

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

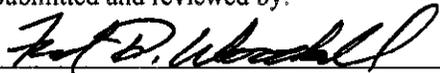
The Texas Transportation Commission (commission) finds it necessary to adopt new §7.11, relating to comprehensive development agreements for rail facilities or systems, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted new section, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that new §7.11 is adopted and is authorized for filing with the Office of the Secretary of State.

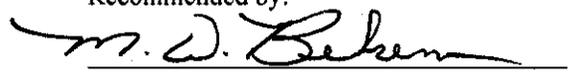
The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:



Director, Texas Turnpike Authority
Division

Recommended by:



Executive Director

110263 OCT 27 05

Minute
Number

Date
Passed

1 Adoption Preamble

2 The Texas Department of Transportation (department) adopts new
3 §7.11, concerning Comprehensive Development Agreements. The
4 amendments to §7.11 are adopted without changes to the proposed
5 text as published in the August 12, 2005 issue of the *Texas*
6 *Register* (30 TexReg 4625) and will not be republished.

7
8 EXPLANATION OF ADOPTED NEW SECTION

9 House Bill 2702, 79th Legislature, Regular Session, 2005, added
10 Transportation Code, §91.054, to authorize the department to
11 enter into a comprehensive development agreement that provides
12 for the financing, design, acquisition, construction,
13 maintenance, or operation of a rail facility or system.

14
15 Transportation Code, §91.054 authorizes the department, to the
16 extent and in the manner that the department may enter into
17 comprehensive development agreements under Transportation Code,
18 Chapter 223, to enter into comprehensive development agreements
19 under Chapter 91 with regard to rail facilities or systems.

20 Section 91.054 provides that all provisions of Chapter 223
21 relating to comprehensive development agreements apply to
22 comprehensive development agreements for rail facilities under
23 Chapter 91.

24
25 Rules relating to comprehensive development agreements for

1 turnpike or toll projects developed under Chapter 223 are
2 contained in Chapter 27, Subchapter A of this title. As those
3 rules have proven effective for the procurement of comprehensive
4 development agreements for turnpike or toll projects, new §7.11
5 provides that, to the extent and in the manner that the
6 department may enter into a comprehensive development agreement
7 with respect to a turnpike or toll project under Chapter 27,
8 Subchapter A, the department may enter into a comprehensive
9 development agreement for the financing, design, acquisition,
10 construction, maintenance, or operation of a rail facility or
11 system.

12
13 Section 7.11 requires the department to utilize the processes
14 and procedures provided in Chapter 27, Subchapter A when
15 requesting qualifications and proposals or accepting unsolicited
16 proposals for the financing, design, acquisition, construction,
17 maintenance, or operation of a rail facility or system, when
18 evaluating and ranking submissions and proposals, and when
19 selecting the proposal that provides the best value to the
20 department.

21
22 As authorized by Transportation Code, §91.054, new §7.11
23 provides that the department may combine in a comprehensive
24 development agreement a rail facility or system and a turnpike
25 or toll project. Section 7.11 also provides that rail facility

1 and system have the meanings assigned by Chapter 91.

2

3 COMMENTS

4 No comments on the proposed new section were received.

5

6 STATUTORY AUTHORITY

7 The new section is adopted under Transportation Code, §201.101,
8 which provides the Texas Transportation Commission with the
9 authority to establish rules for the conduct of the work of the
10 department, and more specifically, Transportation Code, §91.003,
11 which provides the commission with the authority to adopt rules
12 necessary to implement Chapter 91.

13

14 CROSS REFERENCE TO STATUTE

15 Transportation Code, §91.054.

1 SUBCHAPTER B. CONTRACTS

2 §7.11. Comprehensive Development Agreements.

3 (a) To the extent and in the manner that the department may
4 enter into a comprehensive development agreement with respect to
5 a turnpike or toll project under Chapter 27, Subchapter A of
6 this title (relating to Policy, Rules, and Procedures for
7 Private Involvement in Department Turnpike Projects), the
8 department may enter into a comprehensive development agreement
9 for the financing, design, acquisition, construction,
10 maintenance, or operation of a rail facility or system.

11 (b) The department shall utilize the processes and
12 procedures provided in Chapter 27, Subchapter A of this title
13 when considering the use of a comprehensive development
14 agreement, including when:

15 (1) requesting qualifications and proposals or accepting
16 unsolicited proposals for the financing, design, acquisition,
17 construction, maintenance, or operation of a rail facility or
18 system;

19 (2) evaluating and ranking submissions and proposals; and

20 (3) selecting the proposal that provides the best value
21 to the department.

22 (c) The department may combine in a comprehensive
23 development agreement a rail facility or system and a turnpike

1 or toll project as defined in Transportation Code, §201.001.

2 (d) In this section, "rail facility" and "system" have the
3 meanings assigned in Transportation Code, Chapter 91.