

TEXAS TRANSPORTATION COMMISSION

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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 (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 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 \$6 billion, (ii) the commission may issue bonds or other public securities in an aggregate principal amount of not more than \$1.5 billion each year, (iii) \$1.2 billion 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 at 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, as amended (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

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

Pursuant to Minute Order 110729, dated October 26, 2006, the commission approved a second supplemental resolution to the master resolution which authorized the issuance of "Texas Transportation Commission State Highway Fund First Tier Revenue Bonds, Series 2006-A" (series 2006-A bonds), which were issued in the aggregate principal amount of \$852,550,000, and a third supplemental resolution to the master resolution which authorized the issuance of "Texas Transportation Commission State Highway Fund First Tier Revenue Bonds, Series 2006-B (Variable Rate Bonds)" (series 2006-B bonds), which were issued in the aggregate principal amount of \$100 million.

Pursuant to Minute Order 111050, dated August 23, 2007, the commission approved a fourth supplemental resolution to the master resolution which authorized the issuance of "Texas Transportation Commission State Highway Fund First Tier Revenue Bonds, Series 2007" (series 2007 bonds), which were issued in the aggregate principal amount of \$1,241,845,000, and "Texas Transportation Commission State Highway Fund First Tier Revenue Bonds, Series 2008" (series 2008 bonds and, together with the series 2006 bonds, the series 2006-A bonds, the series 2006-B bonds and the series 2007 bonds, collectively, outstanding senior obligations), which were issued in the aggregate principal amount of \$162,995,000.

The commission has determined that it is in the best interest of the state to approve a fifth supplemental resolution to the master resolution (supplemental resolution) to authorize the issuance of additional senior obligations (additional senior obligations), in one or more series, to fund state highway improvement projects, provided that the aggregate principal amount of such additional senior obligations shall not exceed \$2.9 billion (new money bonds) and not more than \$1.5 billion of new money bonds shall be issued in any fiscal year, and to authorize the issuance of additional senior obligations, in one or more series, to refund certain outstanding senior obligations, provided that the aggregate principal amount of such additional senior obligations (refunding bonds) shall not exceed 110% of the principal amount of the senior obligations refunded thereby, and to prescribe the terms, provisions and covenants related to the additional senior obligations, as set forth in the supplemental resolution.

Under the supplemental resolution, the commission has determined that such additional senior obligations shall be sold through negotiated sale pursuant to the procedures set forth in the supplemental resolution, including entering one or more 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

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senior obligations as is determined by the Texas Department of Transportation (department) representative (as defined in the supplemental resolution) 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 therefor, provided that the department representative is authorized under the supplemental resolution to utilize an alternative method of sale, which may be public or private, for any series of additional senior obligations when, in the judgment of the department representative, such alternative method of sale is determined to be advantageous, as prescribed in the award certificate in accordance with the supplemental resolution.

The commission understands that an official statement in preliminary and final form (collectively, official statement) will be distributed in connection with the public offering and sale of each series of additional senior obligations, 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.

Under the supplemental resolution, the department representative is authorized to price all or a portion of the additional senior obligations as variable rate bonds, which may require the use of liquidity provider(s), remarketing agent(s), tender agent(s) and other entities to perform similar functions in connection with any such variable rate bonds.

Pursuant to Minute Order 111932, dated August 27, 2009, the commission approved a revised derivative management policy which policy established a derivative committee to review and make recommendations regarding the commission's use of derivative financial products. The commission is authorized to enter into credit agreements related to the additional senior obligations with eligible counterparties as determined by the department representative in compliance with the derivative management policy when, in the judgment of the department representative and in accordance with the derivative management policy, Chapter 1371, Texas Government Code, and the supplemental resolution, the transaction is expected to benefit the commission and the State.

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 resolution 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.

IT IS THEREFORE ORDERED by the commission that the Chair and Executive Director are authorized and directed to execute and deliver additional senior obligations, as provided by the supplemental resolution, and the department representative is authorized and directed to execute and deliver the supplemental resolution and any bond purchase contracts and paying

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agent/registrar agreements (collectively, financing documents), and the financing documents are approved in substantially the form presented to the commission with such changes as the department representative executing each such document may approve, such approval to be conclusively evidenced by execution of such financing 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 the department representative is authorized and directed to execute and deliver any remarketing agreement, liquidity agreement, tender agent agreement, escrow agreement and similar agreements necessary for any variable rate bonds or refunding bonds (collectively, supporting documents), and the supporting documents are approved in substantially the form previously approved by the commission in connection with its previously issued senior obligations and other financing program debt with such changes as the department representative executing each such document may approve, such approval to be conclusively evidenced by execution of such document.

IT IS FURTHER ORDERED by the commission that the department representative is hereby authorized to enter into credit agreements, including master swap agreements similar to the master swap agreements entered into in connection with the commission's outstanding mobility fund financing program debt, and any appropriate confirmations for any interest rate lock agreements, as defined in the supplemental resolution, relating to the additional senior obligations with any eligible counterparty, as defined in the supplemental resolution, as determined by the department representative in compliance with the commission's derivative management policy, with such changes as the department representative executing such agreement(s) may approve, such approval to be conclusively evidenced by execution of such agreement(s) in accordance with the commission's derivative management policy and the supplemental resolution.

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

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IT IS FURTHER ORDERED by the commission that an official statement is approved for distribution in connection with the public offering and sale of each series of additional senior obligations in such form as a department representative may approve, such approval to be conclusively evidenced by the execution of the official statement. The department representative is authorized to deem final the preliminary form of the official statement for any senior obligations for purposes of Rule 15c2-12 of the Securities and Exchange Commission (rule) with such omissions as are permitted by the rule.

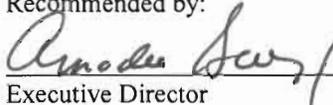
IT IS FURTHER ORDERED by the commission that each member of the commission and each department representative is authorized and directed to perform all such acts and execute such documents, including execution of certifications to the underwriters, any counterparties, the Attorney General, the Bond Review Board, the comptroller and other parties, as may be necessary or desirable to carry out the intent and purposes of this order and other orders of the commission relating to the financing program, the financing documents, any supporting documents and any interest rate lock agreements.

Submitted and reviewed by:



Director, Finance Division

Recommended by:



Executive Director

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Minute Date
Number Passed