



MAYOR

CHUCK TRAVIS

March 9, 2016

MAYOR PRO-TEM

WOODY WASHAM

Secretary Nicholas J. Tennyson
North Carolina Dept. of Transportation
1 South Wilmington St.
1501 Mail Service Center
Raleigh, NC 27699-1501

COMMISSIONERS

JIM DUKE

DAVID GILROY

MICHAEL F. MILTICH

THURMAN ROSS, JR.

Dear Secretary Tennyson:

TOWN MANAGER

ANTHONY ROBERTS

The Town appreciates the opportunity to provide suggested revisions to the I77 Managed Lanes contract between NCDOT and I77 Mobility Partners. The Cornelius Board of Commissioners has attached its list of suggested revisions to this cover letter, and is also interested in NCDOT's responses to the questions posed by the Town of Huntersville, as seen in the attached letter.

The Town Board respectfully requests a timely response to its suggested revisions and Huntersville's questions.

Please inform us if the Department has any questions regarding anything contained in this letter and attachments.

Respectfully submitted,

Charles L. Travis, Mayor

Woody T. Washam, Mayor Pro-Tem

Jim Duke, Commissioner

Dave Gilroy, Commissioner

Michael F. Miltich, Commissioner

Thurman Ross, Commissioner

Town of Cornelius

Suggested actions regarding the I-77 Managed Lanes Project (I-3311C, I-5405, I-4750AA)

3/9/16

As stated in its Resolution No. 2015-00779, Resolution Requesting the Termination of the Contract with "I-77 Mobility Partners" to Toll I-77 for 50 Years, the Town's primary preference for suggested action is as follows:

1. Cancel the contract (i.e., the Comprehensive Agreement, and all accompanying documents) between NCDOT and I77 Mobility Partners, establish a pause on any work related to the current project, and allow CRTPO, the directly impacted jurisdictions, and NCDOT to re-engage a discussion for planning specific future improvements that may include solutions such as managed lanes, general purpose lanes, public transit, and/or NCDOT managing a managed-lanes project without a private partner.

Not degrading it's preference for the preceding, should the current contract not be canceled, the Town's secondary preference for suggested action is as follows:

1. In order to minimize the period of time that the facility is managed and operated by a private entity, reduce the term of the contract from 50 years to 25 years, utilizing approaches such as a buyout clause and/or a future conversion of the managed lanes to general purpose lanes.
2. Pursuant to a reduction in contract term, establish under the guidelines for a "Termination [of the contract] for Convenience", that if the Fair Market Value method is utilized to determine compensation, that the future toll revenue consideration be limited to the balance remaining on the 25 year contract term.
3. It is desirable to have available as many future financially feasible I77 cross-section design options as possible (by keeping future overall costs as low as possible). Therefore, add clear language to the contract that states there shall be no financial penalty paid to I77 Mobility Partners (via a "compensation event", triggering an "unplanned revenue impacting facility" designation, or otherwise) for the construction of any general purpose lanes along I77. This action includes retracting the general purpose lane exception listed in the definition of Unplanned Revenue Impacting Facilities, clause (i) of Exhibit 1 – Abbreviations and Definitions, Comprehensive Agreement. The following section would be retracted: "except that this clause (i) shall not apply to a general purpose lane constructed after the Effective Date between Exit 28 and Exit 36 in the North Section".
4. To allow for greater travel options for all types of vehicles (including commerce vehicles), and to remove vehicles from the general purpose lanes flow of traffic, remove the managed lanes restriction of vehicles 20 feet in length and longer; thus allowing 18-wheel and tractor-trailer type vehicles to utilize the managed lanes; and/or allow the medium-sized trucks (otherwise known as "box trucks" or "straight trucks") to utilize the managed lanes.

5. To allow for greater travel options for all individuals, groups, and organizations, especially those that are economically disadvantaged, and to remove vehicles from the general purpose lanes flow of traffic, redefine the high-occupancy toll definition from HOT-3 to HOT-2. In other words, allow vehicles with at least two passengers to utilize the managed lanes at no cost.
6. Currently, I77 Mobility Partners is only performing traffic modeling for this project for the year 2017, in order to justify that there will be general purpose lanes congestion relief when the new facility is opened for travel. As the contract term is 50 years, in addition to current year traffic modeling for the I77 managed lanes, I-77 Mobility Partners should be required to perform Build and No-Build traffic modeling for future years (20 years into the future and 40 years into the future; horizon years to be adjusted if contract term is modified). NCDOT will subsequently verify that significant general purpose lane congestion relief is not only being provided in the current year, but also for the future years. (As performed for the current year, the future year modeling will analyze the entire corridor in addition to interchange areas, the ingress/egress points, and all areas between the preceding.) All of these models are to include weaving & merging analyses. Should the analyses results be such that mitigation is required, consideration shall be given to mitigation factors, such as constructing a third general purpose lane along the entire project corridor and/or auxiliary lanes in certain locations, and these mitigation factors shall be constructed by I77 Mobility Partners at no additional cost to NCDOT and other governmental entities. The Town has planned for a new Westmoreland Rd. area general purpose interchange for several years. It is currently developing an Interchange Access Report. All of the aforementioned traffic models are to include the future Westmoreland Interchange. Also, the current year modeling shall include the Westmoreland Interchange, as well.
7. The Town has planned for a new Westmoreland Rd. area general purpose interchange for several years. It is currently developing an Interchange Access Report. Add the following language to the contract: If, as a result of the ongoing I77 North Managed Lanes Project (I-3311C, I-5405, I-4750AA), FHWA will not approve the Westmoreland Interchange without certain mitigation features (including, but not limited to, relocating managed lanes ingress and/or egress points, constructing additional managed lanes ingress and/or egress points, conversion of managed lanes ingress points to egress points or vice versa, conversion of managed lanes ingress and egress points to a transfer area, and construction of auxiliary lane(s)), NCDOT agrees to pay for costs associated with the mitigation features.
8. NCDOT and all of the municipalities and counties in the project's corridor plan for transportation projects for general mobility of all modes of transportation. These projects are often adjacent to, if not over or under, I77. Most do not have direct access to I77, nor do they compete with the managed lanes for users. The existence of the I77

managed lanes should not create an escalation or cost premiums for these projects that don't impact the I77 managed lanes. These entities have performed substantial planning and approved many plans; however, over the course of 50 years, new ideas and projects will surely be developed. Therefore, add clear language to the contract that states there shall be no financial penalty, charge, and/or fee paid to I77 Mobility Partners (via a "compensation event", triggering an "unplanned revenue impacting facility" designation, claims of revenue loss, or otherwise) for the construction (at the time of construction and after construction) of all transportation facilities that do not have direct access to I77, including, but not limited to, roadway overpasses/underpasses, bicycle & pedestrian overpasses/underpasses, improvements (e.g., realignments, extensions, widening) to existing parallel highways. This applies to projects that are both in currently approved government body plans and those that are not, as these may be unforeseen, and developed & planned for in the future. Specific examples include Cornelius' future Bailey Rd. Flyover, Cornelius' greenway crossing(s), and improvements to Hwys. 21 and 115.

9. I77 mobility Partners has removed or will be removing a substantial amount of mature landscaping. The current \$2M landscaping and aesthetic allocation is not enough to aesthetically enhance the 25 mile corridor. I77 Mobility Partners shall therefore provide an allocation of an additional \$4M for landscaping and aesthetic improvements for the entire corridor. This is over and above the current \$2M commitment for landscaping and aesthetics.
10. It is in the best interest of NCDOT to have a managed lane facility that will be priced such that it is utilized extensively. Toll rate ranges (per mile and relative to travel times & seasons) must be negotiated at this time between I77 Mobility Partners and NCDOT. These rate ranges must be specified in the contract, including a not-to-exceed maximum rate.
11. It is unknown how this particular managed lanes project will affect this particular local economy. I77 Mobility Partners shall perform an economic development impact study evaluating the effects of the project on the local economies of the affected jurisdictions. The study shall include, but not be limited to, the effects of modifying the existing general purpose lane facility, by adding adjacent managed lanes while retaining the existing number of general purpose lanes, and comparing those effects to those created by adding a third general purpose lane to the modified facility. The study must demonstrate that there are no negative impacts in order for the project to proceed.
12. The executed Comprehensive Agreement requires I77 Mobility Partners to construct a minimal amount of ingress and egress points. The contractual amount is not sufficient to serve the corridor. I77 Mobility Partners shall commit to constructing the increased

number of ingress/egress locations as identified in the revised ingress/egress plan in the I77 Mobility Partners' January 8, 2016 press release.

13. In order to assist with congestion mitigation, during the project's construction, I77 Mobility Partners shall pay for increased public bus service (through CATS and/or ICATS) for the I77 corridor.
14. Any cost-savings and/or toll revenues shared with NCDOT (i.e., toll revenues provided by I77 Mobility Partners to NCDOT after reaching the pre-determined revenue threshold) from the project will be programmed back to the directly impacted jurisdictions for their use toward transportation projects, in order to improve the general transportation network, of which the I77 managed lanes are a part of.
15. To inform a potential decision for future contract "buy-out", and to help with long-term financial planning for such an event, NCDOT is to determine the time period (during the contract term) that the cost to "buy-out" the contract from I77 Mobility Partners, and to assume management and ownership of the project, will be the lowest possible cost.
16. In addition to intra and interstate travel, I77 is also used for local traffic due to the lack of other transportation options, such as a robust local (non-interstate) transportation network. This local traffic along I77 provides some measure of relief to the local transportation network. Therefore, provide local residents with the ability to utilize the managed lanes at no cost when traveling locally, such as traveling 10 miles or less along I77 (for example, traveling from Exit 28 to Exit 36).



February 25, 2016

Secretary Nicholas Tennyson
North Carolina Department of Transportation
1 S. Wilmington Street
Raleigh, NC 27699-1501

Dear Secretary Tennyson,

Thank you for your letter dated February 17, 2016 asking for feedback from jurisdiction that make up the CRTPO of specific issues members have pertaining to the contract between the NCDOT and I-77 Mobility partners. As we move forward with discussing potential negotiated changes to the agreement, I must reiterate that the Town of Huntersville's board reaffirms its opposition to the I-77 managed lanes project and our request for its cancellation.

During the past twelve months the local jurisdictions and counties passed numerous resolutions requesting a delay in contractual milestones so the contract could be subject to the type of review you are now requesting. These resolutions had zero effect on the procurement process.

If we are to move forward in discussing potential contractual changes at this time, it is imperative we begin with a clear understanding of the facts and issues. The appropriate place to establish this baseline is your I-77 Managed Lanes Fact Sheet, dated February 2016 and attached to your letter.

We have several instances where the facts mentioned do not comport with our understanding. In light of this, we seek clarification on the following statements in the Fact Sheet:

- 1) Will high occupancy vehicles without a transponder be charged a toll? How will this happen? If "yes", why must high occupancy vehicles purchase a transponder in order to use the lanes for "free"? What is the cost of purchasing and maintaining this transponder?
- 2) The contract contains extensive provisions for taxpayer compensation in the event of developer default. Please explain how the contract "fully protects taxpayers of North Carolina" and how the North Carolina taxpayers are shielded "from any financial liability" if such a default event were to occur.
- 3) Please provide a weave analysis for the additional access points mentioned including the effect on travel speeds in the general purpose lanes.
- 4) Please provide a rough estimate of potential compensation due I77 Mobility Partners if I-77 were to be widened with general purpose lanes 10, 20, 30, and 40 years into the contract.
- 5) Toll rates of "14 to 40 cents per mile" would equate to a toll of up to \$20.80 round trip if a driver were to use the managed lane its entire 26 mile length. Please explain why the cost would not be "\$20 to use the additional lanes."

Secretary Nicholas Tennyson

February 25, 2016

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- 6) Please explain the purpose of a public comment period prior to setting toll rates. It is our understanding that I77 Mobility Partners has been granted the unfettered right to set toll rates and therefore does not require any governmental approval or public comment.
- 7) Please provide analyses to substantiate your claim that "general purpose lane projects proved to fill quickly" for the specific case of I-77.
- 8) In light of the Indiana Toll Road bankruptcy, the SH-130 technical bankruptcy, and the recent sale of the Chicago Skyway, please enumerate the Cintra projects in the U.S. that you consider to be successful, and what constitutes the definition of success.

Until we establish a common understanding of the facts of this project, the Town of Huntersville is unable to provide meaningful input regarding contractual changes. In order to meet your March 14 deadline, we therefore request a prompt answer to the above questions.

Finally, we wish to make it clear that, while we will participate in the re-negotiation process in good faith, this should not be construed in any manner that the town has changed its position on this project.

Respectfully,

John Aneralla
Mayor Huntersville