

From: Marc Williams
To: [Michael Morris](#)
Cc: [Bill Hale](#); [Kelly Selman](#); [Mo Bur](#); [Brian Barth](#)
Subject: RE: Recommended RTC Action for LBJ/IH 635 East
Date: Thursday, March 01, 2018 11:01:35 AM
Attachments: [LBJ East Draft RTC letter and resolution v3.docx](#)

Apologies Michael, but lets work off of the attached update version. James Bass came back with a few additional minor tweaks to the language.

Marc

From: Marc Williams
Sent: Thursday, March 01, 2018 8:55 AM
To: 'mmorris@nctcog.org'
Cc: Bill Hale (Bill.Hale@txdot.gov); Kelly Selman; Mo Bur; Brian Barth (Brian.Barth@txdot.gov)
Subject: Recommended RTC Action for LBJ/IH 635 East

Michael –

Per my voicemail and our on-going discussions, attached is a recommended action for your consideration to present to the RTC to support their alignment with the Texas Transportation Commission on the LBJ/IH 635 East Project and commitment of possible funding sources to be pledged toward the \$1.8 billion needed to advance this project.

Thank you for your continued work with us on this important project.

Please contact me if you have questions or would like to discuss.

Marc



Dear Chairman Bugg,

On March 9, 2018 the Regional Transportation Council (RTC) took action to support the attached resolution to define our partnership and alignment with the Texas Transportation Commission (TTC) to deliver the LBJ/IH 635 East project. The RTC resolution and partnership funding proposal is provided with this letter and provides for the following:

The RTC affirms the decision of the TTC to advance the LBJ/IH 635 East project as a non-tolled project and to begin a procurement of a Design-Build Contract. The RTC resolution includes a funding partnership developed by the RTC and TxDOT staff that would provide in excess of \$1.8 billion of available funding sources to deliver the LBJ/IH 635 East widening project from US 75 to IH 30, including interchange improvements at IH 30 and non-tolled express lanes along IH 635. To ensure continued alignment with the decision of the TTC, the RTC commits to work with TxDOT and FHWA to update any required planning and/or environmental documents, concurrent with the Design-Build procurement process, to reflect non-tolled express lanes on LBJ/IH 635 from US 75 to IH 30. These documents would include the:

- Mobility 2045 (the Dallas-Fort Worth Region's Metropolitan Transportation Plan) and Air Quality Conformity;
- LBJ/IH 635 East Environmental Assessment;
- Dallas-Fort Worth Region's Transportation Improvement Plan (TIP); and
- Dallas-Fort Worth Region's State Implementation Plan (SIP) Commitment for Air Quality.

The RTC looks forward to continuing this partnership to deliver the much needed LBJ/IH 635 East project. Please feel free to contact me or Michael Morris at 817-695-9241 should you have questions or comments regarding this matter.

Sincerely,

Rob Franke
Chair of the Regional Transportation Council

WHEREAS, the North Central Texas Council of Governments (NCTCOG) is designated as the Metropolitan Planning Organization (MPO) for the Dallas-Fort Worth Metropolitan Area by the Governor of Texas in accordance with federal law; and,

WHEREAS, the Regional Transportation Council (RTC), composed primarily of local elected officials, is the regional transportation policy body associated with NCTCOG and continues to be the regional forum for cooperative decisions on transportation; and,

WHEREAS, the RTC desires to align and partner with the Texas Transportation Commission (TTC) to advance the LBJ/IH 635 East Project and begin a Design-Build Procurement.

NOW, THEREFORE, BE IT HEREBY RESOLVED THAT:

The RTC affirms the decision of the TTC to advance the LBJ/IH 635 East project as a non-tolled project and to begin procurement of a Design-Build Contract.

The RTC supports the attached funding partnership with TxDOT that would provide in excess of \$1.8 billion of available funding sources to deliver the LBJ/IH 635 East widening project from US 75 to IH 30, including interchange improvements at IH 30 and non-tolled express lanes along IH 635.

The RTC commits to work with TxDOT and FHWA to update any required planning and/or environmental documents, concurrent with the Design-Build procurement process, to reflect non-tolled express lanes on LBJ/IH 635 from US 75 to IH 30. These documents would include the:

- Mobility 2045 (the Dallas-Fort Worth Region's Metropolitan Transportation Plan) and Air Quality Conformity;
- LBJ/IH 635 East Environmental Assessment;
- Dallas-Fort Worth Region's Transportation Improvement Plan (TIP); and
- Dallas-Fort Worth Region's State Implementation Plan (SIP) Commitment for Air Quality.

This resolution will be transmitted to members of the TTC, and Executive Staff of the Texas Department of Transportation.

This resolution shall be in effect immediately upon its adoption.

**COMPONENTS OF FUNDING PARTNERSHIP
FOR \$1.8 BILLION LBJ/IH 635 EAST PROJECT**

	\$'s Pledged (Millions)	Cumulative \$'s Pledged (Millions)
<u>Current Commitment:</u>		
CAT 2 (includes Skillman/Audelia)	\$100	
CAT 4	\$175	
CAT 12	<u>\$442</u>	
	\$717	\$717
<u>Additional Partnership Commitments</u>		
Category 2 (Already Approved by RTC)	\$115	
CMAQ/STBG/State Match	\$100	
Trinity (Current RTR)	\$50	
Category 2 (2019 UTP)	<u>\$150</u>	
	\$415	\$1,132
 Dallas District PE/ROW Funds Budgeted	 \$200	 \$1,332
<u>RTC Project Funding that Would be Deferred</u>		
IH 35E from IH 635 to Denton County Line	\$262	\$1,594
<u>TxDOT Project Funding Could be Deferred</u>		
IH 30 (Bass Pro Shop to Dalrock)	\$128	
US 80 East of Town East Blvd	<u>\$263</u>	
	\$391	\$1,985

* Project Estimate - There is a potential for cost savings that could be achieved through competitive tension in the Design-Build process (possible ~\$200M).

From: [Michael Morris](#)
To: [Marc Williams](#)
Cc: [Bill Hale](#); [Kelly Selman](#); [Mo Bur](#); [Brian Barth](#); [Mike Eastland](#); [James Bass](#); [Franke, Rob](#); [Gary G. Fickes](#); [andy.eads@dentoncounty.com](#); [Lee M. Kleinman \(Lee.Kleinman@DallasCityHall.com\)](#); [Kim Diederich \(KDiederich@nctcog.org\)](#)
Subject: RE: Recommended RTC Action for LBJ/IH 635 East
Date: Friday, March 02, 2018 4:29:00 PM
Attachments: [Attachment 1 Email.LBJ East and Draft Letter and Resolution.pdf](#)
[Attachment 2 IH 635 East.Attachment Questions On Information Sent Re IH 635.pdf](#)

Marc,

Thank you for your continued effort on this important project. Since your Chair is aiding in developing the latest position, I am compelled to share my thoughts/questions with my RTC officers and the city of Dallas Transportation Chair. As a result, I have included your draft RTC items and included my questions for clarification.

I am in Austin on 3/27 for a TxDOT/MPO coordination meeting. Is your team available on Monday, 3/26 after 2:30? A conference call any time before is fine as well or we may need both. Call Kim at 817-608-2331 for any meetings you wish to schedule.

Thank youMichael

From: Marc Williams [mailto:Marc.Williams@txdot.gov]
Sent: Friday, March 02, 2018 2:15 PM
To: Michael Morris <MMorris@nctcog.org>
Cc: Bill Hale <Bill.Hale@txdot.gov>; Kelly Selman <Kelly.Selman@txdot.gov>; Mo Bur <Mo.Bur@txdot.gov>; Brian Barth <Brian.Barth@txdot.gov>
Subject: Re: Recommended RTC Action for LBJ/IH 635 East

Michael,

Thanks for visiting with me this afternoon. For awareness by the rest of the group, you confirmed that the RTC would not be able to take action on 635 next week. We can expect some questions from your end in the coming days on the items we sent you yesterday.

As a result, there will not be any action by the commission this month on 635 either.

We are available to continue to work with you and the RTC to address your questions and advance the project.

Thank you,
Marc

Sent from my iPhone

On Mar 1, 2018, at 11:01 AM, Marc Williams <Marc.Williams@txdot.gov> wrote:

Apologies Michael, but lets work off of the attached update version. James Bass came back with a few additional minor tweaks to the language.

Marc

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Sent: Thursday, March 01, 2018 8:55 AM
To: 'mmorris@nctcog.org'
Cc: Bill Hale (Bill.Hale@txdot.gov); Kelly Selman; Mo Bur; Brian Barth (Brian.Barth@txdot.gov)
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Per my voicemail and our on-going discussions, attached is a recommended action for your consideration to present to the RTC to support their alignment with the Texas Transportation Commission on the LBJ/IH 635 East Project and commitment of possible funding sources to be pledged toward the \$1.8 billion needed to advance this project.

Thank you for your continued work with us on this important project.

Please contact me if you have questions or would like to discuss.

Marc

<LBJ East Draft RTC letter and resolution_v3.docx>

Questions regarding the information you sent Thursday on IH 635:

Thank you for your communication regarding advancing the IH 635 project. Below are questions requiring further elaboration so we can understand TxDOT's position and implications to projects in the Dallas-Fort Worth region and throughout the state.

Email

In my conversation with the Chairman Wednesday, I told him we have been moving on closing the funding gap and approval of as many options as possible to create flexibility for the Commission to reach a partnership. The material sent Thursday lacks those two principles of transparency and multiple options moving forward. The questions below regarding the email are:

1. "Attached is a recommended action." Am I to assume we are no longer collaborating on a mutual position based on our last meeting in Austin? We have not yet received answers to our questions regarding the Office of General Counsel. See footnote below. I assume, if we have questions that lead to your update of the materials, we have an opportunity to consider a more refined position? Is that correct?
2. As we have stated before, what is the position of the Texas Transportation Commission on the LBJ project, tolled managed lane projects, and toll road projects in Texas? That position will confirm the policy principles that we need to be sensitive to in order to get consensus. For example, does it only apply to TxDOT projects? Does it apply to NTTA projects? Does it apply to RMA projects? Does it apply to already approved projects in existing TxDOT contracts? Does it apply to projects under construction? Does it apply to projects environmentally cleared? Does it apply to projects in an already approved, legally binding State Implementation Plan? We assume this applies to more than the LBJ project. Have the other entities in the State been told to update their projects? I am not aware of such a communication.
3. Why is the project cost still at \$1.8 billion? We will address this further in the section below on "Funding Table."
4. I will take you up on talking about this further and I believe we need to have a conversation on who are the appropriate staff persons to be included in that conversation. I would benefit from the insight of James Bass, the Office of General Counsel, and the Environmental Affairs Division. This is in addition to the group included in my email that has been working on this negotiation.
5. You talk about the "commitment of possible funding sources." Why are they not all included in your funding summary?

Cover Letter

The questions below regarding the cover letter are:

1. You refer to a March 9, 2018, action (I assume you meant March 8, 2018). I do not see us getting answers to all of these questions and brainstorming on multiple options moving forward between now and the mail out today. As stated before, I believe there are multiple funding strategies that the Regional Transportation Council could approve that would align with the Texas Transportation Commission.
2. The RTC is eager to begin the procurement on the design-build contractor. It is costing taxpayers \$5 million a month for every month of delay. We agree with the Chairman Bugg that the funding gap needs to be closed and all of our actions need to be transparent to all parties moving forward. The questions in this email are intended to meet his two principles of funding gap closure and transparency in moving forward. Do you agree spending some time on getting these questions answered will aid in bringing closure to the best approaches in delivering this project?

3. Your proposed cover letter refers to “non-tolled express lanes along IH 635.” Is your position that the express lanes would be for single-occupant vehicles and trucks, contain an HOV facility only, or contain all of the above? Depending on your answer, will result in a series of questions related to how you would build that type of facility in a nonattainment area. These types of questions are similar to the ones we have sent to you previously and are requesting assistance from the Office of General Counsel.
4. Your proposed cover letter references the TTC’s decision to ...”begin a procurement of a Design-Build Contract.” Can you provide the minute order authorizing the issuance of the design-build procurement? If the design-build procurement has been authorized, is any further action by the RTC premature at this point?
5. Your cover letter refers to “update any required planning or environmental documents concurrent with the design-build procurement process.” I want to be clear that you realize that those documents would include the following:
 - a. Mobility 2040 Plan
 - b. Mobility 2045 Plan
 - c. Air Quality Conformity
 - d. State Implementation Plan
 - e. Emission inventories for the State Implementation Plan
 - f. NEPA Document for IH 635
 - g. Transportation Improvement Program
 - h. Applicable public involvement procedures
 - i. Others to be inventoried (For example, is the Texas Transportation Commission aware that we would need to revisit primacy with the North Texas Tollway Authority because of the significant change proposed in this corridor?)
 - j. Other previous RTC actions that would have to be repudiated:
 - a. HB 20 10-Year Planning Document Supporting LBJ East With Tolled Managed Lanes (Dec. 2016)
 - b. RTC Statement in Support of LBJ East with Tolled Managed Lanes at TxDOT Public Hearings on LBJ (Jan. 2017)
 - c. RTC Policy Position on Advancing LBJ East with Tolled Managed Lanes (Oct. 2017)
 - d. RTC Communication to the Lt. Gov, Supporting Tolled Managed Lanes (Jan. 2018)

What is the timeframe that you have assumed for these updates? You must realize that it is significantly longer than the duration of your procurement process (i.e., 10-12 months). Do you plan on proceeding to construction while these documents are updated or are you holding up construction for the completion of these documents? This answer will help influence the RTC’s position on your request since there are much easier ways to delay/prevent tolled managed lanes in the IH 635 corridor than this approach. You are not seeking the staged construction of IH 635 with no consideration on tolled managed lanes, you are delaying the implementation of IH 635 until the completion of all of these legally required elements, especially in the context of a nonattainment area of the pollutant ozone.

Many of the above documents require extensive public involvement requirements to update. What evidence do you have that citizens would change their current view on IH 635? What evidence do you have that the goods movement community and local governments would change their views? Remember we were able to proceed with Southern Gateway without a tolled managed lane because we had one on IH 635. This process may not proceed with your desire since the citizens want IH 635 with tolled managed lanes giving them choice in which lanes to use.

Is the TTC open to re-evaluating its position based on public comments received through the update of these documents? If so, there are many options to align the RTC and TTC’s positions. If not, would this create a potential legal risk to the approval of each of

the above documents? Would this increase the risk that the project would be further delayed?

Draft RTC Resolution

The questions below regarding the Draft RTC Resolution are:

1. Again you refer to the “decision of the TTC.” Please send us that policy, minute order, or discussion so we have the benefit of the principles the Texas Transportation Commission is trying to honor. The geography and projects that are implicated by this policy would be helpful as stated above.
2. Is the Texas Transportation Commission aware in its policy or otherwise, that one can legally stage-construct transportation projects in an environmentally approved corridor (i.e., frontage roads, ten main lanes, no toll lanes, and new interchanges)?
3. Reference again is on the “\$1.8 billion.” See discussion below on the “Funding Table.”
4. The proposed language commits the RTC to work to update planning documents “to reflect non-tolled express lanes on LBJ/IH 635...” See public involvement discussion above.

Funding Table

The questions below regarding the Funding Table are:

1. We have had no discussion on the following funding elements. Why has TxDOT eliminated other funding considerations? Remember, we are not funding the project now, we are trying to meet the Chairman’s challenge of closing the funding gap. Why have you deleted the federal INFRA grant funds (i.e., \$165 million) as a possible funding option? Are you now saying that if we win this grant the Texas Department of Transportation would not accept the \$165 million in federal discretionary funds? This seems to conflict with the Governor’s desire to get federal discretionary funds. Why have you changed the word collateral to deferred? Has the Commission taken off future Category 12 funds from a future consideration? Is that no longer feasible?
2. Your project estimate footnote is inaccurate. You have a \$200 million cost reduction if you delay the managed lanes. You have a \$200 million cost savings because the Dallas District has been making refinements in the corridor, reducing the need for cantilever main lanes. We are not making any further cost reductions because of competitive tension. If TxDOT feels there is competitive tension that would be an additional \$200 million. Why can’t we show cost savings as potential strategies in closing the funding gap? Last time we met, we talked about a 50/50 partnership with additional Category 12 Clear Lanes formula funding, is that now off the table? If so, that may impact the additional revenues that we are proposing to put on the project. I believe Chairman Bugg is correct to seek funding gap closure and transparency.

Office of General Counsel:

1. Alternatives to increases in single-occupant vehicle capacity in nonattainment areas. See 23 CFR 450.322 (e).
2. Response to a federally required Congestion Management Process. See 23 CFR 450.322 (f).
3. Commitment of all reasonable travel demand reduction and operation strategies. See 23 CFR 450.322 (f).
4. TxDOT-approved environmental document being contradicted by the TTC. What are the consequences and implications legally and on future environmental procedures?
5. What is air quality strategy and who is conducting the State Implementation Plan substitution process?
6. What is the Federal Highway Administration and Environmental Protection Agency’s position of the removal of an existing tolled/managed lane in the corridor? Are there legal implications?



Texas Transportation Commission

125 EAST 11TH STREET • AUSTIN, TEXAS 78701-2483

March 6, 2018

The Honorable Rob Franke
Chair, Regional Transportation Council
Mayor, City of Cedar Hill
285 Uptown Blvd.
Cedar Hill, Texas 75104

Dear Mayor Franke:

I wish to follow-up on my letter to you on January 31, 2018 regarding working together to establish a clear path forward to advance the Regional Transportation Council's ("RTC") request for the Texas Transportation Commission ("Commission") action on a Request for Qualification for the I-635/LBJ East Project.

Since my letter, I have directed TxDOT staff to work, on a priority basis, with the RTC staff to achieve two goals: (1) alignment of advancing the I-635/LBJ East Project with both RTC and TxDOT as a non-tolled project, and (2) for the RTC to identify sources to fill the \$1 billion gap that remains on this project.

This past Wednesday, we were able to discuss progress toward meeting these dual goals to advance the I-635/LBJ Project. Then, two days after we discussed advancing this project, I was disappointed to learn that the RTC would not take action this month to address the steps needed to enable the Commission to advance the procurement for I-635/LBJ East.

We both agree that this is a priority project for the Texas Department of Transportation (TxDOT) and the Dallas-Fort Worth region. As stated above, to advance the project I have asked that the RTC address the remaining funding gap and I have asked that the RTC demonstrate alignment with the non-tolled direction for the project, thereby committing to work with TxDOT to address the planning and environmental-related actions that will be required of the RTC over the coming months for the project.

With these two steps by the RTC, I was hopeful that the Texas Transportation Commission would be able to take action this month to begin the procurement for the project. Instead of addressing these steps, the RTC appears to have now decided to delay action in March and last Friday, staff for the RTC submitted several dozen questions to TxDOT that appear to question the non-toll road policy of the Commission that will only serve to obfuscate a process that we have attempted to keep as straight-forward as possible.

At such time as the RTC is able to address the two items that I have outlined, TxDOT stands ready to advance the I-635/LBJ East project.

Sincerely,

J. Bruce Bugg, Jr.
Chairman
Texas Transportation Commission

cc: The Honorable Greg Abbott

OUR VALUES: People • Accountability • Trust • Honesty

OUR MISSION: Through collaboration and leadership, we deliver a safe, reliable, and integrated transportation system that enables the movement of people and goods.

An Equal Opportunity Employer

The Honorable Rob Franke

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March 6, 2018

The Honorable Dan Patrick

The Honorable Joe Straus

Lee Kleinman, Dallas City Council and Regional Transportation Council Member

Michael Morris, P.E., Director of Transportation, NCTCOG

Texas Transportation Commission

OUR VALUES: *People • Accountability • Trust • Honesty*

OUR MISSION: *Through collaboration and leadership, we deliver a safe, reliable, and integrated transportation system that enables the movement of people and goods.*



The Transportation Policy Body for the North Central Texas Council of Governments
(Metropolitan Planning Organization for the Dallas-Fort Worth Region)

March 8, 2018

The Honorable J. Bruce Bugg, Jr.
Chairman
Texas Transportation Commission
125 East 11th Street
Austin, Texas 78701-2483

Dear Chairman Bugg:

Thank you for your letter of March 6, 2018. As you know, we are working on multiple options to close the funding gap on IH 635 East as you requested and to ensure transparency in the path moving forward. This project is the highest priority in the eastern subregion and is receiving significant commitment in time from both Regional Transportation Council (RTC) members and staff.

TxDOT does not need RTC action to begin procurement on a design-build contractor but we appreciate that you are partnering so closely with us. At your request at the Commission Meeting in January, 2018, you requested assistance in closing the financial gap in order for all parties to have a clear, transparent vision on how this project was going to be delivered. Since your request also includes a non-tolled express lane which is contrary to previous RTC actions and policy positions, the RTC needs to ensure there are no unintended consequences. The questions you have been sent outline the process we are going through to eliminate unintended consequences. Our staff is completing that risk assessment regarding funding to already committed projects, as well as any risks related to project delay, inflation costs or legal challenges. The work of the design-build contractor is identical regardless on how the express lanes are operated.

RTC action is not scheduled for the March 8, 2018 meeting for several reasons. First, I have had a long scheduled time conflict with this meeting date and since you talked to me personally there is no other person to interpret your request. Second, the National League of Cities meeting is going on in Washington, DC and several of our RTC members have presentations, committee chair assignments and other responsibilities that require them to not be in RTC attendance. This includes critical elected officials that represent the corridor in question. Third, the RTC action would have been transmitted previous to Tuesday's voting and we have a long history of not taking action that may have a direct impact on the election of local, State or federal elected officials. And last, several RTC members are engaged in conversations with State elected officials requesting restraint until more deliberation on their part can occur.

The Honorable J. Bruce Bugg, Jr.
Page Two

March 8, 2018

Staff has requested answers to a series of questions to develop the best path forward. If we have the benefit of those answers we will take those under consideration. I will seek RTC consensus on IH 635 East as soon as possible. Thank you for your commitment to this corridor and your desire for timely action.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Franke", with a stylized flourish at the end.

Rob Franke, P.E., Chair,
Regional Transportation Council
Mayor, City of Cedar Hill

kad

cc: The Honorable Greg Abbott, Governor, State of Texas
The Honorable Dan Patrick, Lieutenant Governor, State of Texas
The Honorable Joe Strauss, Speaker, Texas House of Representatives
The Regional Transportation Council
Texas Transportation Commission Members
Mr. James Bass, Executive Director, TxDOT
Mr. Michael Morris, P.E., Director of Transportation, NCTCOG