

Review of the Comprehensive Agreement between
the North Carolina Department of Transportation
and I-77 Mobility Partners LLC

Draft Report for Public Comment

August 2017

Overview

NCDOT has initiated a review of the Comprehensive Agreement with I-77 Mobility Partners LLC. The objective is to identify and evaluate potential policy options that might address concerns expressed by members of the public regarding the implementation of the managed toll lanes concept and various provisions in the agreement.

This presentation highlights findings from the draft report and describes the policy options recommended for consideration.

Presentation Outline

- Contents of the Draft Report
- Key Findings and Observations
- Recommended Policy Options for Consideration
- Public Input

Contents of the Draft Report

1. Purpose and Scope of the Review
2. I-77 Express Lanes Project
3. Express Lanes Project Development and Status
4. Risk Allocation Assessment
5. Public and Stakeholder Input
6. Key Findings and Observations
7. Policy Options Recommended for Consideration

Contents of the Draft Report, *continued*

Appendix A – Illustrative Example of Termination for Convenience Calculation

Appendix B – 2017 Public Comments submitted to NCDOT website

Appendix C – 2016 Input from Local Jurisdictions

Appendix D – Committed Highway and Bonus Allocation Projects

The information presented in the Draft Report is not legal advice and the report is not a market valuation or an appraisal review.

The views and opinions provided in the Draft Report are strictly those of the authors. The report does not represent the opinions or policies of NCDOT, its agents, officers, or employees.

Key Findings and Observations

- The Comprehensive Agreement is reasonable, but inconsistent public engagement has undermined confidence in the public-private partnership (P3) project delivery approach.
 - Limited public engagement before P3 procurement was initiated
 - P3 presented as only financially viable alternative
 - Insufficient response to public concerns and questions
- The planning process did not provide sufficient opportunities for the public to evaluate the relative merits of express lanes and alternatives without tolls.
 - Focus on “immediate travel time reliability along I-77 from Uptown Charlotte to the Lake Norman area” precluded the examination of additional general purposes lanes in the environmental assessment.
- Public opinion reflects uncertainty about the express lanes concept.

Policy Options

Mercator has identified a range of potential policy options that might address questions and concerns expressed by members of the public.

Additional time and resources would be required to generate reliable cost estimates, to prepare traffic and revenue analyses and to conduct the necessary legal and other due diligence that would be required to implement any option. In addition, some options may trigger additional environmental review.

The policy options recommended for consideration are not listed in order of preference and they may not be mutually exclusive.

Policy Options, *continued*

- Terminate the Comprehensive Agreement and complete the Express Lanes Project using public funding or financing as it becomes available.

Key Challenges

- Securing the public funds required to pay the termination compensation and to complete construction of the Express Lanes Project.
- Potential impact on other transportation projects and programs.

Potential Costs

- The final termination payment would be determined by an independent appraiser plus the demobilization costs and other expenses incurred by the Private Partner and its subcontractors.
- Cost to stabilize the work zones along I-77 to ensure safe travel until construction is resumed
- Cost to complete construction of the Express Lanes Project

Policy Options, *continued*

- Terminate the Comprehensive Agreement and allow CRTPO to determine whether express lanes should remain in the transportation plan or be replaced or supplemented with other improvements based on available resources.

Key Challenges

- CRTPO would need time and resources to assess the impacts on regional transportation plans if the Express Lanes Project is not constructed.
- Potential impact on other transportation projects and transit programs.

Potential Costs

- Cost to NCDOT will be the termination compensation, the demobilization expenses incurred by the Private Partner and its subcontractors, and the cost to stabilize the work zone along I-77.
- At this conceptual stage of analysis, it is not possible to identify or quantify the potential impacts on local jurisdictions if the Express Lanes Project were cancelled.

Policy Options, *continued*

- Negotiate modifications to the project scope and/or the terms of the CA, such as:
 - Deferring or eliminating tolling of certain lanes,
 - Reducing the financial impact on frequent users,
 - Revising the truck restrictions to allow larger vehicles that can use the express lanes safely,
 - Encouraging greater use of the express lanes by allowing HOV-2 for some period of time, or
 - Modifying the compensation provisions for unplanned revenue impacting facilities.

Policy Options, *continued*

Key Challenges

- To reach agreement on changes to the project scope or the CA, NCDOT and the Private Partner would need to commit senior personnel and resources to the effort. In addition, some changes may require consent from the lenders.
- There is no assurance that the technical analysis will confirm the viability of any of the concepts or that the parties can reach agreement on the cost of any change.

Potential Costs

- The cost to evaluate and implement the concepts cannot be determined until the options are refined.

Policy Options, *continued*

- Work with CRTPO to identify and advance additional improvements to address mobility issues in the corridor.

Key Challenges

- NCDOT and CRTPO would need to commit resources to work with local jurisdictions to identify and advance options that could have a meaningful impact on long-term congestion in the corridor.

Potential Costs

- Cost will depend on the scope and location of the improvements.

Relevant examples include a \$11.6 million peak use shoulder lane added to a section of I-405 in Washington State that had two general purpose lanes and one express toll lane and the Georgia Direct Xpress Service Plan that includes development of new park-and-ride lots to enhance regional commuter bus service that uses tolled express lanes.

Policy Options, *continued*

- Develop preliminary plans to negotiate and finance the purchase of the Express Lanes Project after completion.

Key Challenges

- The feasibility of an acquisition after project completion would be driven by many variables beyond the control of NCDOT, such as the level of tax-exempt interest rates in the future.

Potential Costs

- Costs to NCDOT to evaluate this option would include the expenses associated with outside professional services, including a traffic and revenue consultant and legal and financial advisors.
- Cost to acquire the Express Lanes Project will depend in large part on the operating performance of the express lanes and projected toll revenue.

Public Review and Comment

Feedback, ideas and recommendations regarding the Draft Report can be emailed to i77feedback@ncdot.gov

Comments and suggestions can also be submitted on the I-77 Express Lanes project page on the NCDOT website:

<https://www.ncdot.gov/projects/I-77ExpressLanes/>

The public comments will be reviewed and incorporated in the final report, which is expected to be released in late summer.

To ensure comments are included in the final report, please submit them by Saturday, September 9, 2017.