



MUNICIPAL MAINTENANCE AGREEMENTS (MMA)

TxDOT Austin District



Table of Contents

1	Why a Municipal Maintenance Agreement?	3
2	MMA- Legal Foundation	4-5
3	MMA Facts	6
4	MMA Process	7

Why a Municipal Maintenance Agreement (MMA)

- As a newly incorporated City, why enter into an MMA?
 - The City now has exclusive domain, control and jurisdiction over the public streets within its corporate limits. TxDOT can "take back" responsibility for maintaining State roadways by signing an MMA that specifies which duties it will perform.
- As an incorporated City with an existing MMA, why renew?
 - Current MMAs date back to as far as the late 80s. The nature and function of these roadways within these MMAs have changed.
 - MMA agreements do not expire and remain in effect until they are superseded by a more current MMA.
 - With the advent of major corridor projects, such as IH-35 Mobility projects, this is the perfect opportunity to deliver what the City's envisions for State roadways of within their jurisdiction, to accurately characterize the assets requiring maintenance on these roadways, and clearly delineate maintenance responsibilities.
- What is the legal foundation of a MMA?
 - When a City incorporates, the city government becomes responsible for all the roads within their City limits, which includes the State numbered routes. This fact is stipulated in Chapter 311 of the Texas Transportation Code. The Transportation Code further stipulates in Chapter 221.002 that the city and the state may enter into an agreement that assigns liabilities and responsibilities for those roadways. The legal foundation for the MMA was established by Minute Order 58588.

- Chapter 311 of the Texas Transportation Code stipulates a City (the city government) becomes responsible for all the roads within their city limits, which includes the State numbered routes.

TRANSPORTATION CODE
SUBTITLE E. MUNICIPAL STREETS
CHAPTER 311. GENERAL PROVISIONS RELATING TO MUNICIPAL STREETS
SUBCHAPTER A. GENERAL AUTHORITY
Sec. 311.001. GENERAL AUTHORITY OF HOME-RULE MUNICIPALITY. (a) A home-rule municipality has exclusive control over and under the public highways, streets, and alleys of the municipality.
(b) The municipality may:
(1) control, regulate, or remove an encroachment or obstruction on a public street or alley of the municipality;
(2) open or change a public street or alley of the municipality; or
(3) improve a public highway, street, or alley of the municipality.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.
Sec. 311.002. GENERAL AUTHORITY OF GENERAL-LAW MUNICIPALITY. (a) A general-law municipality has exclusive control over the highways, streets, and alleys of the municipality.
(b) The municipality may:
(1) abate or remove an encroachment or obstruction on a highway, street, or alley;
(2) open, change, regulate, or improve a street; or
(3) put a drain or sewer in a street, prevent the obstruction of the drain or sewer, or protect the drain or sewer from encroachment or damage.
(c) To carry out its powers under this section, the municipality may:
(1) regulate or change the grade of land; and
(2) require that the grade of land be raised by filling an area.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.
Sec. 311.003. ADDITIONAL AUTHORITY OF TYPE A GENERAL-LAW MUNICIPALITY. The governing body of a Type A general-law municipality may:
(1) prevent an encroachment or obstruction on a sidewalk in the municipality;
(2) abate an encroachment or obstruction on a bridge, culvert, sidewalk, or crossway in the municipality;
(3) construct, regulate, or maintain a bridge, culvert, sidewalk, or crossway in the municipality;
(4) regulate the construction of a bridge, culvert, sewer, sidewalk, or crossway in the municipality;
(5) require a person to keep weeds, unclean matter, or trash from the street, sidewalk, or gutter in front of the person's premises; or
(6) require the owner of land to improve the sidewalk in front of the person's land.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.
Sec. 311.004. AUTHORITY OVER SIDEWALK IN HOME-RULE MUNICIPALITY. A home-rule municipality may:
(1) construct a sidewalk;
(2) provide for the improvement of a sidewalk or the construction of a curb under an ordinance enforced by a penal provision; or
(3) declare a defective sidewalk to be a public nuisance.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.
Sec. 311.005. MOVEMENT OF STRUCTURE ON STREET IN HOME-RULE MUNICIPALITY. A home-rule municipality may regulate the movement of a structure over or on a street of the municipality.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.
Sec. 311.006. AUTHORITY OF COUNTY TO IMPROVE STREET IN TYPE B GENERAL-LAW MUNICIPALITY. To facilitate travel on a street in a Type B general-law municipality, the commissioners court of a county may construct a bridge for or otherwise improve the street if:
(1) the street is a continuation of a public road of the county; and
(2) the governing body of the municipality consents.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.
Sec. 311.007. CLOSING OF STREET OR ALLEY BY HOME-RULE MUNICIPALITY. A home-rule municipality may vacate, abandon, or close a street or alley.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

- The Transportation Code further stipulates in Chapter 221.002 that the city and the state may enter into an agreement that assigns liabilities and responsibilities for those roadways.

TRANSPORTATION CODE
SUBTITLE B. STATE HIGHWAY SYSTEM
CHAPTER 221. GENERAL PROVISIONS
Sec. 221.001. DEFINITIONS. In this subtitle:
(1) "Highway" includes a tolled or nontolled public road or part of a tolled or nontolled public road and a bridge, culvert, building, or other necessary structure related to a public road.
(2) "Improvement" includes construction, reconstruction, maintenance, and the making of a necessary plan or survey before beginning construction, reconstruction, or maintenance.
(3) "State highway system" means the highways in this state included in the plan providing for a system of state highways prepared by the director under Section 201.103.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2005, 79th Leg., Ch. 281, Sec. 2.15, eff. June 14, 2005.
Sec. 221.002. AGREEMENTS WITH MUNICIPALITIES. The commission and the governing body of a municipality, including a home-rule municipality, may agree to:
(1) provide for the location, relocation, improvement, control, supervision, and regulation of a designated state highway in the municipality; and
(2) establish the respective liabilities and responsibilities of the commission and the municipality under the agreement.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.
Sec. 221.003. IMPROVEMENT OF STATE HIGHWAY SYSTEM. (a) Improvement of the state highway system with federal aid shall be made under the exclusive and direct control of the department and with appropriations made by the legislature out of the state highway fund.
(b) The department may improve the state highway system without federal aid either with or without county aid. Improvements made without federal aid must comply with Section 223.045.
(c) The department shall make or prepare any survey, plan, specifications, or estimate for an improvement of the state highway system if any part of the improvement will be made with federal aid.
(d) The commissioners court of a county may not directly control the making of an improvement of the state highway system unless the plan and specifications for the improvement have been approved by the director.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

MMA- Legal Foundation

- The legal foundation for the MMA was established by Minute Order 58588.

MINUTE ORDER

District No. _____ Page _____ of _____

WHEREAS, the State Highway Commission did, by Minute Order No. 20264, dated October 6, 1943, establish a general policy governing participation by the State Highway Department relative to designated State Highways within or through the corporate limits of municipalities; and

WHEREAS, the development of the Interstate and Defense Highway System and other controlled access highways has increased the State Highway Department's responsibilities and authority for maintenance of these routes in cities, by virtue of House Bill 179, 55th Legislature; and

WHEREAS, the State Highway Commission recognizes the need for uniform maintenance on other highways within municipalities of the State to adequately meet the rapidly expanding urban traffic requirements; and

WHEREAS, the Commission desires to continue its assistance in the maintenance of designated highways in cities as a cooperative effort, with duties set out in agreements between the cities and the State;

NOW, THEREFORE, IT IS ORDERED that those portions of the policy established by Minute No. 20264 which pertain to maintenance be modified and supplemented by provisions described hereunder:

The State Highway Departments duties in the maintenance of designated state highways, other than controlled access highways and highways in the congested or downtown sections of cities having a population in excess of 15,000 at the last available Federal census may include, and shall be limited to, those listed as follows:

MINUTE ORDER

District No. _____ Page _____ of _____

- The travelled surface and those things beneath such travelled surface necessary for the proper support of same under the vehicular loads encountered.
- Normal highway markings necessary for directing highway traffic in a safe and efficient manner.
- Assistance in sweeping and otherwise cleaning the pavement in municipalities having a population of 15,000 or less.
- Assistance in mowing and cleaning up litter in undeveloped areas normally defined as areas not having curb and gutter sections.
- Assistance in snow and ice control as availability of equipment and labor will allow.
- Assistance in maintenance of roadway ditches in undeveloped areas normally defined as those not having curb and gutter sections.

The State Highway Departments maintenance duties on other than controlled access highways in the congested or downtown sections of cities having a population in excess of 15,000 shall be limited to the installation and maintenance of route markers and destination signs for through traffic.

The State Highway Departments duties in the maintenance of its controlled access highways shall include the following:

- The travelled surface of the through lanes, ramps and frontage roads and those things beneath such travelled surface necessary for the proper support of same under vehicular loads encountered.

MINUTE ORDER

District No. _____ Page _____ of _____

- Mowing and litter clean-up within the outermost curbs of the frontage roads or the entire right of way width where no frontage roads exist and assistance in performing these operations between the right of way line and the outermost curb or crown line of the frontage roads in undeveloped areas.
- Sweeping and otherwise cleaning the through lanes, ramps, separation structures or roadways and frontage roads.
- Snow and ice control on the through lanes and ramps and assistance as the availability of equipment and labor will allow on the frontage roads and separation structures or roadways.
- All normal markings and signs necessary for the proper use of the facility and direction of traffic on the highway facility.
- All drainage facilities within the limits of the right of way.

FURTHER, any provisions of Minute Order No. 20264 in conflict herewith shall be superseded by this Minute. Other provision of Minute Order No. 20264 and other policies defining maintenance responsibilities, shall remain in full force and effect.

Submitted by: *J. Wall* (Title) Chief Engineer of Maintenance Operations
Examined and recommended by: *J. Boyer* Auditor State Highway Engineer
Chen State Highway Engineer

Approved: *[Signature]* Commissioner
[Signature] Commissioner
[Signature] Commissioner

Minute Number 58588
Date Passed OCT 28 66

1943-66 00-000

- The City is responsible for all aspects of roadway maintenance on state highways except for those parts that are specifically agreed to as being a state responsibility.
- The City requests the State to assist in the maintenance and operation of State highways.
- The Municipal Maintenance Agreement Form 1038 may not be altered in any way.
- Exhibits may be used to define maintenance responsibilities the State has agreed to “take back” and may include:
 - A map identifying state roadways within the city limits.
 - A list of State maintained roadway maintenance responsibilities and a list of City maintained maintenance responsibilities not specifically delineated as being the State’s responsibility for Non-controlled Access and Controlled Access Highways.
- Exhibits may also include:
 - Landscape plans & summary of the City’s responsibilities for landscaped areas on TxDOT roadways.
 - Filtration System Plans & summary of the City’s responsibilities for filtration systems on TxDOT roadways.
 - Plans & summary of the City’s responsibilities for miscellaneous City projects on TxDOT roadways.
 - Existing letter agreements, amendments, etc.

MMA Process

