

## TEXAS TRANSPORTATION COMMISSION

### MINUTE ORDER

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Section 49-n, Article III, of the Texas Constitution (constitutional provision) provides that the Texas Legislature may authorize the Texas Transportation Commission (commission) to issue bonds and other public securities and enter into bond enhancement agreements that are payable from revenue deposited to the credit of the State Highway Fund to fund state highway improvement projects.

The constitutional provision provides for the appropriation of amounts from highway fund revenues that are sufficient to pay the principal of and interest on such bonds or other public securities and any cost related to the bonds and other public securities, including payments under bond enhancement agreements; and, the constitutional provision further provides that any dedication or appropriation of revenue to the credit of the highway fund may not be modified so as to impair any outstanding bonds or other public securities secured by a pledge of highway fund revenue unless provisions have been made for a full discharge of those securities.

Pursuant to the constitutional provision, the Texas Legislature enacted Section 222.003, Texas Transportation Code (enabling act), which authorizes the commission to issue bonds and other public securities secured by a pledge of and payable from revenue deposited to the credit of the highway fund.

The enabling act provides that (i) the aggregate principal amount of such bonds and other public securities may not exceed \$3 billion, (ii) the commission may issue bonds or other public securities in an aggregate principal amount of not more than \$1 billion each year, (iii) \$600 million of the aggregate principal amount of such bonds or other public securities must be issued to fund projects (safety projects) that reduce accidents or correct or improve hazardous locations on the state highway system, and (iv) bonds and other public securities and credit agreements may not have a principal amount or terms that are expected to cause annual expenditures with respect thereto to exceed 10 percent (10%) of the amount deposited to the credit of the highway fund in the immediately preceding year.

The enabling act further provides that the Comptroller of Public Accounts (comptroller) shall withdraw from the highway fund amounts determined by the commission to permit timely payment of the principal of and interest on the bonds and other public securities and any cost related to the bonds and other public securities, including payments under credit agreements.

Pursuant to the enabling act, the commission has adopted rules, codified as 43 TAC §§15.170-15.174, that prescribe criteria for selecting projects (including safety projects) eligible for funding under the enabling act.

Pursuant to Minute Order 110472, dated March 30, 2006, the commission approved a master resolution establishing a financing program for bonds, other public securities and credit agreements secured by and payable from revenue deposited to the credit of the State Highway Fund to establish a revenue financing program to provide a financing structure to facilitate the commission's exercise of the powers and authority conferred by the enabling act and pursuant to which the commission is authorized to issue obligations (senior obligations), including bonds, notes and other public securities, and execute credit agreements and qualified hedge agreements, secured by and payable from a pledge of and lien on revenues deposited to the credit of the highway fund, as provided by the master resolution, and further approved a first supplemental resolution to the master resolution which authorized the issuance of "Texas Transportation Commission State Highway Fund First Tier

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Revenue Bonds, Series 2006" (the outstanding senior obligations), which were issued in the aggregate principal amount of \$600 million.

Pursuant to Minute Order 110656, dated August 24, 2006, the commission approved a derivative management policy to prescribe responsibilities, objectives, and guidelines for the use of interest rate swap and other similar products to efficiently and prudently manage the commission's asset/liability profile for all financing programs, including the financing program, undertaken by the commission and/or the Texas Department of Transportation.

The commission has determined that it is in the best interest of the state to approve a second supplemental resolution to the master resolution establishing a financing program for bonds, other public securities and credit agreements secured by and payable from revenue deposited to the credit of the State Highway Fund and a third supplemental resolution to the master resolution establishing a financing program for bonds, other public securities and credit agreements secured by and payable from revenue deposited to the credit of the State Highway Fund (together the supplemental resolutions) to authorize the issuance of additional senior obligations in one or more series in the aggregate principal amount not to exceed \$1 billion and to prescribe the terms, provisions and covenants related thereto, as set forth in the supplemental resolutions.

Under the supplemental resolutions, the commission has determined that it is in the best interest of the state for such additional senior obligations to be sold through negotiated sales pursuant to the procedures set forth in the supplemental resolutions, including entering bond purchase contracts dated as of the date of pricing under which the underwriters for such additional senior obligations agree to purchase from the commission, and to make a bona fide public offering of, such principal amount of additional senior obligations as is determined by the department representative (as defined in the supplemental resolutions) in the respective award certificates for such additional senior obligations, and at such price and subject to such terms as are prescribed in the respective award certificates.

Under the third supplemental resolution, the commission has determined that it is in the best interest of the state to authorize a department representative to designate a portion of such additional senior obligations as variable rate obligations, bearing interest at variable rates, subject to tender for purchase pursuant to the procedures set forth in the third supplemental resolution, and subject to such other terms, as determined by a department representative and prescribed in the award certificate for such additional senior obligations.

Under the third supplemental resolution, variable rate obligations may be subject to tender for purchase by the tender agent in accordance with the terms of the third supplemental resolution and a tender agent agreement and funds for the purchase price of such tendered variable rate obligations may be provided from the sources identified in the third supplemental resolution, including funds to be provided pursuant to the terms of a standby bond purchase agreement (liquidity agreement) between the commission and the liquidity provider, initially Banco Bilbao Vizcaya Argentaria S.A. New York Branch.

Under the third supplemental resolution, variable rate obligations tendered for purchase will be remarketed by a remarketing agent in accordance with the terms of the third supplemental resolution and a remarketing agreement between the commission and Citigroup, as remarketing agent.

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The commission understands that, in connection with the public offering and sale of each series of additional senior obligations, the underwriters expect to distribute an official statement in preliminary and final form, in substantially the form attached hereto (collectively, official statement), which official statement will include a description of the revenues deposited to the credit of the highway fund and other security and payment provisions related to the additional senior obligations.

The commission has determined that it is in the best interest of the state to authorize the department representative to direct the comptroller to withdraw from the highway fund and forward such amounts as are necessary to permit timely payment of obligations issued or incurred pursuant to the master resolution and any supplemental resolutions thereto, as provided by the enabling act, and to authorize the department representative to enter into any memoranda and agreements (collectively, management agreements) as are deemed necessary or appropriate by the department representative to evidence such direction and to provide for the management and administration of the highway fund and any other funds and accounts established and maintained in connection with or related to such obligations.

The commission has further determined that, in order to fully implement the derivative management policy as it relates to the financing program, it is in the best interests of the state to authorize the amendment of the master resolution to permit the derivative management policy to effectively prescribe the responsibilities, objectives, and guidelines for and govern the use of interest rate swap and other similar products for the financing program.

IT IS THEREFORE ORDERED by the commission that the supplemental resolutions, the official statement, the bond purchase contracts, the liquidity agreement, the remarketing agreement, the tender agent agreement and the paying agent/registrar agreement (collectively, financing documents), in substantially the form attached hereto as Exhibit A, are each hereby approved with such changes as the department representative executing each such document may approve, such approval to be conclusively evidenced by execution of such document; and, each department representative, acting individually, is authorized and directed to take any and all actions necessary or appropriate to effect the delivery of the additional senior obligations in accordance with the terms and conditions of the financing documents.

IT IS FURTHER ORDERED by the commission that each department representative, acting individually, is authorized to direct the comptroller to withdraw amounts from the highway fund and forward such amounts as are necessary to permit timely payment of obligations issued or incurred pursuant to the supplemental resolutions; and, each department representative, acting individually, is authorized to execute and deliver such management agreements as are deemed necessary or appropriate to evidence such direction and to provide for the management and administration of the highway fund and any other funds and accounts established and maintained in connection with or related to such obligations.

IT IS FURTHER ORDERED by the commission that a department representative, acting individually, is authorized and directed to provide any notice and to take any and all other actions as are necessary or appropriate to effect the amendment of the master resolution in the form attached hereto as Exhibit B, which amendment shall be effected in accordance with the applicable terms and conditions set forth in Article VI of the master resolution; and, upon receipt of any required consents and compliance with any other conditions precedent to the effectiveness of such amendment, the

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master resolution shall be amended and restated in the form attached hereto as Exhibit B, with such changes as a department representative may approve.

IT IS FURTHER ORDERED by the commission that any necessary ancillary documents in connection with the issuance of the additional senior obligations and the performance of the terms and conditions of the financing documents are hereby approved; and, each department representative, acting individually, is authorized and directed to execute and deliver such documents.

IT IS FURTHER ORDERED by the commission that the official statement, in substantially the form attached hereto, is approved for distribution by the underwriters with such changes as a department representative may approve, such approval to be conclusively evidenced by the execution of the official statement; and, the preliminary form of the official statement attached hereto is deemed final for purposes of Rule 15c2-12 of the Securities and Exchange Commission (rule) with such omissions as are permitted by the rule.

IT IS FURTHER ORDERED by the commission that each member of the commission and each department representative, acting individually, is authorized and directed to perform all such acts and execute such documents, including execution of certifications to the underwriters, the Attorney General, the comptroller and other parties, as may be necessary to carry out the intent and purposes of this order and other orders of the commission relating to the financing program and the financing documents.

Submitted and reviewed by:

James M Bass  
Chief Financial Officer

Recommended by:

M. W. Behren  
Executive Director

**110729 OCT 26 06**

Minute Date  
Number Passed