

**North Tarrant Express CDA
Concession Facility Project**

**Public Hearing
For
Disclosure of Financial Information**

**IH 820 from IH 35W to SH 121/SH 183
CSJs: 0008-14- 058, 0008-14- 059, and 0014-16-194
and
SH 121/SH 183 from IH 820 to SH 121 Split
CSJs: 0364- 01- 054, 0364-05-025**

COMMENT AND RESPONSE REPORT

**Public Hearing
April 14, 2009**

Comment and Response Report

IH 820 and SH 121/SH 183: From IH 35W to SH 121 Split in Tarrant County

CSJ: 0008-14-058, 0008-14-059, 0014-16-194, 0364 - 01- 054 and 0364-05-025

Name of Individual	Representing	Comment #	Type
I. Mark	Self	1,2,3,4	Written
Rick Carter	Self	1,2,3	Written
Kevin D. Kuenzli	Norcliff IV, LLC	5,6,7,8	Written
Michael J. Catania	Joseph I. Engler	5,6,7,8,9	Written
William D Lanford,III	City of Haltom City	5,6,7,8,9	Written
Beverly Queen	City of Bedford	9,10	Written
Richard Ward	City of Hurst	9,10	Written
Jerry Hinderman	Self	11	Written
Bevelrly Branham	Self	12,15,16,18	Written, Oral Comment
Gregory Van Nieuwenhuize	City of North Richland Hills	9,10	Written
Larry J. Cunningham	Self	9	Written
Jimmy Perdue	City of North Richland Hills	9	Written
Ken Gibson	Self	8,13,14	Oral Comment
Nina Speairs	Self	1,12,16,17,18	Oral Comment

Comment 1:

Commenter is opposed to the tolling of the North Tarrant Express (NTE) project (IH 820 and SH 121/SH 183) and/or tolling any other roads in general.

Response 1:

The reconstructed main lanes and frontage roads will not be tolled. Only the new managed lanes will be tolled. Paying to drive on the managed lane system is an optional user fee. Motorists who choose to drive the managed lanes system and who are willing to pay the user fee should experience more reliable travel times to their destinations.

The state is experiencing a monetary shortfall to fund large needed roadway projects. The Dallas-Fort Worth region has more transportation needs than funds; therefore, as authorized by state law, innovative funding, which combines federal, state, and local funding with managed lanes user fees (i.e., tolls) is being pursued for new location and major reconstruction projects such as IH 820 and SH 121/SH 183. By using this alternative funding approach, much-needed facilities can and will be implemented faster than if relying only on traditional funding sources. Without tolling, this roadway expansion would be substantially delayed or not constructed.

Toll rates for the managed lanes will be set in accordance with the most current policy established by the North Central Texas Council of Government's (NCTCOG) Regional Transportation Council (RTC). In addition, managed lanes systems along NTE Express are an essential component of the air quality attainment/conformity plan for the Dallas-Fort Worth region .

Comment 2:

No foreign company should be used for construction of the roadway or the lease of the managed lanes.

Response 2:

Current law does not place restrictions on a foreign company's participation in CDAs. Please note that this facility will be solely owned by the State of Texas and not by a foreign company. In addition, all transportation construction projects involving federal and state funding, including the NTE Project, are required by law to employ only U.S. citizens or documented workers.

Conditional award of the project has been provided to NTE Mobility Partners (NTEMP). There are several American and Texas based firms as part of the NTEMP team that will be participating in the development and construction of the NTE project. In addition, investors in NTEMP may include the Dallas Police and Fire Pension System.

Comment 3:

The commenter(s) describe our interstate highways are funded with money from gasoline and diesel taxes that are supposed to pay for building and upkeep of highways.

Response 3:

Highways in Texas traditionally have been funded with gas and diesel taxes. But state and federal gas and diesel taxes no longer generate enough money to keep up with the costs of building new roads, upgrading and reconstructing of existing ones, and paying for the

maintenance and operation of the existing state highways system. The population in Texas is continuing to grow and so is the demand for new and better roads. Gas and diesel taxes alone cannot fund all the transportation needs of the state. The Dallas-Fort Worth region has more transportation needs than funds; therefore, innovative funding, which combines federal, state, and local funding with toll funds is being pursued for new location and major reconstruction projects, such as IH 820 and SH 121/SH 183. By using this alternative funding approach, much-needed facilities can and will be implemented faster than if relying on traditional funding sources. Without tolling, this roadway expansion would be substantially delayed or not constructed.

Comment 4:

The commenter describes that people should not and will not use the roadway to be tolled.

Response 4:

The reconstructed main lanes and frontage roads will not be tolled. Only the new managed lanes will be tolled. The addition of the managed lanes on IH 820 and SH 121/SH 183 will increase capacity thereby increasing roadway travel speeds and improving the level of service on the entire roadway network, including the non-tolled general purpose lanes. Paying to drive on the managed lane system is an optional user fee. Motorists who choose to drive the managed lanes system and who are willing to pay the user fee should experience more reliable travel times to their destinations.

Managed lane facilities increase freeway efficiency by packaging various operation and design actions to promote reliability of the system and provide for long-distance travel with few access points to disrupt traffic flows. In addition to maximizing the vehicle carrying capacity of the roadway, managed lane systems also maximize person moving capacity, provide travel options and increase flexibility, and achieve community and corridor goals. With the addition of two managed lanes in each direction, fewer vehicles per lane would be expected to use the general purpose lanes for long-distance trips, which provides better balancing of traffic movements, improved level of service, increased safety, and reduced congestion.

Comment 5:

The commenter(s) along with the City of Haltom City do not agree with the proposed access to IH 820 through their city. The city has prepared a Collaborative Plan that describes the redesigned access to IH 820 near Haltom Road. The City of Haltom City has submitted the plan to TxDOT and would like TxDOT to adopt these changes in access.

Response 5:

Based on our review, TxDOT cannot support incorporation of Haltom City's Collaborative Plan into the preliminary geometric schematic as presented on July 14, 2008. The Collaborative Plan as presented does not appear to provide for the safe and efficient movement of traffic or a higher level of service compared to the preliminary schematic presented at the July 1, 2008, public hearing. TxDOT is committed to continue working with the City in resolving this issue to develop a mutually acceptable access plan for Haltom Road.

Comment 6:

The commenter(s) along with the City of Haltom City do not believe the proposed CDA plans conform to the plans presented at the July 1, 2008 public hearing through the presentation of the virtual animation. The commenter(s) and the City of Haltom City state that "the presenter of the animation indicated that there would be a diamond interchange at Haltom Road". They

describe this would be consistent with revisions the City of Haltom City presented to TxDOT in a meeting before the public hearing on June 24, 2008.

Response 6:

TxDOT cannot support incorporation of Haltom City's Collaborative Plan into the preliminary geometric schematic. The Collaborative Plan as presented did not provide for the safe and efficient movement of traffic or a higher level of service compared to the preliminary schematic presented at the July 1, 2008, public hearing. Obtaining schematic approval and environmental clearance for the IH 820 corridor was paramount for the region in moving forward with the proposed improvements to IH 820. TxDOT met with the City of Haltom City on October 31, 2008 to present our analysis of The Collaborative Plan and committed to continue working with the city in resolving this issue to develop a mutually acceptable access plan for Haltom Road once environmental clearance was obtained.

The proposed CDA plans are consistent with the displays presented at the July 1, 2008 public hearing, the approved IH 820 environmental document and geometric layout. The design visualization presented at the July 1, 2008 public hearing is consistent with the proposed improvements described in the approved environmental document, public hearing displays and the approved geometric layout. A review of the official written transcript from the July 1, 2008 public hearing clearly indicates Haltom Road is served by a diamond interchange with jug handle access to and from Haltom Road, allowing Haltom Road to be grade separated from the frontage roads.

Comment 7:

The commenter(s) along with the City of Haltom City do not agree with the phasing plan of constructing the managed lane ramps near Haltom Road in Phase I of the CDA. They request the managed lane ramps near Haltom Road be built in a later phase including managed lanes along IH 35W, to which they say these ramps are intended to connect.

Response 7:

The managed lane connections from IH 35W southbound and northbound to the eastbound IH 820 managed lanes are proposed to be built in Phase 1. Construction of these direct connections and the managed lane ramps near Haltom Road will allow direct travel from IH 35W to the Haltom Road area along the managed lanes. The connections from the westbound IH 820 managed lanes to IH 35W will not be constructed within Phase 1 of the CDA but may be constructed through an option to complete the IH 35W interchange when funding becomes available. Until the interchange is completed, the westbound IH 820 managed lanes will terminate just east of the IH 35W interchange. The ramps will provide appropriate managed lane access after Phase 1 is constructed and will also allow proper connectivity to the regional managed lane system as future phases along IH 35W are constructed.

Given the reality of limited funding sources, phasing of the proposed improvements in the NTE project provided the best method available for TxDOT and the region to begin the implementation process. The phasing plan was carefully analyzed, studied, and coordinated with FHWA and the region before it was adopted as the basis for bidding during the procurement process. Several factors were considered in the process of developing and adopting the phasing plan including, but not limited to, community and users' interests and impacts, traffic impacts, future expansion plans, mobility impacts, and financial constraints.

Comment 8:

The commenter(s) along with the City of Haltom City do not agree with the phasing plan regarding the timing of construction of the third general purpose lane in each direction along IH 820 by or before 2030. They request that construction of these lanes be required during Phase 1 implementation.

Response 8:

The third general purpose lane in each direction along IH 820 is required to be constructed by the year 2030 at the latest. The CDA contract provides for these roadway lanes to be constructed when funding is made available through the years coinciding with Phase 1 implementation (2015) through the year 2030. Given the limited amount of available funding, phasing of the NTE project provided the best method available for TxDOT and the region to start the implementation process. The phasing plan was carefully analyzed, studied, and coordinated with FHWA and the region before it was adopted as the basis for bidding on the project during the procurement process. Several factors were considered in the process of developing and adopting the phasing plan including, but not limited to, the community and users' interests and impacts, traffic impacts, future expansion plans, mobility impacts, and financial constraints. TxDOT's goal, working closely with the region and the community, is to identify new future funding sources, project needs, and local and regional priorities before making future investment decisions and/or recommendations on implementing future segments included in NTE project.

Comment 9:

The commenter(s) expressed approval for the project and a desire for speedy implementation. In addition, the commenter likes the use of managed lanes as a method of managing congestion and accelerating the delivery of the NTE project.

Response 9:

Comment noted.

Comment 10:

The commenter(s), representing City of North Richland Hills, the City of Bedford, and the City of Hurst request the relocations of their utilities along the SH 121/SH 183 corridor be performed and funded/reimbursed 100 percent through the Comprehensive Development Agreement. They describe the cities lack adequate funding to perform the relocations within the time period required to allow start of construction as currently scheduled.

Response 10:

By law, TxDOT and a utility shall share equally the cost of the relocation of the utility that is required by the construction of a toll project. (See Texas Transportation Code §203.092)

Comment 11:

The commenter is requesting to see the team organizational charts for NTEMP, information about the project phases and segments, project costs, start and completion date of construction, and any potential of federal stimulus money provided to fund the project.

Response 11:

All the requested information is posted on the project web page at:

http://www.txdot.gov/project_information/projects/fort_worth/north_tarrant_express/default.htm

Comment 12:

Commenter(s) describe TxDOT has bonding authority to construct highways and request the implementation of the NTE project not lead to increases in taxes on homes and or properties statewide.

Response 12:

Property taxes are not a source of funding for state transportation projects. Funding sources expected to pay for the project include state and federal gas taxes, equity contributed by NTEMP and debt raised by NTEMP. Through its equity and debt, NTEMP will pay a majority of the project's costs. Debt will be raised by NTEMP to finance acquisition of right of way, relocation of utilities, design, construction, operations, and maintenance of the project. Debt will be repaid by NTEMP from toll revenues. Sources of debt include private activity bonds, bank debt, and credit assistance as authorized under the Transportation Infrastructure Finance and Innovation Act (TIFIA).

Comment 13:

The commenter recommended addressing and/or improving the service road access during construction and he is very concerned that scheduled completion for the project extends to year 2010.

Response 13:

Providing and restoring adequate access to adjacent properties along the proposed service road will be required as part of the traffic control plan that will be reviewed by TxDOT before the start of construction. The 2010 date pertains to the start of construction and the completion date for the facility is scheduled for year 2015. Both the project schedule and access/traffic control plan will be communicated to the community well in advance of the start of construction.

Schematic development of the bidirectional managed lane facility along IH 820 began in August, 2005. The proposed facility includes three general purpose lanes in each direction and two managed lanes in each direction. The District recognized each city's concern regarding access to and from the managed and general purpose lanes. To develop a schematic to best address each city's access concerns and requests while balancing the regional needs for improved mobility and safety, TxDOT met collectively and individually with the local elected officials, city staffs, NCTCOG and interested stakeholders several times. The schematic presented at the April 2006 public meeting and the July 2008 public hearing was a result of the public involvement process.

Comment 14:

The commenter expressed concern about the potential confusion of managed lanes customers in understanding the costs they will be billed for using the facility and that potential increases in customer service costs will result.

Response 14:

Digital message signs will be located before the entrances to the managed lanes to describe the costs of entering and using the managed lane facility. The signs will be located far enough in advance of the entrances to allow drivers the choice to utilize either the general purpose or managed lanes. It is anticipated the majority of vehicles using the managed lanes would be equipped with devices that permit automatic electronic toll collection (i.e., North Texas Tollway Authority's (NTTA) TollTag, TxDOT's TxTag, or Harris County Tollroad Authority's EZTag). Toll charge collections would be automatically deducted from the user's prepaid credit or cash account. The user would be required to maintain sufficient funds in the account to cover incurred toll charges. License plate recognition by video will be installed to permit out-of-town and occasional users without electronic devices to be billed by mail, similar to the installed video billing system on SH 121. These video billings will include a service charge set by NTTA that does not apply to automated electronic toll collection. The NTTA will be working for the developer as a contractor providing the customer service support and back office operations required to enable managed lanes users to pay tolls. The costs of performing those functions will be paid to NTTA by NTEMP under a Tolling Services Agreement between NTTA and NTEMP.

Comment 15:

The commenter is concerned that the rate of the toll on the NTE project will be changing every five minutes.

Response 15:

The purpose of the managed lanes is to help provide and partially pay for the additional capacity improvements, increase efficiency, and provide for congestion free travel and travel time reliability. The managed lanes pricing mechanism will be used as a tool to manage congestion on the basis of time of day, vehicle type and occupancy, and changing traffic conditions along the corridor. The time period of five minutes is a minimum amount of time the rate of toll will remain unchanged. The toll rate may remain unchanged for longer periods of time, dependent upon congestion levels in the managed lanes, but will be allowed to be updated in minimal increments of five minutes in response to fluctuations in traffic conditions to help protect mobility and reliability. See also Response No. 14.

Comment 16:

The commenter(s) think that the legislature should follow the recommendations of the Sunset Advisory Commission and eliminate TxDOT. And instead, the commenter would like to see an elected official/commissioner directing TxDOT.

Response 16:

Comment noted.

Comment 17:

The commenter believes that the tolls are going to be too expensive and many people will not be able to afford them. Therefore, traffic will shift from using the Tollway to using neighborhood streets to get to work.

Response 17:

Only the new managed lanes will be tolled. As part of the project, NTEMP will reconstruct the main lanes and frontage roads, but these main lanes and frontage roads will not be tolled. Paying to drive on the managed lane system is an optional user fee. Motorists who choose to

drive the managed lanes system and who are willing to pay the user fee should experience reduced and more reliable travel times to their destinations.

The addition of the managed lanes within the corridor will increase capacity thereby increasing average roadway speed and improving the level of service on the entire roadway network, including the non-tolled general purpose lanes, compared to existing conditions that will remain if the project is not built. At a minimum, the project will reconstruct and preserve the existing number of general purpose lanes and frontage roads at all locations. Additional capacity will be provided along IH 820 in the form of additional frontage roads and by year 2030 one general purpose lane in each direction will also be provided. Additional managed lanes along IH 820 and SH 121/SH 183 will consist of two lanes in each direction at project opening. A third managed lane in each direction will be constructed along SH 121/SH 183 by year 2030 with this project. The project will provide additional capacity throughout the corridor that will help provide relief to the surrounding local roadway network.

All toll rates pertaining to the managed lanes will be set in accordance with the NCTCOG's RTC "Managed Lane Policies." Per the policies, a fixed-fee schedule will be applied during the first six months of operation; dynamic pricing will be applied thereafter. Under the NCTCOG's policy, the maximum toll rate that could be applied during the fixed-fee schedule is 75 cents per mile. During dynamic pricing, the toll rate will be established to maintain a minimum average corridor speed of 50 miles per hour, as required by the NCTCOG's policy. Also, under the current policy, high occupancy vehicles will pay the full rate in the off-peak periods but will receive a 50 percent discount during the peak periods.

Comment 18:

The commenter(s) were concerned about the public hearing format and the process used to ask questions and to provide comments.

Response 18:

A formal presentation was delivered to disclose contract and financial information regarding the NTE comprehensive development agreement in accordance with law. The project manager and design engineers familiar with the project were available before and after the formal presentation was delivered to answer questions and help explain the CDA contract documents. Individual oral comments were allowed to be provided to court reporters immediately after the formal hearing presentation and written comments were received at the public hearing and until three days after the hearing through email and the U.S. Postal Service. The comments properly submitted and received are being responded to through a Summary and Analysis of the comments presented.