

# **BYLAWS OF THE NORTH TEXAS TOLLWAY AUTHORITY**

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***BYLAWS OF THE NORTH TEXAS TOLLWAY AUTHORITY***

**§ 1. The Authority**

These bylaws are made and adopted for the regulation of the affairs and the performance of the functions of the North Texas Tollway Authority (the "Authority"), a regional tollway authority and a political subdivision of the State of Texas authorized and existing pursuant to the laws of the State of Texas, in accordance with the provisions of Senate Bill 370, as amended, enacted by the 75th Legislature of Texas, and codified as Texas Transportation Code, Chapter 366, as the same may be amended from time to time (the "Regional Tollway Act").

**§ 2. Principal Office**

The domicile and principal office of the Authority shall be in one of the counties composing the Authority.

**§ 3. General Powers**

The activities, property, and affairs of the Authority will be managed by its Board of Directors (the "Board"), which may exercise all powers and do all lawful acts permitted by the Constitution and statutes of the State of Texas, and these bylaws. Through the Board, the Authority will perform all duties and functions as required by the Constitution and statutes of the State of Texas and these bylaws.

**§ 4. Board**

(a) Subject to § 5, the Board of the Authority shall be composed of nine Directors, appointed as follows:

(1) The Commissioners Court of Collin County shall appoint two Directors, with one Director's term expiring on August 31 of each even-numbered year and the other Director's term expiring on August 31 of each odd-numbered year.

(2) The Commissioners Court of Dallas County shall appoint two Directors, with one Director's term expiring on August 31 of each even-numbered year and the other Director's term expiring on August 31 of each odd-numbered year.

(3) The Commissioners Court of Denton County shall appoint two Directors, with one Director's term expiring on August 31 of each even-numbered year and the other Director's term expiring on August 31 of each odd-numbered year.

(4) The Commissioners Court of Tarrant County shall appoint two Directors, with one Director's term expiring on August 31 of each even-numbered year and the other Director's term expiring on August 31 of each odd-numbered year.

(5) The Governor shall appoint one Director, with such Director's term expiring on August 31 of each odd-numbered year.

(b) Each Director appointed by a Commissioners Court must have resided in the county governed by that Commissioners Court for at least one year before the person's appointment. A Commissioners Court appointing more than one Director shall ensure that the Directors it appoints reside in different geographic regions in that county. To the extent possible,

appointments to the Board shall reflect the diversity of the population of the various counties of the Authority. All appointments to the Board shall be made without regard to disability, sex, religion, age, or national origin.

(c) Each Director appointed by the Governor must have resided in a county adjacent to a county included in the Authority for at least one year before the person's appointment.

(d) Subject to § 5 and § 7 of these bylaws and except as may be otherwise provided by law (including any amendment to the Regional Tollway Act), each Director shall be appointed for a two-year term. Directors will serve staggered terms, with the terms of one-half of the Directors (or as close to one-half as possible) expiring on August 31 of each odd-numbered year.

(e) Each Director shall serve until his or her successor has been duly appointed and qualified or until his or her death, resignation, or removal from office in accordance with these bylaws.

(f) Directors qualified to serve under applicable law and these bylaws may be reappointed following the expiration of their terms. Except as otherwise provided by applicable law, there is no limitation on the number of terms a Director may serve.

## **§ 5. Expansion of the Board**

(a) Upon the admission of a new county into the Authority in accordance with Chapter 366 of the Transportation Code and these bylaws, the number of Directors composing the Board shall be increased by one, and the Commissioners Court of the applicable county shall appoint a Director to the new seat on the Board.

(1) If, immediately preceding a Director's appointment to a new seat, the Board is composed of an even number of Directors, the new Director's term shall expire on the second occurrence of August 31 after the effective date of the new Director's appointment. For example, the term of a Director appointed effective as of July 25, 2010 would expire on August 31, 2011 [August 31, 2010 being the first occurrence of that date after appointment, and August 31, 2011 being the second occurrence]; the term of a Director appointed effective as of September 5, 2010 would expire on August 31, 2012 [August 31, 2011 being the first occurrence after appointment, and August 31, 2012 being the second occurrence].

(2) If, immediately preceding a Director's appointment to a new seat, the Board is composed of an odd number of Directors, the new Director's term shall expire on the first or second occurrence of August 31 after the effective date of the new Director's appointment, whichever results in an equal number of terms on the Board expiring in odd-numbered and even-numbered years. For example, if immediately before the appointment of the new Director, the Board were composed of nine Directors, four of whose terms were to expire in 2010 and five of whose terms were to expire in 2011, then the new Director's term would expire August 31, 2010.

(b) Subsections (b), (d), (e) and (f) of § 4 shall be applicable to Directors appointed under this § 5.

## **§ 6. Qualifications of Directors**

(a) All Directors must have and maintain the qualifications set forth in this § 6 and in the Regional Tollway Act.

(b) An elected official is not eligible to serve as a Director.

(c) A person is not eligible to serve as a Director if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of toll road construction, maintenance, or operation;

(2) is employed by or participates in the management of a business entity or other organization either regulated by, or receiving money from, the Authority;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the Authority, other than compensation for acquisition of turnpike right-of-way;

(4) uses or receives a substantial amount of tangible goods, services, or money from the Authority, other than compensation or reimbursement authorized by law for Board membership, attendance, or expenses, or for compensation for acquisition of turnpike right-of-way;

(5) is an officer, employee, or paid consultant of a Texas trade association in the field of road construction, maintenance, or operation; or

(6) is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the Authority.

Each Director shall certify annually to the Secretary (as defined in § 24 of these bylaws) that said Director is not ineligible to serve on the Board as a result of any of the foregoing conditions.

## **§ 7. Vacancies**

A vacancy on the Board shall be filled promptly by the entity or person that made the appointment that falls vacant. Each Director appointed to a vacant position shall be appointed for the unexpired term of the Director's predecessor in that position.

## **§ 8. Resignation and Removal**

A Director may resign at any time upon giving written notice to the Authority and the entity that appointed that Director. A Director may be removed from the Board by the entity or person that appointed such Director if the Director does not possess at the time the Director is appointed, or does not maintain, the qualifications required by the Regional Tollway Act, or if the Director violates the Regional Tollway Act. In addition, a Director who cannot discharge the Director's duties for a substantial portion of the term for which he or she is appointed because of illness or disability, or a Director who is absent from more than half of the regularly scheduled Board

meetings during a given calendar year, may be removed by the person or entity that appointed such Director. If the Executive Director of the Authority knows that a potential ground for removal of a Director exists, the Executive Director shall notify the Chairman of the potential ground for removal. The Chairman then shall notify the entity or person that appointed such Director of potential ground for removal. A Director shall be removed from the Board only after and at the time the Authority receives notice of removal from the entity or person that appointed such Director.

#### **§ 9. Compensation of Directors**

Directors shall serve without compensation, but will be reimbursed for their actual expenses of attending each meeting of the Board and for such other expenses as may be incurred in their carrying out the duties and functions as set forth herein.

#### **§ 10. Conflict of Interest**

A Director shall not (a) accept, agree to accept, or solicit any gift, favor, service, or other benefit that might reasonably tend to influence that Director in the making of decisions on behalf of the Authority or that the Director knows or should have known is being offered with the intent to influence the Director's making of said decisions; or (b) accept, agree to accept, or solicit other compensation that could reasonably be expected to impair the Director's independence of judgment in the making of decisions on behalf of the Authority. Directors shall familiarize themselves and comply with all applicable laws regarding conflicts of interest, including any conflict of interest policy adopted by the Board.

#### **§ 11. Meetings**

All regular meetings of the Board shall be held in a county of the Authority, at a specific site, date, and time to be determined by the Chairman. The Chairman may postpone any regular meeting if it is determined that such meeting is unnecessary or that a quorum will not be achieved, but no fewer than four regular meetings shall be held during each calendar year. Special meetings and emergency meetings of the Board may be called, upon proper notice, at any time by the Chairman or at the request of any two Directors. Special meetings and emergency meetings shall be held at such time and place as is specified by the Chairman, if the Chairman calls the meeting, or by the two Directors, if they call the meeting. The Chairman shall set the agendas for meetings of the Board, except that the agendas of meetings called by two Directors shall be set by those Directors. The Chairman shall place on the agenda for a meeting of the Board or a committee any item requested by at least two Directors; the item shall appear in the form submitted to the Chairman and, subject to compliance with notice and posting requirements, on the meeting agenda specified by such Directors.

#### **§ 12. Voting; Quorum**

A majority of the Directors constitutes a quorum, and the vote of a majority of the Directors present at a meeting at which a quorum is present will be necessary for any action taken by the Board. No vacancy in the membership of the Board will impair the right of a quorum to exercise all of the rights and to perform all of the duties of the Board. Therefore, if a vacancy occurs, a majority of the Directors then serving in office will constitute a quorum.

### **§ 13. Meetings by Telephone**

Subject to the notice requirements of the Texas Open Meetings Act, the Board and committees of the Board may participate in and hold meetings by means of conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other and at which public participation is permitted by a speaker telephone at a conference room of the Authority or other facility in a county of the Authority that is accessible to the public. Participation in a meeting pursuant to this § 13 constitutes being present in person at such meeting, except that a Director will not be considered in attendance when the Director appears at such a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened as generally provided under § 18 of these bylaws. Each part of the telephone conference call meeting that by law must be open to the public shall be audible to the public at the location specified in the notice and shall be tape-recorded or documented by written minutes. On conclusion of the meeting, the tape recording or the written minutes of the meeting shall be made available to the public.

### **§ 14. Procedure**

Except as provided in the last sentence of this Section, all meetings of the Board and its committees shall be conducted in accordance with Robert's Rules of Order pursuant to statutorily proper notice of meeting posted as provided by law. The Chairman at any time may change the order of items to be considered from that set forth in the notice of meeting, provided that all agenda items that require a vote by the Board shall be considered at the meeting for which they have been posted. To the extent procedures prescribed by applicable statutes or these bylaws conflict with Robert's Rules of Order, the statutes or these bylaws shall govern.

### **§ 15. Committees**

The Chairman at any time may designate from among the Directors one or more ad hoc or standing committees, each of which shall be comprised of two or more Directors, and may designate one or more Directors as alternate members of such committees, who may, subject to any limitations imposed by the Chairman, replace absent or disqualified members at any meeting of that committee. Except as otherwise indicated in writing by the Chairman and delivered to the Directors, the Chairman serves as an ex-officio member of each committee and shall be counted for purposes of determining a quorum. If approved by a resolution passed by a two-thirds vote of the Board, a committee shall have and may exercise all of the authority of the Board, to the extent provided in such resolution and subject to the limitations imposed by applicable law. The Chairman shall appoint the chairman of each committee, which may be the Chairman, as well as Directors to fill any vacancies in the membership of the committees. To the greatest extent practicable, the Chairman shall utilize all Directors willing to serve on the aforementioned committees in designating members, alternates and chairmen therefor. At the next regular meeting of the Board following the Chairman's formation of a committee, the Chairman shall deliver to the Directors and the Secretary a written description of the committee, including (a) the name of the committee, (b) whether it is an ad hoc or standing committee, (c) its assigned function(s) and/or task(s), (d) whether it is intended to have a continuing existence or to dissolve upon the completion of a specified task and/or the occurrence of certain events, (e) the Directors designated as members and alternate members to the committee, and its chairman, and (f) such other information as requested by any Director. The Secretary shall enter such written

description into the official records of the Authority. The Chairman shall provide a written description of any subsequent changes to the name, function, tasks, term, or composition of any committee in accordance with the procedure described in the preceding two sentences. A committee also may be formed by a two-thirds vote of the Board, which vote (and not the Chairman) also shall specify the committee's chairman and provide the descriptive information otherwise furnished by the Chairman in accordance with the preceding three sentences. A meeting of any committee formed pursuant to this § 15 may be called by the Chairman, the chairman of the applicable committee, or by any two members of the committee, and the person(s) calling such meeting shall have the sole power to cancel such meeting. All committees shall keep regular minutes of their proceedings and report the same to the Board as required. The designation of a committee of the Board and the delegation thereto of authority shall not operate to relieve the Board, or any Director, of any responsibility imposed upon the Board or the individual Director by law. To the extent applicable, the provisions of these bylaws relating to meetings, quorums, meetings by telephone, and procedure shall govern the meetings of the Board's committees.

#### **§ 16. Notice to Directors**

Notice of each meeting of the Board shall be sent by the Secretary by mail, electronic mail, commercial courier, personal delivery or facsimile to all Directors entitled to vote at such meeting. If sent by mail, such notice will be deemed delivered when it is deposited in the United States mail with sufficient postage prepaid. If sent by courier, such notice will be deemed delivered one business day after being placed in the hands of a commercial courier service for next business day delivery. If sent by personal delivery, such notice will be deemed delivered at time of personal delivery. If sent by electronic mail or facsimile, the notice will be deemed delivered when transmitted properly to the correct e-mail address or number.

#### **§ 17. Waiver of Notice**

Whenever any notice is required to be given to any Director by statute or by these bylaws, a written waiver of such notice signed by the person or persons entitled to such notice, whether before or after the time required for such notice, shall be deemed equivalent to the giving of such notice.

#### **§ 18. Attendance as Waiver**

Attendance of a Director at a meeting of the Board or a committee thereof will constitute a waiver of notice of such meeting, except that a Director will not be considered in attendance when the Director appears at such a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

#### **§ 19. Officers**

The officers of the Authority shall consist of a Chairman, a Vice Chairman, a Secretary, an Assistant Secretary, a Treasurer, and an Assistant Treasurer. The offices of Secretary and Treasurer may be held simultaneously by the same person. The individuals elected as officers shall not be compensated for their service as officers. However, officers shall be reimbursed for all expenses incurred in conducting proper Authority business and for travel expenses incurred in the performance of their duties.

## **§ 20. Election and Term of Office**

Officers will be elected by the Board for a term of one year, subject to § 21 of these bylaws. The election of officers to succeed officers whose terms have expired shall be by a vote of the Directors of the Authority at the first regular meeting of the Authority held after August 31 of each year. Except as provided in the following sentence, a Director may not be elected to more than four successive one-year terms as Chairman pursuant to this § 20, provided said four successive terms may be in addition to and preceded by said Director's previous election as Chairman to serve the remainder of an unexpired term pursuant to § 21 of these bylaws. The foregoing four-term limit is deemed waived in each instance that the Director is reelected Chairman by a two-thirds vote of the Board after reaching that limit.

## **§ 21. Removal and Vacancies**

Each officer shall hold office until a successor is chosen and qualified, or until the officer's death, resignation, or removal, or, in the case of a Director serving as an officer, until such officer ceases to serve as a Director. Any officer, except the Chairman, may resign at any time upon giving written notice to the Board. The Chairman may resign at any time upon giving written notice to the Board and the County Judges of the counties of the Authority. Any officer may be removed from service as an officer at any time, with or without cause, by the affirmative vote of two-thirds of the Directors of the Authority. The Directors of the Authority may at any meeting vote to fill an officer position vacated due to an event described in this § 21 for the remainder of the unexpired term.

## **§ 22. Chairman**

The Chairman must be a Director of the Authority. The Chairman shall appoint all committees of the Board as specified in these bylaws (except as otherwise provided in § 15 of these bylaws), call all regular meetings of the Board, preside at and set the agendas for all meetings of the Board (except as provided in the last two sentences of § 11 of these bylaws), act as spokesperson for the Board and the Authority regarding approved Board policies or matters which the Chairman reasonably believes are consistent with the generally held view of the Board, appoint members to the Regional Transportation Council and other similar transportation-related organizations requesting representation from the Authority and approve the reimbursement of expenses to the Executive Director and have such other powers and duties as may be delegated by the Board.

## **§ 23. Vice Chairman**

The Vice Chairman must be a Director of the Authority. During the absence or disability of the Chairman, upon the Chairman's death, or upon the Chairman's request, the Vice Chairman shall perform the duties and exercise the authority and powers of the Chairman.

## **§ 24. Secretary**

The Secretary need not be a Director of the Authority. The Secretary shall attend all meetings of the Board and shall keep true and complete records of all proceedings of the Board in books provided for that purpose and shall assemble, index, maintain, and keep up-to-date a book of all of the policies adopted by the Authority; attend to the giving and serving of all notices of

meetings of the Board and its committees and such other notices as are required by the office of Secretary and as may be directed by the Regional Tollway Act, any trust indenture binding on the Authority, Directors of the Authority, or the Executive Director; seal with the official seal of the Authority and attest all documents, including trust agreements, bonds, and other obligations of the Authority that require the official seal of the Authority to be impressed thereon; execute, attest, and verify signatures on all contracts conveying property of the Authority, and other agreements binding on the Authority which by law or Board resolution require attestation; certify resolutions of the Board and any committee thereof; maintain custody of the corporate seal, minute books, accounts, and all other official documents and records, files, and contracts that are not specifically entrusted to some other officer or depository; and hold such administrative offices and perform such other duties as the Directors of the Authority or the Executive Director shall require.

#### **§ 25. Assistant Secretary**

The Assistant Secretary need not be a Director of the Authority. The Assistant Secretary shall have and perform all of the duties and have all of the powers of Secretary in the event of the Secretary's absence, unavailability, or incapacity, due to illness, death, or otherwise and shall have such additional powers and duties as directed by the Board from time to time.

#### **§ 26. Treasurer**

The Treasurer need not be a Director of the Authority. The Treasurer shall execute all requisitions to the applicable bond trustee for withdrawals from the construction fund, unless the Board designates a different officer, Director, or employee of the Authority to execute any or all of such requisitions. In addition, the Treasurer shall execute, and if necessary attest, any other documents or certificates required to be executed and attested by the Treasurer under the terms of any trust agreement or supplemental trust agreement entered into by the Authority; maintain custody of the Authority's funds and securities and keep a full and accurate account of all receipts and disbursements, and endorse, or cause to be endorsed, in the name of the Authority and deposit, or cause to be deposited, all funds in such bank or banks as may be designated by the Authority as depositories; render to the Directors at such times as may be required an account of all financial transactions coming under the scope of the Treasurer's authority; give a good and sufficient bond, to be approved by the Authority, in such an amount as may be fixed by the Authority; invest such of the Authority's funds as directed by resolution of the Board, subject to the restrictions of any trust agreement entered into by the Authority; and hold such administrative offices and perform such other duties as the Board or the Executive Director shall require. If, and to the extent that, the duties or responsibilities of the Treasurer and those of any administrator (including the Comptroller or the Chief Accountant, if any) conflict and are vested in different persons, the conflicting duties and responsibilities shall be deemed vested in the Treasurer.

#### **§ 27. Assistant Treasurer**

The Assistant Treasurer need not be a Director of the Authority. The Assistant Treasurer shall have and perform all of the duties and have all of the powers of Treasurer in the event of the Treasurer's absence, unavailability, or incapacity, due to illness, death, or otherwise and shall have such additional powers and duties as directed by the Board from time to time.

## **§ 28. Administrators**

The administrators of the Authority shall be composed of the Executive Director, Deputy Executive Director, and such other positions, if any, that are designated as administrators by the Executive Director or by Resolutions enacted from time to time by the Board. All such administrators, except for the Executive Director, shall perform such duties and have such powers as may be assigned to them by the Executive Director or as set forth in Resolutions of the Board. Any administrator may be removed, with or without cause, at any time by the Executive Director. All administrators will be reimbursed for expenses incurred in performance of their duties as approved by the Executive Director. Notwithstanding the foregoing, all expense reimbursements to the Executive Director shall be subject to the approval of the Chairman, as provided in § 22 of these bylaws.

## **§ 29. Executive Director**

(a) The Executive Director will be selected by the Board and shall serve at the pleasure of the Board, performing all duties assigned by the Board and implementing all resolutions adopted by the Board.

(b) In addition, the Executive Director:

(1) shall, except as otherwise provided in these bylaws, be responsible for general management, hiring and termination of employees, and day-to-day operations of the Authority;

(2) shall be responsible for preparing a draft of the Strategic Plan for the Authority's operations, as described in § 38 of these bylaws;

(3) shall be responsible for preparing a draft of the Authority's written Annual Report, as described in § 38 of these bylaws;

(4) may execute inter-agency and interlocal contracts and service contracts;

(5) may execute contracts, contract supplements, contract change orders, and purchase orders not exceeding \$300,000, except as otherwise authorized by Board resolution; and

(6) shall have such obligations and authority as may be described in Resolutions enacted from time to time by the Board.

(c) The Executive Director may delegate the foregoing duties and responsibilities as the Executive Director deems appropriate, provided such delegation does not conflict with applicable law or any express direction of the Board.

## **§ 30. Deputy Executive Director**

The Deputy Executive Director will be an employee of the Authority selected by the Executive Director and shall serve at the pleasure of the Executive Director. At the direction of the Executive Director, the Deputy Executive Director shall assist or be responsible for the implementation of the Strategic Plan, capital improvements, budgets and daily operations of the Authority. In addition, the Deputy Executive Director shall have such other responsibilities as may be delegated by the Executive Director or set forth in Resolutions of the Board. The Deputy

Executive Director shall assume the duties and have the powers of the Executive Director in the event of the Executive Director's incapacity, death or, with written authorization from the Executive Director, absence or unavailability.

### **§ 31. Indemnification by the Authority**

Any person made a party to or involved in any litigation, including any civil, criminal or administrative action, claim, investigation, suit or other proceeding, by reason of the fact that such person is or was a Director, officer, or administrator of the Authority or by reason of such person's alleged negligence or misconduct in the performance of his or her duties as such Director, officer, or administrator shall be indemnified by the Authority, to the extent funds are lawfully available and subject to any other limitations that exist by law, against liability and the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him or her in connection with any action therein, except in relation to matters as to which it is adjudged by a court of competent jurisdiction in a final non-appealable order that such Director, officer, or administrator is liable for gross negligence or willful misconduct in the performance of his or her duties. A conviction or judgment entered in connection with a compromise or settlement of any such litigation shall not by itself be deemed to constitute an adjudication of liability for such gross negligence or willful misconduct. The Board will approve the Authority's payment of expenses incurred in defending a proceeding in advance of its final adjudication or other disposition if the Board (a) determines that the proceeding involves an action taken within the Director's, officer's or administrator's scope of authority, acting in the performance of his or her Authority duties, and (b) believes, in good faith, such payment serves the public interest. The Board must require any person receiving such payments to reimburse the Authority if upon final disposition of the proceeding the person is determined not entitled to indemnification. The person must advise the Board of the proceeding with reasonable promptness after incurring expenses for which the person intends to request pre-final adjudication indemnification. The Board may elect to withhold reimbursement of amounts that materially exceed customary fees and charges of qualified attorneys practicing in the area of specialty at issue in the proceeding. It is the policy of the Board that indemnity be provided to Directors, officers, and administrators to the greatest extent and as early as permitted by law. In addition to the indemnification described above that the Authority shall provide a Director, officer or administrator, the Authority may, upon approval of the Board in its sole discretion, indemnify a Director, officer, or administrator under such other circumstances, or may indemnify an employee, against liability and reasonable expenses, including attorneys' fees, incurred in connection with any claim asserted against him or her in said party's capacity as a Director, officer, administrator, or employee of the Authority, subject to any limitations that exist by law. Any indemnification by the Authority pursuant to the preceding sentence shall be evidenced by a resolution of the Board. Indemnification rights shall be a contract right that will survive the termination of any such person's service as a director, officer, administrator or employee of the Authority.

### **§ 32. Expenses Subject to Indemnification**

As used herein, the term "expenses" includes fines or penalties imposed and amounts paid in compromise or settlement of any such litigation only if:

(a) independent legal counsel designated by a majority of the Board, excluding those Directors who have incurred expenses in connection with such litigation for which

indemnification has been or is to be sought, shall have advised the Board that, in the opinion of such counsel, such Director, officer, administrator, or other employee is not liable to the Authority for gross negligence or willful misconduct in the performance of his or her duties with respect to the subject of such litigation; and

(b) a majority of the Directors shall have made a determination that such compromise or settlement was or will be in the best interests of the Authority.

### **§ 33. Procedure for Indemnification**

Any amount payable by way of indemnity under these bylaws may be determined and paid pursuant to an order of or allowance by a court under the applicable provisions of the laws of the State of Texas in effect at the time and pursuant to a resolution of a majority of the Directors, other than those who have incurred expenses in connection with such litigation for which indemnification has been or is to be sought. If all of the Directors are made parties to such litigation, a majority of the Board shall be authorized to pass a resolution to provide for legal expenses for the entire Board.

### **§ 34. Additional Indemnification**

The right of indemnification provided by these bylaws shall not be deemed exclusive of any right to which any Director, officer, administrator, or other employee may be entitled, as a matter of law, and shall extend and apply to the estates of deceased Directors, officers, administrators, and other employees.

### **§ 35. Contracts and Purchases**

All contracts and purchases on behalf of the Authority shall be entered into and made in accordance with rules of procedure prescribed by the Board and the applicable laws of the State of Texas.

### **§ 36. Sovereign Immunity**

Except as otherwise provided by law, the Authority will not by agreement or otherwise waive or impinge upon its sovereign immunity.

### **§ 37. Termination of Employees**

Employees of the Authority shall be employees at will unless they are party to a written employment agreement with the Authority executed by the Chairman upon approval by the Board, which employment agreement provides that such employee is not an employee at will. Employees may be terminated at any time, with or without cause, by the Executive Director subject to applicable law and the policies in place at the time of termination.

### **§ 38. Strategic Plan, Annual Report, and Presentation to Commissioners Courts**

(a) Each even-numbered year, the Authority shall issue a Strategic Plan of its operations covering the next five fiscal years, beginning with the next odd-numbered fiscal year. The Strategic Plan shall contain the types of information specified in concurrent resolutions adopted by a majority of the Commissioners Courts of the counties composing the Authority. A

draft of each Strategic Plan shall be submitted to the Board for review, approval, and, subject to revisions required by the Board, adoption.

(b) Under the direction of the Executive Director, the staff of the Authority shall prepare a draft of an Annual Report on the Authority's activities during the preceding year and describing all turnpike revenue bond issuances anticipated for the coming year, the financial condition of the Authority, all project schedules, and the status of the Authority's performance under the most recent Strategic Plan. The draft shall be submitted to the Board for review, approval, and, subject to revisions required by the Board, adoption. Not later than June 30 of each year, the Authority shall file with the Commissioners Court of each county included in the Authority the Authority's Annual Report, as adopted by the Board.

(c) At the invitation of a Commissioners Court of a county in the Authority, representatives of the Board and the Executive Director shall appear before the Commissioners Court to present the Annual Report and respond to questions and receive comments.

### **§ 39. Rates and Regulations**

The Board shall, in accordance with all applicable trust agreements, the Regional Tollway Act, or other law, establish toll rates and fees, designate speed limits, establish fines for toll violators, and adopt rules and regulations for the use and occupancy of said turnpike project.

### **§ 40. Seal**

The official seal of the Authority shall consist of the embossed impression of a circular disk with the words "North Texas Tollway Authority, 1997" on the outer rim, with a star in the center of the disk.

### **§ 41. Appeals Procedure**

The Authority shall maintain an appeals procedure adopted by the Board and amended from time to time that sets forth the process by which parties may bring to the attention of the Authority their questions, grievances, or concerns and may appeal any action taken by the Authority.

### **§ 42. Amendments to Bylaws**

Except as may be otherwise provided by law, these bylaws may be amended, modified, altered, or repealed in whole or in part, at any regular or special meeting of the Board after ten days advance notice has been given by the Chairman to each Director of the proposed change. These bylaws may not be amended at any emergency meeting of the Board.

### **§ 43. Eighty-Five Percent Approval Required for Certain Actions**

Notwithstanding anything to the contrary contained in these bylaws, including §§ 12 and 42, the vote at a regular meeting of not less than eighty-five percent (85%) of the Directors then serving on the Board (irrespective of the number of Directors present at the regular meeting) will be necessary for any of the following actions subsequent to December 20, 2006:

- (a) the transfer by the Authority of any of its turnpike projects or systems to another entity;
- (b) the acquisition of any turnpike project or system from another entity if that acquisition is conditioned upon the Authority's assumption of any debts, obligations, and liabilities of the entity relating to the transferred project or system;
- (c) the transfer of all, or substantially all, of the assets of the Authority to another entity;
- (d) the termination or winding-up of the Authority's operations or the Authority's support for any legislative or other initiative to abolish it as a regional tollway authority or reconstitute it as a different legal entity;
- (e) the addition of a county to the Authority;
- (f) the Authority undertaking a turnpike project upon such terms that the project, using the Authority's current and generally applied feasibility assumptions and forecasts, is not expected to achieve a 1:1 debt service coverage by the tenth (10<sup>th</sup>) anniversary of its opening; and
- (g) any amendment to this § 43 of these bylaws.

The provisions of this § 43 shall apply only to matters presented to the Board for action subsequent to December 20, 2006 and shall not in any manner affect any previous actions by the Board; without limiting the foregoing, subsection (f) above shall be inapplicable to the Eastern Extension of the President George Bush Turnpike, the Lewisville Lake Toll Bridge, and the Southwest Parkway (SH 121T), and all actions to be taken by the Board regarding such projects shall be effectuated pursuant to § 12 of these bylaws.

**§ 44. Contiguous County Advisory Committee**

- (a) Notwithstanding the requirement contained in § 15 of the bylaws or otherwise that committees be composed exclusively of Directors, at the time the Authority enters into a primary construction contract for its first project to be located in a county that is not part of the Authority, the Authority shall create an advisory committee to advise the Board on matters related to projects located in counties that are not part of the Authority. This committee, identified as the "Contiguous County Advisory Committee," is a standing and purely advisory committee.
- (b) The committee must be composed of:
  - (1) the Director appointed by the Governor, who serves as the chair of the committee;
  - (2) an additional Director appointed by the Chairman as the Chairman deems appropriate; and

(3) one member from each county that is not part of the Authority and in which a project is proposed to be located, to be appointed by the Commissioners Court of that county at the time a primary construction contract for the project is entered into.

A committee member appointed under subsection b(3) above is not a Director for the purposes of Section 366.251 of the Regional Tollway Act or any other purpose.

(c) The committee shall provide:

(1) representation of, and opportunities for input by, the elected officials and citizens of counties (i) which are not part of the Authority, and (ii) in which a portion of one or more of the Authority's turnpike projects is located;

(2) reliable and beneficial information and advice to the Board regarding how to optimize the construction and operation of those projects and to contribute to addressing the mobility needs of those counties; and

(3) support by those counties and their elected officials and citizens for the Authority's activities and goals and to assist the Authority in achieving its statutory mission generally.

(d) The Board may, by resolution or specific committee charter, adopt rules governing the operation and duties of the committee, all to the extent consistent with 366.0311 of the Regional Tollway Act and this § 44. The committee shall perform all its activities consistent with applicable law, these bylaws, and any authorizing resolution or charter. The committee advises, and in no way may bind, the Authority or the Board.

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