

**ALAMO REGIONAL MOBILITY AUTHORITY**

**POLICIES AND PROCEDURES FOR REQUEST AND APPROVAL OF**

**TRANSFER OF TRANSPORTATION FACILITIES**

**TABLE OF CONTENTS**

<u>Section</u>	<u>Page</u>
1. Purpose	1
2. Definitions	1
3. Formal Request for Authority Transfer Study	2
4. Request Submitted to Commission	3
5. Public Involvement Regarding Commission Decision on Authority Request for Transfer	4
6. Commission Approval of Authority Request; Preliminary Approval; Final Commission Approval	6
7. Authority Final Approval of Transfer of Project from TxDOT	8

**ALAMO REGIONAL MOBILITY AUTHORITY**

**POLICIES AND PROCEDURES FOR REQUEST AND APPROVAL OF**

**TRANSFER OF TRANSPORTATION FACILITIES**

SECTION 1. PURPOSE.

These procedures are made and adopted pursuant to Texas Transportation Code (“Code”) §370.035 as well as Texas Department of Transportation (“TxDOT”) rules concerning the operation of regional mobility authorities (43 Tex. Admin. Code §26.01 *et seq.*; the “TxDOT RMA Rules”). Code §370.035 and TxDOT RMA Rules §§26.41-47 provide that a regional mobility authority (“RMA”) may request the Texas Transportation Commission to transfer a TxDOT owned and operated turnpike project that is part of the state highway system to the RMA. Both the Code and TxDOT RMA Rules require that an RMA adopt its own guidelines and criteria for approval of a transfer. The following policies and procedures are intended to be consistent with the relevant provisions of the Code and the TxDOT RMA Rules, and also to provide a process for public input to the Alamo Regional Mobility Authority (AlamoRMA) in connection to any proposed transfer.

SECTION 2. DEFINITIONS

The following words and terms, when used in these policies and procedures, shall have the following meaning, unless the context clearly indicates otherwise.

1. Authority: The Alamo Regional Mobility Authority.
2. Board: The Board of Directors of the authority.
3. Commission: The Texas Transportation Commission.
4. Executive Director: The chief executive officer of the Authority appointed by the Board.
5. Public Hearing: A hearing held after public notice is provided to solicit public input regarding transfer of a transportation facility to the authority.

6. Public Involvement: An ongoing phase of the request for transfer process which encourages and solicits public input, and provides the public the opportunity to become fully informed regarding the potential Transfer of a project.
7. Public Meeting: Informal discussions intended to allow an opportunity for (TxDOT) to provide project information to the public while receiving more informal public input.
8. Transfer: The conveyance of a TxDOT owned turnpike project on the state highway system to the AlamoRMA.
9. Transportation Facility: A facility owned by TxDOT or another government entity as defined in the Texas Administrative Code Title 49 Section 26.1.
10. Turnpike Project: A project owned by TxDOT as defined in Code §361.001, or a project owned by the AlamoRMA as defined in Code §370.003.

### SECTION 3. FORMAL REQUEST FOR AUTHORITY TRANSFER STUDY

#### A. Initiation of Transfer Study.

The Executive Director of the Authority, the Texas Department of Transportation, or by a majority vote of a i) municipality, ii) political subdivision of the state of Texas, iii) County Commissioner's Court or iv) metropolitan planning organization may request that the Board authorize a preliminary assessment of the transfer of an existing turnpike project that is a part of the state highway system. A preliminary assessment includes, but not limited to, financial, environmental and safety considerations, as well as how the transfer is consistent with the Authority's strategic plan. Once the preliminary assessment has been completed and presented to the Board, the Board may then decide no further study is warranted or may authorize the Executive Director of the Authority to proceed with a detailed assessment.

#### B. Analysis and Report Criteria.

If the Executive Director is authorized by the Board to conduct the detailed assessment described in Section 3.A. above, the following activities will be undertaken:

1. analyze the impact of the proposed Transfer on mobility within the region or affected areas outside the region;
2. perform a preliminary financial feasibility analysis;

3. summarize and describe any known environmental, social, economic, or cultural resource issues related to the Transfer, such as impacts on wetlands and other water resources, endangered species, parks, neighborhoods, business, historic buildings or bridges, and archeological sites concerning the Transfer Project; [*§26.41(b)(4)*]
4. solicit public input and summarize and describe any known controversies concerning the proposed Transfer; [*§26.41(b)(5)*]
5. analyze and summarize expected impacts, if any, on businesses and residential areas that are impacted by the proposed Transfer; [*§26.41(b)(5)*]
6. explain how the proposed Transfer is consistent with the Authority's Strategic Plan and is an integral part of the region's overall plan to improve mobility in the region; [*§26.41(b)(1)*]
7. assess Authority's ability to assure liability and responsibility for:
  - a. the safe and efficient operation of the transportation facility
  - b. compliance with state and federal laws, regulation and procedures;
8. perform other analysis and assessments that would be appropriate.

C. Report of Study Findings; Public Input; Board Decision to Submit Request to Commission.

At either a regular or special Board meeting, Executive Director shall present the analysis and findings according to the criteria listed in Section 3.B. above. Executive director shall create a written report summarizing such findings, and shall be available at the meeting to answer questions from the Board. The Board shall also invite and receive public comment at the regular or special meeting where the study report is presented. A summary of the written report shall be made available on the Authority's web site ([www.AlamoRMA.org](http://www.AlamoRMA.org)) at least three (3) days prior to the meeting at which a proposed Transfer shall be discussed and be subject to possible Board action.

D. Board Action to Initiate Transfer Request to Commission.

After review and consideration of the findings and public input regarding a proposed Transfer, the Board may direct the Executive Director to prepare and submit a formal request for Transfer to the Commission in accordance with the criteria and procedures set forth in Section 4 below. Alternatively, the Board may decline to pursue further action

on the proposed Transfer, or may request additional analysis or study by the Executive Director prior to Board action.

#### SECTION 4. REQUEST SUBMITTED TO COMMISSION

A. Request for Transfer. Upon Board approval under Section 3.D above, the Authority may request the Commission to approve a Transfer of a turnpike project to the AlamoRMA.

B. Authority Request to Commission.

A request submitted by the Authority to the Commission for a Transfer must be in writing and must include the following:

1. an explanation of how the proposed Transfer is an integral part of the region's overall plan to improve mobility in the region; [*§26.41(b)(1)*]
2. a statement that the Authority agrees to assume all liability and responsibility for the safe and effective maintenance and operations of the proposed Transfer; [*§26.43(a)(1)*]
3. a statement that the Authority agrees to assume all liability and responsibility for the compliance with all federal laws, regulations, and policies applicable to the proposed Transfer; [*26.43(a)(2)*]
4. an explanation of how the request complies with the Commission's criteria that the proposed Transfer is in the interest of the public; [*§26.41(b)(2) & §26.43(a)(3)*]
5. a statement that the Authority agrees to assume all liability and responsibility for environmental permits, issues, and commitments ("EPIC"); [*§26.41(b)(2) & §26.43(a)(4)*]
6. copies of any completed studies concerning the proposed Transfer, if such studies are available at the time a request for the proposed Transfer is made; [*§26.41(b)(3)*]
7. a brief description of any known environmental, social, economic, or cultural resource issues, such as impacts on wetlands and other water resources, endangered species, parks, neighborhoods, business, historic buildings or bridges, and archeological sites concerning the proposed Transfer, and a description of any known controversies concerning the proposed Transfer; and [*§26.41(b)(4)*]
8. the name and address of any individuals or organizations known to be opposed to and a description of any known controversies concerning the proposed Transfer. [*§26.41(b)(5)*]

In addition to the mandatory request components listed above, the Authority may also consider including any information or formal statements that may be relevant to any of the Commission's criteria for approval of a Transfer as set forth in Code §370.035 and TxDOT RMA Rules §26.43, *et seq.*

**SECTION 5. PUBLIC INVOLVEMENT REGARDING COMMISSION DECISION ON AUTHORITY REQUEST FOR TRANSFER**

**A. Public Information. [§26.42(a)]**

If the Commission determines that the proposed Transfer is an integral part of the region's overall plan to improve mobility, TxDOT will, in accordance with Transportation Code §370.035 and TxDOT Rule §23.41, *et seq.*:

1. hold one or more public hearings in each county in which the project, which is the subject of the proposed Transfer, is located for the purpose of seeking oral comments; [§26.42(a)(1)]
2. hold one or more informal public meetings, to be held, if practicable, in the proposed transfer project area; [§26.42(a)(2)]
3. solicit written comments. [§26.42(a)(3)]

The Authority shall cooperate with TxDOT throughout the public information and input process, including having an Authority representative present at each public hearing or public meeting held by TxDOT related to the proposed Transfer.

**B. Notice of Solicitation of Written Comments, Public Meeting, or Public Hearing. [§26.42(b)]**

Notice of a TxDOT solicitation of written comments, a public meeting or a public hearing regarding the proposed Transfer will be:

1. published in the *Texas Register*; [§26.42(b)(1)]
2. published in one or more newspapers of general circulation in the county in which the project, which is the subject of the proposed Transfer, is located; [§26.42(b)(2)]
3. published in a newspaper, if any, published in each of the counties comprising the Authority; [§26.42(b)(3)]

4. posted on TxDOT's website ([www.dot.state.tx.us](http://www.dot.state.tx.us)), with a link to the Authority website ([www.AlamoRMA.org](http://www.AlamoRMA.org)); [*§26.42(b)(4)*]
5. posted on the Authority's website with a link to TxDOT's website; [*§26.42(b)(5)*] and
6. published and posted at least ten (10) days prior to the date of the hearing or meeting. [*§26.42(c)*]

A notice published or posted as described in this Section 5 will inform the public of the Authority's request and that any studies submitted to the Commission by the Authority in support of the request are available for review at one or more designated offices of TxDOT, and can be found on the TxDOT web site and the Authority's website. The notice will provide links to the request and studies. However, TxDOT and the Authority will not make studies available on their respective websites if such posting is impracticable due to size of the files or other technical constraints. [*§26.42(d)*]

#### SECTION 6. COMMISSION APPROVAL OF AUTHORITY REQUEST; PRELIMINARY APPROVAL; FINAL COMMISSION APPROVAL

##### A. Commission Approval of Transfer. [*§26.43*]

Once the Authority has submitted a request for Transfer in accordance with Section 4, and after considering public input concerning the proposed Transfer received under the procedures as outlined in Section 5, the Commission may vote to approve the proposed Transfer if it complies with the criteria identified in Transportation Code §370.035 and TxDOT Rule §26.43, *et seq.* The Commission may impose certain restrictions and/or conditions on the Transfer, including a requirement for reimbursement of the cost of the transferred project (unless the Commission finds that the transfer will result in a substantial net benefit to the state, TxDOT, and the traveling public that equals or exceeds the cost), and restrictions on the use of surplus revenue derived from the project which is the subject of the Transfer.

##### B. Preliminary Approval by Commission; Additional Authority Action. [*§26.44*]

###### 1. Preliminary Approval by Commission.

The Commission may grant preliminary approval of a proposed Transfer with final approval conditioned on the completion of preliminary studies necessary for the Commission to make findings required to approve the Transfer. Preliminary studies may include, but are not limited to, social, economic and environmental studies and the preparation of traffic and revenue forecasts. The Commission

may require the authority to pay for all or a portion of such preliminary studies.  
 [§26.44(a) & (b)]

2. Formal Authority Approval Regarding Additional Preliminary Studies and Related Expenses.

If the Commission grants preliminary approval conditioned on the completion of certain preliminary studies, the Board must take formal action to authorize Executive Director to conduct or coordinate the preliminary studies requested by the Commission, and must take formal action to approve any expenses the Authority is requested to pay related to completion of such studies.

3. Additional Public Hearings.

Once any additional preliminary studies requested by the Commission are complete, TxDOT will then hold one or more additional public hearings. TxDOT will publish and post notice of such hearing under the provisions of the TxDOT RMA Rules , and the Authority will assist TxDOT as required by such procedures. [§26.44 (c)]

4. Final Commission Approval of Transfer.

The Commission may grant final approval once it has all necessary information to issue a final approval as set forth in the TxDOT RMA Rules.

SECTION 7. AUTHORITY FINAL APPROVAL OF TRANSFER OF PROJECT FROM TXDOT.

A. Proposed Transfer Approval.

After the Commission approves a proposed Transfer, the Commission and/ or TxDOT may propose that the transfer occur under certain terms and conditions. Such terms and conditions will be reflected in a Commission Minute Order.

B. Authority Approval and Acceptance of Transfer.

After a proposed Transfer is approved by the Commission, the Board of the Authority shall review any terms and conditions contained in the Minute Order.

C. Final Approval of Proposed Transfer by Authority.

02/02/05

If the Board finds that the proposed Transfer, as reflected in the Minute Order (including any terms and conditions identified therein by the Commission) is in the public interest and will help to fulfill the Authority's mission to improve mobility in the region, the Board may vote to accept the Transfer including the conditions set forth in the Minute Order. Such action will be taken at a regular or special meeting of the Board, and an opportunity for public comment will be provided prior to action by the Board.

D. Final Approval of Transfer.

Final approval of the proposed transfer shall be forwarded by the Commission to the governor for final approval.