC will request the SB 1420 Committee and the Texas Transportation Commission provide that the initial expansion of Interstate Highway 35 East include improvements along the entire IH 35E Corridor from IH 635 in Dallas County to US 380 in Denton County.
- Section 3.** The RTC acknowledges that the RTR revenue funds allocated to IH 35E in Denton County or future RTR funds in Dallas County cannot be spent without the express authorization of the respective Commissioners Court by resolution. Existing RTC policy requires RTR funded projects be accompanied with input from impacted local governments.
- Section 4.** The RTC requests formal action by Denton and Dallas Counties and cities along the corridor before the Texas Transportation Commission takes final action on construction plans on IH 35E.
- Section 5.** The RTC will request that the SB 1420 Committee issue a report containing determinations that are consistent with air quality conformity, the findings of Mobility 2035 and the National Environmental Policy Act (NEPA) documents related to the IH 35E project.
- Section 6.** The RTC will assist local stakeholders in initiating conversations with local governments, regional leaders, the Texas Transportation Commission and other interested public and private partners to allocate additional resources to the project, including private equity, local, State and federal funds in order to build as much of the IH 35E project as possible.
- Section 7.** The RTC will request that the SB 1420 Committee commit to meeting TxDOT's schedule to make the required determinations as soon as possible.
- Section 8.** The RTC requests that revised cost estimates and financial analyses of the IH 35E project be completed during the Request For Qualifications (RFQ) process for the project, and this information and information concerning any additional funding identified for the project be provided to the SB 1420 Committee on or before the completion of the RFQ process, and requests that the SB 1420 Committee make determinations that result in one delivery method for the IH 35E project, and that the SB 1420

Committee submit its report to the Executive Director of TxDOT prior to the issuance of a Request for Proposals (RFP) for the project.

- Section 9.** The RTC will request that TxDOT complete the procurement process for the IH 35E project as expeditiously as possible, hopefully no later than December 2012.
- Section 10.** Existing RTC policy requires that revenues shall remain in the counties in which the revenue-generating project is located.
- Section 11.** A copy of this resolution shall be transmitted to the Texas Transportation Commission, the TxDOT Executive Director, the IH 35E SB 1420 Committee, impacted State legislators and impacted local governments.


Jungus Jordan, Chair
Regional Transportation Council
Councilmember, City of Fort Worth

I hereby certify that this resolution was adopted by the Regional Transportation Council of the North Central Texas Council of Governments for the Dallas-Fort Worth Metropolitan Area on January 12, 2012.


Kathryn Wilmon, Secretary
Regional Transportation Council
Councilmember, City of Arlington



U.S. Department
of Transportation
**Federal Highway
Administration**

Texas Division

December 28, 2011

300 East 8th Street
Suite 826
Austin, TX 78701
Phone: 512-536-5900
Fax: 512-536-5990
texas@fhwa.dot.gov

In Reply Refer To:
HA-TX

Finding of No Significant Impact
CSJ: 0196-03-138, 0196-03-180, 0196-03-240
IH-35E from IH-635 to President George Bush Turnpike
Dallas County

Mr. Mark A. Marek, P.E.
Interim Director
Environmental Affairs Division
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

Dear Mr. Marek:

We have thoroughly reviewed our records on this project which include, but are not limited to, the revised Environmental Assessment (EA) dated August 2011, the Public Hearing Summary and Analysis Report and public involvement materials, and all of the previous environmental studies and findings. Based upon our own independent agency review and consideration of the analysis and evaluation contained in the EA for this project and after further consideration of all social, economic, and environmental factors, including input from the public involvement process, we hereby approve issuance of a FONSI for the IH-35E South project.

We concur in the findings of the August 2011 EA in that (1) the Build Alternative is the recommended alternative for the project, (2) the Build Alternative best meets the need and purpose of the project with the least amount of impacts to the resources in the area, and (3) the project will have no significant impacts on the quality of the human or natural environment under NEPA. In addition, based on this review, we find that an Environmental Impact Statement (EIS) is not required for this project.

Sincerely,

Anita N. Wilson
Urban Engineer

Enclosure

Cc: Moosa Saghian, P.E., Director of Transportation Planning and Development,
Dallas District



U.S. Department
of Transportation
**Federal Highway
Administration**

Texas Division

January 28, 2011

300 E. 8th Street, Room 826
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Finding of No Significant Impact (FONSI)
and Nationwide 4(f) Determinations and
Approvals for Net Benefit to Section 4(f)
Property

DMO 2005 ()
IH 35E Middle: From President George Bush Turnpike to FM 2181
Dallas and Denton Counties
CSJs: 0196-02-068, 0196-01-096, 0196-
02073, 0196-02-114, 0196-03-245

Ms. Dianna F. Noble, P.E.
Director, Environmental Affairs Division
Texas Department of Transportation
125 E. 11th Street
Austin, TX 78701

Dear Ms. Noble:

We have thoroughly reviewed our records on this project which include, but are not limited to, the Revised Environmental Assessment (EA) that included the Draft Nationwide 4(f) Evaluations for Net Benefit to Section 4(f) Property (Draft Net Benefit Evaluation) dated January 2011, and the revised Public Hearing Summary and Analysis (which includes responses to public comments) prepared by the Texas Department of Transportation (TxDOT) dated January 2011. Based upon our own agency review and consideration of the analysis and evaluation contained in the revised EA and Draft Net Benefit Evaluations, as documented in the enclosed Finding of No Significant Impact (FONSI) document and Final Net Benefit Determinations and Approvals, and after further consideration of all social, economic and environmental factors, including input from the public involvement process, we hereby issue a FONSI with Net Benefit Determinations and Approvals as attachments to the FONSI for Interstate Highway 35 East from President George Bush Turnpike to Farm to Market 2181 in Dallas and Denton Counties.

Based upon our own independent review and analysis we find that the January 2010 Final EA for the IH 35E Middle project analyzed and considered all of the relevant potential environmental impacts, mitigation and issues. FHWA finds that based upon the EA that: (1) the Build



Ms. Dianna Noble, P.E.

January 28, 2011

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Alternative is the selected alternative for the IH 35E Middle project, (2) the Build Alternative best meets the purpose and need of the project with the least amount of impacts to the resource areas, and (3) the project when implemented with all the required mitigation and coordination as detailed above will have no significant impacts on the quality of the human or natural environment under NEPA. In addition, based on this review, we find that an Environmental Impact Statement (EIS) is not required for this project.

Sincerely,



Salvador Deocampo
District Engineer

Enclosures

DRAFT

IH 35E Managed Lanes Project

SB 1420 Committee Report

In accordance with Texas Transportation Code Section 228.013, added by SB 1420, and Texas Administrative Code Sections 27.90 – 27.92 (the Rules), this committee (the Committee), consisting of the members identified below, was formed for the purpose of making certain statutorily required determinations with respect to the IH 35E Managed Lanes Project (the Project). The Committee held its duly noticed initial meeting on November 10, 2011. At the initial meeting of the Committee, _____ was elected to serve as Chair and _____ was elected to serve as Vice Chair of the Committee.

At its duly noticed meeting(s) on November ____, 2011, *[add other meeting dates if the required determinations were made at multiple meetings]* the Committee made the following determinations concerning the Project, as required by SB 1420 and the Rules:

1. Distribution of the Project's financial risk.

Distribution of Project financial risk is defined in the Rules as the allocation of revenue risk for a toll project between the Texas Department of Transportation (TxDOT) and the private entity with which TxDOT enters into an agreement for the project. Revenue risk will be allocated as follows between TxDOT and private entity:

[describe revenue risk allocation]

2. Method of financing for the project.

The method of financing is defined in the Rules as the determination of whether the Project should be funded with private or public funding or a combination of private and public funding. The method of financing for the Project will be *[describe method of financing]*

3. Tolling structure and methodology.

The SB 1420 Committee for the IH 35E Managed Lanes Project has determined to utilize the existing tolling structure and methodology as set by the Regional Transportation Council of the North Central Texas Council of Governments, as adopted on May 11, 2006, and modified on September 14, 2006 and September 13, 2007. The Project's tolling structure and methodology are set forth in Appendix 1 to this Report.

DRAFT

Submitted and approved by:

IH 35E Managed Lanes Project
SB 1420 Committee Members

[signature and printed name]



MANAGED LANE POLICIES

1. A fixed-fee schedule will be applied during the first six months of operation; dynamic pricing will be applied thereafter.
2. The toll rate will be set up to \$0.75 per mile during the fixed-schedule phase. The established rate will be evaluated and adjusted, if warranted, with Regional Transportation Council (RTC) approval.
3. Toll rates will be updated monthly during the fixed-schedule phase.
4. Market-based tolls will be applied during the dynamic-pricing phase. During dynamic operation, a toll rate cap will be established. The cap will be considered “soft” during times of deteriorating performance when a controlled rate increase above the cap will be temporarily allowed.
5. Transit vehicles will not be charged a toll.
6. Single-occupant vehicles will pay the full rate.
7. Trucks will pay a higher rate, and no trucks will be permitted in the LBJ tunnel.



MANAGED LANE POLICIES

(continued)

8. High-occupancy vehicles of two or more occupants and vanpools will pay the full rate in the off-peak period.
9. High-occupancy vehicles of two or more occupants will receive a 50 percent discount during the peak period. * This discount will phase out after the air quality attainment maintenance period. RTC-sponsored public vanpools are permitted to add peak-period tolls as eligible expenses. Therefore, the Comprehensive Development Agreement (CDA) firm will be responsible for the high-occupancy vehicle discount and the Regional Transportation Council will be responsible for the vanpool discount.
10. The toll rate will be established to maintain a minimum average corridor speed of 50 miles per hour.

*6 hours per weekday: 6:30 a.m. - 9:00 a.m. and 3:00 p.m. - 6:30 p.m.



MANAGED LANE POLICIES

(continued)

11. During the dynamic-pricing phase, travelers will receive rebates if the average speed drops below 35 mph. Rebates will not apply if speed reduction is out of the control of the operator.
12. Motorcycles qualify as high-occupancy vehicles.
13. No discounts will be given for “Green Vehicles.”
14. No scheduled inflation adjustments will be applied over time.
15. Every managed lane corridor will operate under the same policy.
16. Adoption of this policy will have no impact on the Regional Transportation Council Excess Revenue Policy previously adopted.



MANAGED LANE POLICIES

(continued)

17. The Regional Transportation Council requests that local governments and transportation authorities assign representatives to the Comprehensive Development Agreement procurement process.
18. The duration of the Comprehensive Development Agreement should maximize potential revenue.
19. Tolls will remain on the managed lanes after the Comprehensive Development Agreement duration.