

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

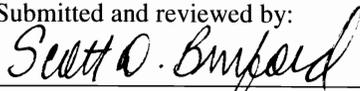
The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §9.21 relating to purchase of service to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §9.21 are adopted and are authorized for filing with the Office of the Secretary of State.

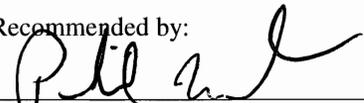
The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:



Director, General Services Division

Recommended by:



Executive Director

**112871 OCT 27 11**

Minute  
Number

Date  
Passed

1 Adoption Preamble

2 The Texas Department of Transportation (department) adopts  
3 amendments to §9.21, concerning Purchase of Service. The  
4 amendments to §9.21 are adopted without changes to the proposed  
5 text as published in the August 12, 2011 issue of the *Texas*  
6 *Register* (36 TexReg 5082) and will not be republished.

7

8 EXPLANATION OF ADOPTED AMENDMENTS

9 House Bill 3730, 82nd Legislature, Regular Session, 2011,  
10 amended Transportation Code, §223.042 by allowing the department  
11 to award a contract as a purchase of service under Subtitle D,  
12 Title 10, Government Code, if the department estimates that the  
13 contract will involve an amount for which formal bids for the  
14 purchase of services are not required and determines that the  
15 competitive bidding procedure is not practical.

16

17 Amendments to §9.21 change the dollar limit for informal  
18 purchases for maintenance contracts awarded as a purchase of  
19 service from amounts estimated as less than \$15,000 to the  
20 amount of the Comptroller of Public Account's delegated purchase  
21 limits for informal bidding (currently \$25,000). These changes  
22 allow the department to provide a more expedient means to  
23 acquire services for highway and building maintenance.

24

25 COMMENTS

1 No comments on the proposed amendments were received.

2

3 STATUTORY AUTHORITY

4 The amendments are adopted under Transportation Code, §201.101,  
5 which provides the Texas Transportation Commission with the  
6 authority to establish rules for the conduct of the work of the  
7 department, and more specifically, Transportation Code,  
8 §223.042, which requires the department to adopt rules regarding  
9 the privatization of maintenance contracts.

10

11 CROSS REFERENCE TO STATUTE

12 Transportation Code, §223.042.

SUBCHAPTER B. HIGHWAY IMPROVEMENT CONTRACTS

§9.21. Purchase of Service. The department may award a maintenance contract under this section [~~estimated at less than \$15,000~~] as a purchase of service under the State Purchasing and General Services Act, Government Code, Title 10, Subtitle D, if the department [~~instead of using the letting procedures described in this subchapter when the department determines that~~]:

(1) estimates the contract will involve an amount for which formal bids for the purchase of service are not required under rules adopted by the Texas Comptroller of Public Accounts under Government Code, Chapter 2155, Subchapter C [~~the project does not require detailed specifications~~]; and

(2) determines that it would be impractical to use the letting procedures described in this subchapter. [~~there is a need to expedite the project; or~~]

~~[(3) it would be otherwise impractical to use the letting procedures.]~~