

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on December 14, 2006 in Austin, Texas. The meeting opened at 9:02 a.m. with the following commissioners present:

**Texas Transportation Commission:**

Ric Williamson	Chair
John Johnson	Commissioner
Hope Andrade	Commissioner
Ted Houghton, Jr.	Commissioner

**Administrative Staff:**

Michael W. Behrens, Executive Director  
 Steve Simmons, Deputy Executive Director  
 Bob Jackson, General Counsel  
 Roger Polson, Executive Assistant to the Deputy Executive Director  
 Dee Hernandez, Chief Minute Clerk

Registration sheets listing others in attendance are on file with the Texas Department of Transportation Chief Minute Clerk.

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 4:48 p.m. on December 6, 2006, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

**ITEM 1. PUBLIC HEARING**

**Project Selection Process – Receive data, comments, views, and testimony concerning the commission's highway project selection process and the relative importance of the various criteria on which the commission bases its project selection decisions relating to the 2008 Unified Transportation Program**

The commission recognized commission secretary Carolyn Icard for 20 years of service with the Texas Department of Transportation.

**ITEM 2. Approval of Minutes of the November 16, 2006 regular meeting of the Texas Transportation Commission.**

Commissioner Houghton made a motion, seconded by Commissioner Andrade, and the commission approved the minutes of the November 16, 2006 regular meeting of the Texas Transportation Commission.

**ITEM 3. AVIATION**

**Approve funding for airport improvement projects at various locations (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Aviation Division Director Dave Fulton:

110769  
AVN

The Texas Department of Transportation (department) is authorized under Transportation Code, Chapter 21 and Chapter 22, to assist in the development and establishment of airports in the State of Texas.

The airports listed in Exhibit A are currently in need of improvements to preserve the airports or to meet standards. Due to the interest on the part of the airport sponsors, the department recommends that the improvements be funded.

On Thursday, November 9, 2006, a public hearing was held and no comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$7,604,067.

Note: Exhibit A on file with minute order clerk.

#### **ITEM 4. DISCUSSION ITEMS**

##### **a. Federal legislative priorities**

This item was presented by Government and Business Enterprises Division Director Coby Chase.

##### **b. Waiver of the requirement to pay a toll to use department toll projects for certain vehicles and classes of vehicles**

This item was presented by Texas Turnpike Authority Division Director Phillip Russell. The commission received comments from Austin Police Department Assistant Chief of Police David Carter; and Round Rock Police Department Lieutenant Ken Evans.

#### **ITEM 5. RECOMMENDATIONS TO THE LEGISLATURE**

**Approve commission recommendations to the Texas Legislature regarding potential statutory changes that would improve the operations of the department (MO)**

Commissioner Johnson made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Government and Business Enterprises Division Director Coby Chase:

110770  
GBE

The Texas Transportation Commission (commission) has authority over transportation policy development involving the state transportation system.

Transportation Code, Section 201.0545 authorizes the commission to issue a report to the legislature on legislative recommendations pertaining to the operations of the Texas Department of Transportation (department).

The department undertook an extensive effort starting at the end of 2005 to solicit input from within the agency, several interest groups and transportation organizations across the state, and individual commission members.

Included in this effort were frequent discussions with key members of the Texas Legislature with responsibility over transportation matters.

The Texas Legislature meets for its biennial session beginning January 9, 2007.

IT IS THEREFORE ORDERED that the commission adopts this report, attached as Exhibit A, in its entirety and that the chairman of the commission provide the report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of relevant legislative committees of the Texas Legislature.

Note: Exhibit A on file with minute order clerk.

**ITEM 6. PUBLIC TRANSPORTATION**

**a. Express the commission’s intention concerning the award of transportation development credits as match for eligible federal public transportation capital projects (MO)**

Commissioner Andrade made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Public Transportation Division Director Eric Gleason:

110771  
PTN

The Texas Transportation Commission (commission) recognizes that the federal transportation legislation known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, also known as SAFETEA-LU, provides increased federal funding for existing public transportation programs, as well as creating new programs.

The commission acknowledges that many public transportation providers are constrained between the issues of rising costs of providing public transportation services, and limited non-federal funds that may be used as the required local match for federal programs. These factors may lead public transportation providers to use their non-federal funds for public transportation operating expenses, instead of using those funds to match important capital project needs.

The commission further recognizes that state and federal law permits the substitution of transportation development credits as the required non-federal match for capital projects. On May 25, 2006, the commission passed Minute Order 110540, which adopted rules for the administration of transportation development credits in Texas.

The commission expresses its intention to consider the award of transportation development credits for Federal Transit Administration public transportation projects in two categories: (1) projects for which the department is the designated recipient and (2) projects administered by providers who receive state financial assistance from the department. The actual award of transportation development credits, at a later date, will promote public transportation capital infrastructure projects: fleet replacement, fleet expansion, maintenance facilities; and capital projects that support regional coordination.

Prior to award of transportation development credits, the commission will ensure that eligible projects referenced in this minute order comply with the commission’s policies, including the department’s goals to: reduce congestion, expand economic opportunity, enhance safety, improve air quality, and increase the value of transportation assets, in compliance with the department’s rules governing award of transportation development credits.

IT IS THEREFORE ORDERED by the commission that the executive director, or the director’s designee, is authorized to make known the commission’s intention to make available an estimated \$12.5 million in transportation development credits for federally funded projects, as described in this minute order and in accordance with applicable law.

The commission received comments from Texas Transit Association Executive Director Ben Herr.

b. Award federal §5304 planning funds to support continuation of coordinated regional public transportation planning (MO)

Commissioner Houghton made a motion, seconded by Commissioner Andrade and the commission approved the following minute order presented by Public Transportation Division Director Eric Gleason:

110772  
PTN

The Texas Transportation Commission (commission) desires to award funds to support the continued development of coordinated regional planning in public transportation.

Transportation Code, Chapter 455 assigns a broad spectrum of public transportation roles and missions to the Texas Department of Transportation (department).

Transportation Code, Chapter 456 authorizes the commission to administer funds appropriated for public transportation.

Under §5304 of the Federal Transit Code, the Federal Transit Administration provides the department with funds to be used for planning and coordination projects.

IT IS THEREFORE ORDERED by the commission that the executive director, or the director’s designee, is hereby authorized to proceed with the allocation of \$1.38 million in federal §5304 funds as listed in Exhibit A, notify the entities in writing of the commission’s approval, and enter the necessary contracts.

Note: Exhibit A on file with minute order clerk.

c. Various Counties – Award federal §5311(f), Nonurbanized Area Formula Program, funding for intercity bus projects (MO)

Commissioner Andrade made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Public Transportation Division Director Eric Gleason:

110773  
PTN

The Texas Transportation Commission (commission) takes special note of its designation by the governor as the administrating agency for the Federal Transit Administration (FTA) grant program, “Formula Grant Program for Areas Other than Urbanized” (49 U.S.C. §5311), in a letter dated October 4, 2005; and further acknowledges that federal program regulations require the Texas Department of Transportation (department) to ensure that these grant funds are distributed fairly and equitably within the state.

49 USC §5311(f) provides that 15 percent of the annual apportionment be set-aside for intercity bus transportation projects unless the governor, or his designee, certifies that the intercity bus service needs of the state are being adequately met.

On March 17, 2006, the department published a Request for Proposals for intercity bus projects in the *Texas Register*. On July 27, 2006 the commission awarded \$2,982,929 by Minute Order 110612, leaving a balance of \$1,054,480. The commission finds that additional projects are eligible for funding and now desires to award funds as listed in Exhibit A. Project amounts listed under Phase I will be funded from the current available balance (\$1,054,480). Project amounts listed under Phases II through V represent later phases of projects, as submitted by project sponsors, and will be funded with future federal appropriations.

Transportation Code, Chapter 455 assigns a broad spectrum of public transportation roles and missions to the department.

Transportation Code, Chapter 456 authorizes the commission to administer funds appropriated for public transportation.

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the allocations as listed in Exhibit A, submit the necessary state application to FTA, and enter into the necessary contracts in accordance with the priorities established in this minute order.

Note: Exhibit A on file with minute order clerk.

The commission received comments from Concho Valley Transit District Director of Transportation Rob Stephens; and Texas Bus Association Executive Director Jerry Prestidge.

**d. Various Counties – Award state funds to public transportation providers for local match on Job Access Reverse Commute (JARC) border colonias projects (MO)**

Commissioner Andrade made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Public Transportation Division Director Eric Gleason:

110774  
PTN

The Texas Transportation Commission (commission) desires to award state funds to project recipients to provide for the local fund match for public transportation services.

On August 24, 2006, the commission passed Minute Order 110646 awarding \$2,379,023 to various organizations for Texas colonias Job Access Reverse Commute (JARC) grants.

The commission recognizes the importance of the success of the JARC projects for the colonias citizens and finds that the projects listed in Exhibit A are eligible for funding.

Transportation Code, Chapter 455 assigns a broad spectrum of public transportation roles and missions to the Texas Department of Transportation.

Transportation Code, Chapter 456 authorizes the commission to administer funds appropriated for public transportation.

IT IS THEREFORE ORDERED that the executive director or the director's designee is directed to proceed with the allocations as listed in Exhibit A, and enter into the necessary contracts in accordance with the priorities as established in this minute order.

Note: Exhibit A on file with minute order clerk.

**ITEM 7. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:**

**a. Proposed Adoption**

**(1) Chapter 2 – Environmental Policy (MO)**

**New §2.67, Landscape Partnership Program (Public Participation Programs)**

Commissioner Johnson made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Design Division Director Mark Marek:

110775  
DES

The Texas Transportation Commission (commission) finds it necessary to propose new §2.67, relating to the landscape partnership program, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed new section, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the new §2.67 is proposed for adoption and is authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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.

Note: Exhibits A and B on file with minute order clerk.

**b. Final Adoption**

**(1) Chapter 2 – Environmental Policy (MO)**

**Repeal of Subchapter A, Comprehensive Policy on the Environment and §2.40, §2.41, §2.42, §2.43, §2.45, §2.46, §2.47, §2.49, and §2.50 (Environmental Review and Public Involvement for Transportation Projects); and New Subchapter A, Environmental Review and Public Involvement for Transportation Projects**

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Environmental Division Director Dianna Noble:

110776  
ENV

The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of §§2.1-2.4, §§2.40 – 2.43, §§2.45 – 2.47, §2.49, and §2.50, relating to environmental policy, codified under Title 43, Texas Administrative Code, Chapter 2, Subchapters A and C, and to propose new §§2.1 – 2.20 relating to environmental policy, to be codified under Title 43, Texas Administrative Code, Chapter 2, Subchapter A.

The preamble and the adopted repeals and new sections, attached to this minute order as Exhibits A - D, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the repeal of §§2.1-2.4, §§2.40 – 2.43, §§2.45 – 2.47, §2.49, and §2.50, and the new §§2.1 – 2.20 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.

Note: Exhibits A through D on file with minute order clerk.

**(2) Chapter 8 – Distribution of Motor Vehicles (MO)**

**New §8.87, Effect of Criminal Conduct of Applicants and Licensees on Licensure (Licenses, Generally)**

This item was deferred.

The commission received comments from G E Fleet Services Attorney William Daniel; TADA Chief Counsel Karen Phillips; and Gulf States Toyota Managing Counsel Joseph Herbert.

**(3) Chapter 9 – Contract Management (MO)**

**Amendments to §9.53, Disadvantaged Business Enterprise (DBE) Program (Business Opportunity Programs)**

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Business Opportunity Program Office Transportation Engineer Elizabeth Boswell:

110777  
BOP

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §9.53, relating to the disadvantaged business enterprise program, 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 at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §9.53 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.

Note: Exhibits A and B on file with minute order clerk.

**(4) Chapter 18 – Motor Carrier (MO)**

**Amendments to §18.2, Definitions (General Provisions), §18.13, Application for Motor Carrier Registration, §18.14, Expiration and Renewal of Commercial Motor Vehicle Registration, §18.16, Insurance Requirements (Motor Carrier Registration), and §18.32, Motor Carrier Records (Records and Inspections)**

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Motor Carrier Division Director Carol Davis:

110778  
MCD

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §18.2, §18.13, §18.14, §18.16, and §18.32, relating to insurance requirements for motor carriers, 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 - D, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to § 18.2, §18.13, §18.14, §18.16, and §18.32 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.

Note: Exhibits A through D on file with minute order clerk.

The commission received comments from East End Transfer & Storage Inc. President April Surratt; and The Apartment Movers President Rod Johnson.

**(5) Chapter 25 – Traffic Operations (MO)**

**Amendments to §25.401, Definitions and §25.406, Major Shopping Area Eligibility (Information Logo Sign and Tourist-Oriented Directional Sign Program)**

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Traffic Operations Division Director Carlos Lopez:

110779  
TRF

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §25.401 and §25.406, relating to major shopping area eligibility, 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 at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §25.401 and §25.406 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.

Note: Exhibits A and B on file with minute order clerk.

**(6) Chapter 28 – Oversize and Overweight Vehicles and Loads (MO)**

Amendments to §28.14, Manufactured Housing, and Industrialized Housing and Building Permits (General Permits), §28.41, General Requirements (Permits for Oversize and Overweight Oil Well Related Vehicles), §28.62, Single Trip Mileage Permits and §28.63, Quarterly Hubometer Permits (Permits for Oversize and Overweight Unladen Lift Equipment Motor Vehicles), §28.101, Responsibilities and §28.102, Permit Issuance Requirements and Procedures (Chambers County Permits)

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Motor Carrier Division Director Carol Davis:

110780  
MCD

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §28.14, §28.41, §28.62, §28.63, §28.101, and §28.102, relating to oversize and overweight vehicles and loads, 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 - E, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §28.14, §28.41, §28.62, §28.63, §28.101, and §28.102 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.

Note: Exhibits A through E on file with minute order clerk.

**ITEM 8. TRANSPORTATION PLANNING AND PROGRAMMING**

**a. Approve the Gulf Intracoastal Waterway report (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Transportation Planning and Programming Division Director Jim Randall:

110781  
TPP

Transportation Code, Chapter 51 (Texas Coastal Waterway Act), designates the state to act as the nonfederal sponsor of the main channel of the Gulf Intracoastal Waterway (GIWW) from the Sabine River to the Brownsville Ship Channel.

Transportation Code, Section 51.007 requires the Texas Transportation Commission (commission) to continually evaluate the impact of the GIWW on the state and prepare a report for each regular session of the Texas Legislature. The evaluation shall include:

- (1) an assessment of the importance of the GIWW that includes identification of its direct and indirect beneficiaries;
- (2) identification of principal problems and possible solutions to those problems that includes estimated costs, economic benefits and environmental effects;
- (3) an evaluation of the need for significant modifications to the GIWW; and

- (4) specific recommendations for legislative action that the commission believes are in the best interest of the state in carrying out the state's duties under this chapter.

The report of the evaluation shall be published and presented to each regular session of the Texas Legislature.

The Texas Department of Transportation has completed the evaluation and developed the report for the period of Fiscal Years 2005-2006.

IT IS THEREFORE ORDERED that the 2005-2006 Gulf Intracoastal Waterway Report, as shown in Exhibit A, is accepted by the commission and should be presented to the members of the 80<sup>th</sup> Texas Legislature.

Note: Exhibit A on file with minute order clerk.

**b. Newton County – Authorize CONSTRUCT authority for a bridge replacement project on CR 1114 (Clarktown Road) over Big Sandy Creek, in Category 6, Structures Replacement and Rehabilitation Program, of the 2007 Statewide Preservation Program (MO)**

Commissioner Johnson made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Transportation Planning and Programming Division Director Jim Randall:

110782  
TPP

In NEWTON COUNTY (county), a bridge on COUNTY ROAD 1114 (Clarktown Road) over Big Sandy Creek needs to be replaced.

The bridge is critically and structurally deficient and was recently closed following a flood event. The bridge is on a route that is essential to local county residents and industries. The county has expressed its desire for replacement of the bridge as soon as possible.

To provide the citizens of the county with a safe and efficient transportation system, it is necessary to advance this bridge replacement project to CONSTRUCT authority.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director is authorized to enter into any necessary agreements and to proceed in the most feasible and economical manner with the replacement of the off-system bridge located on County Road 1114 over Big Sandy Creek, at a total estimated construction cost of \$300,000, to be authorized in CONSTRUCT authority in Category 6, Structures Replacement and Rehabilitation Program, of the 2007 Statewide Preservation Program.

**ITEM 9. PASS-THROUGH TOLLS**

**a. Authority to Negotiate Agreement**

Lubbock County – City of Lubbock – Authorize the executive director to negotiate a pass-through toll agreement with the City of Lubbock for improvements to Loop 289, FM 2255 and the Loop 289/Erskine Street interchange (MO)

Commissioner Johnson made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Assistant Executive Director for Engineering Operations Amadeo Saenz:

110783  
FIN

On October 19, 2006, the City of Lubbock (city) submitted a proposal for a pass-through toll agreement. The city's proposal provided for improvements to Loop 289 and FM 2255.

Section 222.104(b), Transportation Code, authorizes the Texas Department of Transportation (department) to enter into an agreement with a public or private entity that provides for the payment of pass-through tolls to the public or private entity as reimbursement for the construction, maintenance, or operation of a toll or non-toll facility on the state highway system by the public or private entity. A pass-through toll is a per-vehicle fee or a per-vehicle-mile fee that is determined by the number of vehicles using a facility.

The Texas Transportation Commission (commission) previously adopted rules, codified as 43 TAC §§5.51-5.59, that prescribe the policies and procedures governing the department's implementation of Section 222.104(b), Transportation Code.

After considering factors described by §5.54 of the commission's rules, it is determined that: (1) the proposal has the potential to provide significant financial benefits to the state; (2) the city's proposal indicated broad support for the projects and did not identify any opposition; (3) the projects are not in the current UTP, but they are in the Lubbock Metropolitan Planning Organization (MPO) Transportation Plan; (4) the projects demonstrate the potential to relieve congestion on the state highway system, and the extent of the relief to the system will be quantified and documented in consultation with the Lubbock MPO; (5) potential benefits to regional air quality must be quantified and documented by the Lubbock MPO through the air quality conformity process in accordance with all state and federal regulations; (6) the projects are compatible with existing and planned transportation facilities; and (7) the city lacks significant experience developing highway projects, but has participated in numerous street projects with the district and the district will be represented on the project selection team.

Before the projects in this proposal are planned, developed, or constructed using funds administered by the department, the projects: (1) must be included in the department's UTP, thereby identifying committed funding for each project; (2) prior to construction, must be included in the department's Statewide Transportation Improvement Program; and (3) will be subject to any and all applicable planning and environmental processes and approvals as mandated by state and federal regulations regarding such matters.

IT IS THEREFORE ORDERED that the executive director or his designee is authorized to negotiate a pass-through toll agreement with the City of Lubbock. If the negotiations are successful, the executive director shall submit to the commission a summary of the final terms of the agreement so that the commission may consider final approval under §5.56 of its rules.

The commission received comments from City of Lubbock Mayor David Miller.

**b. Authority to Execute Agreement**

**Washington County** – Authorize the executive director to execute a pass-through toll agreement with the City of Brenham for improvements to US 290 and associated roads from FM 577 to the Burlington Northern Santa Fe Railroad line (MO)

Commissioner Johnson made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Assistant Executive Director for Engineering Operations Amadeo Saenz:

110784  
FIN

On August 24, 2006, the City of Brenham (city) submitted a proposal for a pass-through toll agreement. The proposal provided for the city to construct improvements to US 290 and associated access roads from FM 577 to the Burlington Northern Santa Fe Railway line.

In accordance with Section 222.104(b), Transportation Code, the Texas Transportation Commission (commission) granted preliminary approval on October 26, 2006 by Minute Order 110723 authorizing the Texas Department of Transportation (department) to enter into an agreement with the city that provides for the payment of pass-through tolls to the city as reimbursement for the design, development, financing, construction, maintenance, or operation of this facility on the state highway system by the city. A pass-through toll is a per-vehicle fee or a per-vehicle-mile fee that is determined by the number of vehicles using a facility.

The commission previously adopted rules, codified as 43 TAC §§5.51-5.59, that prescribe the policies and procedures governing the department's implementation of Section 222.104(b), Transportation Code.

The department and the city have agreed to a reimbursement through pass-through tolls of \$15 million for the construction of the projects in the proposal. The reimbursement rate will be 12.5 cents per vehicle mile. The minimum amount to be reimbursed in any year with all projects open to traffic is \$2.5 million and the maximum amount per year will be \$3.75 million. The agreement will expire once the total amount of that agreement has been reimbursed. The projects will be authorized and reimbursed from Strategic Priority funds.

Before the projects in this proposal are planned, developed, or constructed using funds administered by the department, the projects: (1) must be included in the department's UTP, thereby identifying committed funding for each project; (2) prior to construction, must be included in the department's Statewide Transportation Improvement Program; and (3) will be subject to any and all applicable planning and environmental processes and approvals as mandated by state and federal regulations regarding such matters.

IT IS THEREFORE ORDERED that the executive director or his designee is authorized to execute a pass-through toll agreement with the City of Brenham, on the improvements to US 290 and associated access roads from FM 577 to the Burlington Northern Santa Fe Railway line, in accordance with the negotiated terms and such other terms the department determines are necessary and to amend Category 12, Strategic

Priority, of the 2006 Statewide Mobility Program (SMP), approved by Minute Order 110266, dated October 27, 2005, to authorize the projects included in the executed agreement.

The commission received comments from Washington County Judge Dorothy Morgan; and City of Brenham Mayor Milton Tate.

c. Status report on El Paso inner pass-through toll project

This report was presented by Assistant Executive Director for Engineering Operations Amadeo Saenz.

**ITEM 10. STATE INFRASTRUCTURE BANK**

Gregg County – Liberty City Water Supply Corporation – Consider granting preliminary approval of an application from the Liberty City Water Supply Corporation to borrow \$568,744 with a 20 percent contingency from the State Infrastructure Bank to pay for utility relocation along SH 135 from I-20 northwest to Susan Road in Liberty City (MO)

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Finance Division Deputy Director John Munoz:

110785  
FIN

The Liberty City Water Supply Corporation (corporation) submitted an application for financial assistance from the State Infrastructure Bank (SIB) under Title 43 Texas Administrative Code, Chapter 6 (rules). The application satisfied all requirements of the rules, including passage by the corporation of a resolution authorizing submission of the application to the department. The corporation intends to use the financial assistance received from the SIB to pay for utility adjustments made necessary by the expansion of SH 135 from a two-lane to a four-lane divided highway from I-20, northwest to Susan Road in Liberty City (project).

The intended use of the financial assistance conforms to the purposes of the SIB. The present and projected financial condition of the SIB is sufficient to cover the requested financial assistance for the project.

Based on department review and analysis of the application, the commission makes the following findings: 1) the corporation has offered its utility systems revenues as security to assure likely repayment of the financial assistance; 2) the project is consistent with the Statewide Transportation Plan; 3) the project is listed in the 2004-2006 Statewide Transportation Improvement Program and is consistent with the State Implementation Plan; 4) the project will improve both the safety and efficiency of state transportation systems; and 5) the repayment of the financial assistance under negotiated terms will expand the availability of funding for other transportation projects and reduce direct state costs.

NOW, THEREFORE, IT IS DETERMINED that the application for SIB financial assistance submitted by the Liberty City Water Supply Corporation meets the requirements of commission rules, and in accordance with those rules and applicable law,

the commission grants preliminary approval of the application to borrow \$568,744.47 with a 20 percent contingency from the State Infrastructure Bank, and directs the executive director to commence negotiations and other actions authorized and required by its rules.

**ITEM 11. FINANCE**

**a. Accept the audited financial statements of the Texas Mobility Fund as required by the governing master resolution (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Finance Division Deputy Director John Munoz:

110786  
FIN

Article III, Section 49-k of the Texas Constitution created the Texas Mobility Fund (Mobility Fund) within the treasury of the State of Texas (state) to be administered by the Texas Transportation Commission (commission) as a revolving fund to (i) provide a method of financing the construction, reconstruction, acquisition, and expansion of state highways, including costs of any necessary design and costs of acquisition of rights of way, as determined by the commission in accordance with standards and procedures established by law and (ii) provide participation by the state in the payment of a portion of the costs of constructing and providing publicly-owned toll roads and other public transportation projects in accordance with the procedures, standards, and limitations established by law.

Transportation Code, Chapter 201 and other applicable law authorizes the commission to issue obligations secured by and payable from a pledge of and lien on all or part of the moneys in the Mobility Fund in the name and on behalf of the state and the Texas Department of Transportation (department) in multiple series and issues from time to time for one or more of the following purposes: (i) to pay all or part of the costs of constructing, reconstructing, acquiring, and expanding state highways, including any necessary design and acquisition of rights of way, in the manner and locations determined by the commission that, according to conclusive findings of the commission, have an expected useful life, without material repair, of not less than 10 years; (ii) to provide participation by the state in the payment of part of the costs of constructing and providing publicly owned toll roads and other public transportation projects that are determined by the commission to be in the best interests of the state in its major goal of improving the mobility of the residents of the state; (iii) to create debt service reserve accounts; (iv) to pay interest on obligations for a period of not longer than two years; (v) to refund or cancel outstanding obligations; and (vi) to pay the commission's costs of issuance. The commission also authorized the execution of a Master Resolution and two supplemental Master Resolutions (Resolution) to secure general obligation bonds for the Mobility Fund Revenue Financing Program. The Resolution dated May 4, 2005 prescribes the terms, provisions and covenants related to the issuance of general obligation bonds.

Under Section 5 (j) of the Resolution, the commission covenants to prepare, or cause to be prepared, no more than 120 days after the last day of each fiscal year, a

financial report of the Mobility Fund. The financial report is required to be prepared in accordance with generally accepted accounting principles and certified by a Certified Public Accountant. Audited financial statements, contained in the attached Exhibit A, have been prepared for the year ended August 31, 2006 and for the period from inception through August 31, 2005.

IT IS THEREFORE ORDERED by the commission that the audited financial statements of the Mobility Fund, attached as Exhibit A, are accepted.

Note: Exhibit A on file with minute order clerk.

**b. Travis and Williamson Counties - Accept the audited financial statements of the Central Texas Turnpike System, as required by the indenture of trust governing the obligations issued for the 2002 Project of the system (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Finance Division Deputy Director John Munoz:

110787  
FIN

Transportation Code, Chapter 228 and other applicable law authorizes the Texas Transportation Commission (commission) to issue toll project revenue bonds, bond anticipation notes, and other obligations to finance toll projects on the state highway system, and to enter into trust agreements and indentures of trust governing matters relating to the issuance of such obligations.

The commission issued toll project revenue bonds and other obligations to finance a portion of the costs of the Central Texas Turnpike System (system), a toll project composed initially of SH 130 (Segments 1 through 4), SH 45 North, and Loop 1 project elements (2002 Project). The commission also authorized the execution of an indenture of trust and four supplemental indentures to secure revenue bonds and other obligations issued for the 2002 Project. The Indenture of Trust dated July 15, 2002 (indenture) prescribes the terms, provisions and covenants related to the issuance of toll project revenue bonds and obligations to finance a portion of the costs of the 2002 Project.

Under Section 712 of the indenture, the commission covenants to prepare, or cause to be prepared, no more than 120 days after the last day of each fiscal year, a financial report of the results of operations of the system for such fiscal year. The financial report is required to be certified by a certified public accountant, and contain an audited balance sheet, an audited statement of operations, and an audited statement of cash flows for such fiscal year. Audited financial statements, contained in the attached Exhibit A, have been prepared for the fiscal years ended August 31, 2006 and August 31, 2005.

IT IS THEREFORE ORDERED by the commission that the audited financial statements of the system, attached as Exhibit A, is accepted.

Note: Exhibit A on file with minute order clerk.

**ITEM 12. RIGHT OF WAY**

**a. Travis County – Authorize the negotiation of options to purchase for advance acquisition of right of way for I-35 in the city of Austin (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Right of Way Division Director John Campbell:

110788  
ROW

In TRAVIS COUNTY, a project has been proposed to improve INTERSTATE 35, from north of 51<sup>st</sup> Street to south of Martin Luther King Boulevard in the city of Austin, a distance of approximately 2.8 miles. This project will widen the existing interstate highway facility.

The Texas Transportation Commission (commission) finds that use of options to acquire property in connection with the I-35 project may reduce the time required for acquisition of right of way and can be economically beneficial to the state by either establishing the purchase price at current market value as of the date of the option contract or establishing a methodology for determining a purchase price at the time the option is exercised without the necessity for condemnation, and/or agreeing to restrictions on the owner's future development and improvement of the property. Successful negotiation of options for this project will help preserve the transportation corridor and benefit both the public and land owners along the proposed route.

Although construction of the project is not yet authorized and no final determination has been made on the alignment of the project, preserving the transportation corridor for completion of the I-35 project is essential and urgent, as there is significant risk of impending commercial, industrial and residential development.

Transportation Code, §201.103 authorizes the commission to plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads as well as toll road projects. Transportation Code, §§203.051 and 203.052 authorize the commission to acquire an interest in real property that the commission determines is necessary or convenient to a state highway or toll road project, including property necessary or convenient to protect a state highway or toll road project or to accomplish any other purpose related to the project location, construction, improvement, maintenance, beautification, preservation, or operation.

Transportation Code, §202.112 authorizes the commission to purchase an option to acquire property for possible use in, or in connection with, a transportation facility before a final decision has been made as to whether the transportation facility will be located on that property.

IT IS THEREFORE ORDERED by the commission that the Austin district engineer is authorized to negotiate with property owners along the proposed route of I-35 and execute option contracts for the purchase of property of a size and in a location as is reasonably related to the possible future design and alignment of such transportation facility, to expend funds for option fee payments, surveys, title examinations, appraisals and other expenses reasonably necessary to purchase the options, and to exercise the options and expend funds for acquisition of the properties.

b. Travis County – Authorize the negotiation of options to purchase for advance acquisition of right of way for US 290 East from east of SH 130 to east of FM 1100 (MO)

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Right of Way Division Director John Campbell:

110789  
ROW

In TRAVIS COUNTY, a project has been proposed to improve US 290, a proposed toll facility, from east of SH 130 to east of FM 1100. This project will widen and improve this highway facility and alleviate congestion and improve traffic flow in the Austin area and the surrounding regions.

The Texas Transportation Commission (commission) finds that use of options to acquire property in connection with the US 290 project may reduce the time required for acquisition of right of way and can be economically beneficial to the state by either establishing the purchase price at current market value as of the date of the option contract or establishing a methodology for determining a purchase price at the time the option is exercised without the necessity for condemnation, and/or agreeing to restrictions on the owner’s future development and improvement of the property. Successful negotiation of options for this project will help preserve the transportation corridor and benefit both the public and land owners along the proposed route.

Although construction of the project is not yet authorized and no final determination has been made on the alignment of the project, preserving the transportation corridor for completion of the US 290 project is essential and urgent, as there is significant risk of impending commercial, industrial and residential development.

Transportation Code, §201.103 authorizes the commission to plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads as well as toll road projects. Transportation Code, §§203.051 and 203.052 authorize the commission to acquire an interest in real property that the commission determines is necessary or convenient to a state highway or toll road project, including property necessary or convenient to protect a state highway or toll road project or to accomplish any other purpose related to the project location, construction, improvement, maintenance, beautification, preservation, or operation.

Transportation Code, §202.112 authorizes the commission to purchase an option to acquire property for possible use in, or in connection with, a transportation facility before a final decision has been made as to whether the transportation facility will be located on that property.

IT IS THEREFORE ORDERED by the commission that the Austin district engineer is authorized to negotiate with property owners along the proposed route of US 290 and execute option contracts for the purchase of property of a size and in a location as is reasonably related to the possible future design and alignment of such transportation facility, to expend funds for option fee payments, surveys, title examinations, appraisals and other expenses reasonably necessary to purchase the options, and to exercise the options and expend funds for acquisition of the properties.

c. **Waller County** – Authorize the negotiation of options to purchase for advance acquisition of right of way for a sight distance protection project on FM 362 at FM 529 (MO)

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Right of Way Division Director John Campbell:

110790  
ROW

In WALLER COUNTY, a project has been proposed to improve FM 362, from 570 feet south of FM 529 intersection to 570 feet north east of FM 529 intersection, a distance of approximately 0.2 miles. This project will ensure that adequate sight distance is preserved and maintained for the safe operation of the intersection of FM 362 and FM 529.

The Texas Transportation Commission (commission) finds that use of options to acquire property in connection with the FM 362 project may reduce the time required for acquisition of right of way and can be economically beneficial to the state by either establishing the purchase price at current market value as of the date of the option contract or establishing a methodology for determining a purchase price at the time the option is exercised without the necessity for condemnation, and/or agreeing to restrictions on the owner's future development and improvement of the property. Successful negotiation of options for this project will help preserve the transportation corridor and benefit both the public and land owners along the proposed route.

Although construction of the project is not yet authorized and no final determination has been made on the alignment of the project, preserving the transportation corridor for completion of the FM 362 project is essential and urgent, as there is significant risk of impending commercial, industrial and residential development.

Transportation Code, §201.103 authorizes the commission to plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads as well as toll road projects. Transportation Code, §§203.051 and 203.052 authorize the commission to acquire an interest in real property that the commission determines is necessary or convenient to a state highway or toll road project, including property necessary or convenient to protect a state highway or toll road project or to accomplish any other purpose related to the project location, construction, improvement, maintenance, beautification, preservation, or operation.

Transportation Code, §202.112 authorizes the commission to purchase an option to acquire property for possible use in, or in connection with, a transportation facility before a final decision has been made as to whether the transportation facility will be located on that property.

**IT IS THEREFORE ORDERED** by the commission that the Houston district engineer is authorized to negotiate with property owners along the proposed route of FM 362 within the proposed limits set out above and execute option contracts for the purchase of property of a size and in a location as is reasonably related to the possible future design and alignment of such transportation facility, to expend funds for option fee payments, surveys, title examinations, appraisals and other expenses reasonably necessary to purchase the options, and to exercise the options and expend funds for acquisition of the properties.

**ITEM 13. BUILDING CONSTRUCTION**

**Rockwall County – Dallas Northeast Area Engineer/Maintenance Facility – Authorize the Texas Department of Transportation to enter into an agreement with the top ranked design-build firm offering the best value to the state to design and construct an area engineer and maintenance facility in Garland, on property owned by the department in exchange for existing properties and, if necessary, capital funding in an amount sufficient to complete the project (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Maintenance Division Director Zane Webb:

110791  
MNT

Transportation Code, Section 201.1055, authorizes agreements with private entities for the acquisition, design, construction, or renovation of buildings for the Texas Department of Transportation (department) by various methods. The methods include the exchange of existing department owned property and improvements with a private entity in return for the design and construction of a building or other facility required to support department operations on department owned property.

Pursuant to this authority, Minute Order 110592, authorized the department to select a qualified private entity to design, develop, and construct a department area engineer and maintenance facility in exchange for the existing Rockwall maintenance facility. Any difference in value between the proposed new facility and department property to be exchanged will be provided from the Maintenance Division’s budget to the extent funds are available (partial capital funding). The construction of a new facility to the latest standards of the department will benefit the traveling public and the department.

Upon completion of the new facility, the department’s existing facility, located at 901 East I-30, Rockwall, Rockwall County, with an appraised value of \$1,304,350, will no longer be needed for the purposes for which it was acquired. A metes and bounds description of the property is attached as Exhibit A.

The new area engineer and maintenance facility will be constructed on department property located at 1851 SH 66 in the city of Garland, Dallas County, Texas, more particularly described by metes and bounds in Exhibit B.

The department proposes to negotiate and finalize a Development and Exchange Agreement with the top selected private entity, Preston Engineering and Construction, Inc. The cost for the new facility is based on the best value to the department, at a total not to exceed guaranteed maximum price of \$3.8 million, for site development, professional design services, construction cost, and all associated costs for the new facility.

IT IS THEREFORE ORDERED by the commission that the determination that the proposal submitted by Preston Engineering and Construction, Inc., provided the apparent best value to the department is approved, and the department is authorized and directed to commence and complete discussions necessary to finalize the terms and documents concerning the Development and Exchange Agreement. This allows the

exchange of the existing Rockwall maintenance facility valued at \$1,304,350, with partial capital funding estimated at \$2,495,650, for a total not to exceed guaranteed maximum price of \$3.8 million.

Note: Exhibits A and B on file with minute order clerk.

#### **ITEM 14. CONTRACTS**

##### **a. Award or Reject Highway Improvement Contracts**

##### **(1) Highway Maintenance and Department Building Construction (see attached itemized list) (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order rejecting Project No. RMC 6150-49-001 in Tarrant County and CBC 4704-00-556 in Travis County, as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

110792  
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for maintenance of the State Highway System, which were publicly opened and read on December 5 and 6, 2006.

Pursuant to cited code provisions highway maintenance contract bids on a project may be accepted or rejected, but if accepted must be awarded to the lowest bidder.

An award is conditional in the event it is subject to Federal Highway Administration concurrence, third party funding or concurrence, and other conditions listed in the contract.

The department recommends that the Texas Transportation Commission (commission) respectively award to the lowest bidder or reject, as indicated, those highway maintenance and department building construction contracts, with an engineer's estimated cost of \$300,000 or more, identified on attached Exhibit A to this order.

IT IS THEREFORE ORDERED by the commission that the contracts described in Exhibit A be and are hereby respectively awarded to the lowest bidder or rejected as indicated therein.

If a contractual requirement of award is not satisfied within the prescribed time limit, including any extension of time allowed by the executive director or the director's designee, by reason of the action or inaction of the successful low bidder on any contract, including, but not limited to, disadvantaged business/historically underutilized business participation, the contract is automatically in default and the executive director is authorized and directed to retain and deposit the related contract proposal guaranty to the credit of the State Highway Fund and to readvertise that project for competitive bids at the earliest practical subsequent date.

If a condition of award is not satisfied, including, but not limited to, reason of nonconcurrence of the Federal Highway Administration, the failure of a third party to fund or concur, or failure to meet other conditions in the contract, the respective award is voided and the department will return the bid guaranty.

Note: Exhibit A on file with minute order clerk.

**(2) Highway and Transportation Enhancement Building Construction** (see attached itemized list) (MO)

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order rejecting Project No. IM 0353(257) in Williamson County, as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

110793  
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for improvement of the State Highway System, which were publicly opened and read on December 5 and 6, 2006 as shown on Exhibit A.

Pursuant to cited code provisions highway improvement contract bids on a project may be accepted or rejected, but if accepted must be awarded to the lowest bidder.

An award is conditional in the event it is subject to Federal Highway Administration concurrence, third party funding or concurrence, and other conditions listed in the contract.

The department recommends that the commission respectively award to the lowest bidder or reject, as indicated, those highway and transportation enhancement building construction contracts identified on attached Exhibit A to this order.

IT IS THEREFORE ORDERED by the commission that the contracts described in Exhibit A be and are hereby respectively awarded to the lowest bidder or rejected as indicated therein.

If a contractual requirement of award is not satisfied within the prescribed time limit, including any extension of time allowed by the executive director or the director's designee, by reason of the action or inaction of the successful low bidder on any contract, including, but not limited to, disadvantaged business/historically underutilized business participation, the contract is automatically in default and the executive director is authorized and directed to retain and deposit the related contract proposal guaranty to the credit of the State Highway Fund and to readvertise that project for competitive bids at the earliest practical subsequent date.

If a condition of award is not satisfied, including, but not limited to, reason of nonconcurrence of the Federal Highway Administration, the failure of a third party to fund or concur, or failure to meet other conditions in the contract, the respective award is voided and the department will return the bid guaranty.

Note: Exhibit A on file with minute order clerk.

**b. Titus County – Project RMC 6151-82-001. Award of maintenance contract to second lowest bidder** (MO)

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Maintenance Division Director Zane Webb.

110794  
MNT

Project RMC 6151-82-001 (Mowing Right of Way, Tract 7) was let on November 8, 2006 in the Atlanta District. Perry M. West was the low bidder but failed to execute the contract. The second lowest bidder, Langford Contractors, has indicated in writing that it is willing to perform the work at the unit bid prices set forth in the lowest bid.

Section 221.0041 of the Transportation Code allows the Texas Transportation Commission (commission), under certain conditions, to award a maintenance contract of less than \$300,000 to the second lowest bidder when the lowest bidder does not execute a contract.

Title 43, Texas Administrative Code §9.17(d) allows the commission to accept the withdrawal of the lowest bid and award the contract to the second lowest bidder on the recommendation of the executive director when the executive director determines that the second lowest bidder is willing to perform the work at the unit bid prices of the lowest bidder, the unit bid prices of the lowest bidder are reasonable, and delaying award of the contract may result in significantly higher unit bid prices.

The memorandum attached as Exhibit A to this minute order and incorporated in this order by reference contains the executive director's recommendation and written determination, required by 43 TAC §9.17(d), that the contract is eligible for award to the second lowest bidder in accordance with the law and the rules.

The commission concurs with the executive director's determinations as set forth in attached Exhibit A.

IT IS THEREFORE ORDERED by the commission that Perry M. West be allowed to withdraw its bid for the contract for Project RMC 6151-82-001.

IT IS FURTHER ORDERED that the contract for Project RMC 6151-82-001 be awarded to Langford Contractors in the low bid amount of \$83,960.00.

Note: Exhibit A on file with minute order clerk.

### **ITEM 15. ROUTINE MINUTE ORDERS**

Commissioner Houghton made a motion, seconded by Commissioner Johnson, and the commission approved the following minute orders presented by Executive Director Michael W. Behrens.

#### **a. Donations to the Department**

**(1) Jefferson County – Consider a donation from Chicago Bridge & Iron Company N.V. for construction of turn lanes at two locations on SH 87 (MO)**

110795  
OGC

Chicago Bridge & Iron Company N.V. (CB & I) proposes to donate to the Texas Department of Transportation (department) construction costs associated with building two left turn lanes at a proposed liquefied natural gas plant on SH 87. The estimated value of the donation is \$556,015.21.

This donation has been examined by department personnel. The department recommends issuance of this minute order on the ground that it is in the best interest and welfare of the traveling public.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties.

Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

The commission finds that the donation will further the department's responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days. The commission also finds that the donor is not subject to department regulation or oversight but may be interested in a contract with the department. Nonetheless, the donation will provide a significant benefit to the traveling public.

IT IS THEREFORE ORDERED by the commission that the estimated donation of \$556,015.21 by C B & I is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

**(2) Texas Turnpike Authority Division – Acknowledge a donation from Cambridge Systematics, Inc. for a department employee's travel expenses from participating in the American Road & Transportation Builders Public-Private Ventures in Transportation Conference and the Federal Highway Administration Workshop on Project Finance from November 15-17, 2006 in Washington, D.C. (MO)**

110796  
OGC

This minute order acknowledges a donation of \$947.11 from Cambridge Systematics, Inc. (CSI) for a Texas Department of Transportation (department) employee's travel expenses. The employee attended a public-private partnership peer exchange that the donor administered on November 15 and participated in the American Road & Transportation Builders Public-Private Ventures in Transportation Conference and the Federal Highway Administration Workshop on Project Finance that was held on November 16, 2006 in Washington, D.C.

The department has determined that acceptance of the donation is in the best interest and welfare of the traveling public and will provide a significant public benefit.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of

carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

The commission finds that the donation will further the department's responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days.

The commission also finds that the donor is not subject to department regulation or oversight, and that this donation will not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation of \$947.11 by CSI is acknowledged. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

**b. Eminent Domain Proceedings**

**Various Counties – noncontrolled and controlled access highways (see attached itemized list) (MO)**

110797  
ROW

The Texas Transportation Commission (commission) of the State of Texas (state) has found in order to promote the public safety, to facilitate the safety and movement of traffic and to preserve the financial investment of the public in its highways, public necessity requires the laying out, opening, constructing, reconstructing, maintaining, and operating of the following highways in the state as a part of the State Highway System (highway system).

The commission has found and determined that each of the following listed parcels of land, same being more particularly described in the exhibits attached hereto, and such additional lesser estates or property interests described thereon, are necessary or convenient for use for such purposes and it is necessary to acquire fee simple title to said land, as provided by Texas Transportation Code, Subchapter D, Chapter 203, Sections 203.051, 203.052, and 203.054, as a part of the highway system to be constructed, reconstructed, maintained and operated thereon.

The commission has found in order to promote the public safety, to facilitate the safety and movement of traffic, to preserve the financial investment of the public in its highways and reconstructing, maintaining, and operating of Controlled Access Highways in the state as a part of the highway system at such locations as are necessary throughout the state and has determined that each of the following listed parcels of land, described in those Exhibits designated, identified and listed by an alphabetical exhibit reference under "CONTROLLED ACCESS" and same being more particularly described in the exhibits attached hereto and such additional lesser estates or property interests described thereon, are necessary and suitable for use for such purposes and it is necessary to acquire fee simple title to said land, as provided by law, as a part of the highway system to be so constructed, reconstructed, maintained, and operated thereon and in the exercise of the police power of the state for the preservation of human life and safety, and under existing laws, the highway to be constructed on each such parcel of land is designated as a Controlled Access Highway, and on such parcels of land listed herein where there is remaining abutting private property, roads are to be built as a part of said highway whereby the right of ingress and egress to or from the remaining private property abutting on said highway is to be permitted and/or denied, as designated and set forth on each of the exhibits attached hereto.

The commission, through its duly authorized representatives, has attempted to negotiate with the owner(s) of the parcels of land described in the attached exhibits and has been unable to agree with such owner(s) as to the fair cash market value thereof and damages, if any, or after diligent search of available records, numerous inquiries, and actual visits to the location of said parcels of land has been unable to locate the owner(s) of same so as to enter into negotiations for the purchase of said parcels of land.

IT IS THEREFORE ORDERED that the executive director is hereby authorized and directed to transmit this request of the commission to the attorney general to file or cause to be filed against all owners, lienholders and any owners of any other interests in said parcels of land, proceedings in eminent domain to acquire in the name of and on behalf of the state, for said purposes, fee simple title to each such parcel of land as are more particularly described in each of the exhibits attached hereto and made a part hereof, and such additional lesser estates or property interests as are more fully described in each of said exhibits, save and excepting, oil, gas and sulphur, as provided by law, to wit:

NON-CONTROLLED ACCESS

EXHIBIT	COUNTY	HIGHWAY	ROW CSJ NO.	PARCEL
1	Brown	US 67	0054-07-068	1
2	Brown	US 67	0054-07-068	5
3	Tarrant	SH 26	0363-01-123	25
4	Tarrant	SH 26	0363-01-123	74
5	Tarrant	SH 26	0363-01-123	93
6	Tarrant	SH 26	0363-01-123	124
7	Tarrant	SH 26	0363-01-123	125

## NON-CONTROLLED ACCESS

EXHIBIT	COUNTY	HIGHWAY	ROW CSJ NO.	PARCEL
8	Tarrant	SH 26	0363-01-123	144
9	Gregg	SH 135	0377-01-042	5
10	Live Oak	US 59	0542-06-043	3
11	Williamson	FM 619	0986-01-038	5
12	Bowie	FM 559	1020-01-045	8 & 8E
13	Bowie	FM 559	1020-01-045	65
14	Lampasas	FM 2657	3131-03-008	5

## CONTROLLED ACCESS

EXHIBIT	COUNTY	HIGHWAY	ROW CSJ NO.	PARCEL
A	McLennan	IH 35	0015-01-194	18
B	McLennan	IH 35	0015-01-194	24
C	Erath	US 67	0079-08-002	26
D	Erath	US 67	0079-08-002	27
E	Collin	SH 289	0091-04-049	3
F	Baylor	US 277	0156-06-044	10
G	Angelina	US 59	0176-03-120	41 & 41M
H	Angelina	US 59	0176-03-120	50
I	San Jacinto	US 59	0177-02-072	55
J	San Jacinto	US 59	0177-02-072	58
K	Montgomery	US 59	0177-05-100	13
L	Bell	US 190	0185-01-033	21
M	Dallas	Spur 366	0196-07-023	1
N	Bell	FM 2305	0232-04-012	38
O	Harris	IH 10	0271-07-260	725
P	Liberty	SH 105	0338-05-025	20
Q	Travis	SH 130	0440-06-008	1449
R	Rockwall	SH 205	0451-01-043	49
S	Rockwall	SH 205	0451-01-043	60
T	Tarrant	SH 121	0504-02-018	10
U	Tarrant	SH 121	0504-02-018	15
V	Tarrant	SH 121	0504-02-018	19
W	Tarrant	SH 121	0504-02-018	34
X	Tarrant	SH 121	0504-02-018	93
Y	Johnson	SH 121	0504-05-002	117
Z	Cameron	FM 511	0684-01-060	22
AA	Dallas	IH 635	2374-01-150	23
BB	Dallas	IH 635	2374-01-150	28
CC	Dallas	IH 635	2374-01-151	5

Note: Exhibits 1 through 14 and A through CC on file with minute order clerk.

**c. Highway Designations****Harris County – Remove SH 134 from the state highway system and return control, jurisdiction and maintenance to Harris County (MO)**110798  
TPP

In HARRIS COUNTY (county), county officials have requested the removal of STATE HIGHWAY 134 from the state highway system. The county would like to incorporate the roadway into its county road system and has requested control, jurisdiction, and maintenance of the roadway.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that SH 134 be removed from the state highway system and returned to the county.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that SH 134 is removed from the state highway system from the intersection of SH 225 northward to the end of state maintenance 3.5 miles north of the intersection of SH 225, a distance of approximately 3.5 miles, and returned to the county for control, jurisdiction, and maintenance.

**d. Load Zones & Postings****Various Counties – Revise load restrictions on various bridges on the state highway system (MO)**110799  
BRG

The Texas Transportation Commission (commission) under provision of V.T.C.A., Transportation Code, §621.102, may set the maximum gross weight of a vehicle and its load, maximum gross weight of a combination of vehicles and loads, maximum axle load, or maximum wheel load that may be moved over a state highway or a farm or ranch road if the commission finds that heavier maximum weight would rapidly deteriorate or destroy the road or a bridge along the road.

Pursuant to §621.102, a maximum weight or load may not exceed the maximum set by statute for that weight or load. This section does not apply to a vehicle delivering groceries, farm products, or liquefied petroleum gas.

An engineering and traffic investigation has been made to determine and fix the maximum loads that may be moved over the state highway system.

It has been determined from this investigation that the loads on certain bridges of the state highway system should be restricted or previous restrictions should be revised or removed.

IT IS THEREFORE ORDERED by the commission that the maximum load limits which may be moved over the bridge described in Exhibit A be removed as set forth therein, superseding any portion of previous action in conflict. The executive director shall proceed with the removal of signs as appropriate, making the removal of these load limitations effective and operative.

Note: Exhibit A on file with minute order clerk.

**e. Right of Way Dispositions and Donations****(1) Freestone County – FM 2570 - Consider the sale of surplus right of way (MO)**110800  
ROW

In FREESTONE COUNTY, on FARM TO MARKET ROAD 2570, the State of Texas (state) acquired certain land needed for a state highway purpose by instruments recorded in Volume 381, Pages 320, 323, 326, 329, 332, and 335, Deed Records of Freestone County, Texas.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus right of way to the abutting landowner.

TXU Big Brown Company LP is the abutting landowner and has requested that the surplus land be sold to the partnership for \$6,841.

The commission finds \$6,841 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value of the surplus land is less than \$10,000 and authorizes the executive director to execute a proper instrument conveying the state's rights, title and interest in the surplus land to TXU Big Brown Company LP for \$6,841; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interest, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

**(2) Harris County – SH 225 at Broadway in Houston – Consider the transfer of title of surplus right of way to Harris County and removal from the state highway system (MO)**110801  
ROW

In the city of Houston, HARRIS COUNTY, on STATE HIGHWAY 225, the State of Texas (state) acquired certain land for a state highway purpose by various instruments recorded in the Deed Records of Harris County, Texas.

A portion of the land (surplus land), described in Exhibits A and B, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Section 202.021, the Texas Transportation Commission (commission) may waive payment for real property transferred to a governmental entity with the authority to condemn the property, if the estimated cost of future maintenance on the property equals or exceeds the fair value of the property.

The appraised value of the surplus land is \$1,042,923. The Houston district has advised that maintenance of the surplus land and the maintenance of a segment of SH 134 from the entrance to the San Jacinto Battleground to SH 225 for thirty years is estimated to cost the state \$8,985,403, which cost exceeds the value of the surplus land. Harris County has requested that the surplus land be transferred to the county in consideration of the savings to the state of future maintenance costs.

The commission finds \$1,042,923 to be a fair and reasonable value for the state's rights, title and interest in the surplus land, and it is the opinion of the commission that it is proper and correct that the state convey to the county all of its rights, title and interest in the surplus land in consideration of the estimated savings to the state of future maintenance costs, which exceed the value of the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Harris County in consideration of the estimated savings to the state of future maintenance costs; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

IT IS FURTHER ORDERED that the surplus land is removed from the state highway system.

Note: Exhibits A and B on file with minute order clerk.

(3) Harris County – I-10 at SH 99 west of Houston – Consider the sale of surplus access rights (MO)

110802  
ROW

In HARRIS COUNTY, on INTERSTATE 10, a designated controlled access highway, the State of Texas (state) owns and controls certain access rights to the highway facility to and from the abutting lands.

A portion of the access rights (surplus access rights), shown on Exhibit A, is no longer needed for a state highway purpose.

Memorial Hermann Hospital System (MH Hospital), owner of a 23.5277 acre tract of land conveyed by deed recorded under Harris County Clerk's File Number X667569 of the Official Public Records of Real Property of Harris County, Texas (MH Hospital Tract), is the landowner abutting the property line along which access is proposed to be released and has requested that the state sell the surplus access rights to MH Hospital for \$88,123.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus access rights to the abutting landowner.

The Texas Department of Transportation has determined that the sale of the surplus access rights is not expected to compromise the safety or add traffic volume in an amount to exceed the capacity of the existing highway.

It is the opinion of the commission that it is proper and correct that the state sell the surplus access rights to MH Hospital for a cash consideration of \$88,123.

NOW, THEREFORE, the commission finds that the surplus access rights are no longer needed for a state highway purpose and recommends, subject to approval of the attorney general, that the Governor of Texas execute a proper instrument conveying the state's interest in the surplus access rights to MH Hospital for \$88,123.

IT IS FURTHER ORDERED that the surplus access rights will be exclusive to the MH Hospital Tract and nothing in this order shall be construed to directly or indirectly approve conveyance of access rights to the properties abutting the MH Hospital Tract.

IT IS FURTHER ORDERED that this recommendation and finding is subject to the abutting landowner providing an acceptable survey within 120 days of this order to specifically describe and locate the 45 feet of access to be released, as generally shown on Exhibit A.

Note: Exhibit A on file with minute order clerk.

(4) Harris County – I-10 from the Fort Bend County line to east of Peek Road – Consider the donation of 0.204 acres of land for a highway improvement project (MO)

110803  
ROW

In HARRIS COUNTY, on INTERSTATE 10, from the Fort Bend County line to east of Peek Road, the Texas Department of Transportation (department) is acquiring the right of way for a highway safety project.

V.T.C.A., Transportation Code, §201.206, authorizes the department to accept donations of real property for the purpose of carrying out its functions and duties.

V.T.C.A., Government Code, Chapter 575, requires the Texas Transportation Commission (commission) to accept a gift or donation valued at \$500 or more by majority vote at an open meeting.

The Memorial Hermann Hospital System (owner) is the owner of the property described in Exhibit A. The owner wants to donate this property, estimated at \$31,101, to the department for construction of a safety turnout.

The owner is not subject to department regulations or oversight, or interested in or likely to become interested in a contract, purchase, payment, or claim with or against the department.

A donation agreement has been executed by the owner and tendered to the department for acceptance under Title 43, Texas Administrative Code, §1.504.

IT IS THEREFORE ORDERED by the commission that (1) the commission has determined that acceptance of this donation would provide a significant public benefit, and would not influence or reasonably appear to influence the department in the performance of its duties, and (2) the executive director is hereby authorized to accept the donation of real property, as described in Exhibit A, and the executive director or the director's designee is authorized and directed to sign and execute a donation agreement with the owner, in accordance with Title 43, TAC, §1.504.

(5) Lubbock County – US 62/82 at Second Street in Idalou – Consider the sale of surplus right of way (MO)

110804  
ROW

In the city of Idalou, LUBBOCK COUNTY, on US 62/82, the State of Texas (state) acquired certain land needed for a state highway purpose by instrument recorded in Volume 649, Page 197, Deed Records of Lubbock County, Texas.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus right of way to the abutting landowner.

Wilkerson Investment Company, a Texas general partnership composed of Gordon Mark Wilkerson, David Collins Wilkerson, Ray Hankins Wilkerson, and Sarah Ruth Wilkerson Scott, is the abutting landowner and has requested that the state sell the surplus land to the partnership for \$13,100.

The commission finds \$13,100 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Wilkerson Investment Company, a Texas general partnership composed of Gordon Mark Wilkerson, David Collins Wilkerson, Ray Hankins Wilkerson, and Sarah Ruth Wilkerson Scott, for \$13,100; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(6) **Maverick County** – FM 2366 southeast of Eagle Pass – Consider the sale of surplus right of way and removal from the state highway system (MO)

110805  
ROW

In MAVERICK COUNTY, on FARM TO MARKET ROAD 2366, the State of Texas (state) acquired certain land needed for a state highway purpose by instruments recorded in Volume 56, Pages 69, 74, and 116, Deed Records of Maverick County, Texas.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus right of way to the abutting landowner.

Cinco 1994 Family Limited Partnership is the abutting landowner and has requested that the state sell the surplus land to the partnership for \$72,400.

The commission finds \$72,400 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Cinco 1994 Family Limited Partnership for \$72,400; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

IT IS FURTHER ORDERED that FM 2366 is removed from the state highway system from FM 1021, southward and eastward to another point on FM 1021, a distance of approximately 7.66 miles.

Note: Exhibit A on file with minute order clerk.

**(7) Montgomery County – Loop 336 at Longmire Road in Conroe – Consider the sale of surplus right of way (MO)**

110806  
ROW

In the city of Conroe, MONTGOMERY COUNTY, on STATE HIGHWAY LOOP 336, the State of Texas (state) acquired certain land needed for a state highway purpose by instrument recorded in Volume 607, Page 932, Deed Records of Montgomery County, Texas.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus right of way to the abutting landowner.

MidSouth Bank, a Texas banking association, is the abutting landowner and has requested that the surplus land be sold to the bank for \$9,390.

The commission finds \$9,390 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value of the surplus land is less than \$10,000 and authorizes the executive director to execute a proper instrument conveying the state's rights, title and interest in the surplus land to MidSouth Bank, a Texas banking association, for \$9,390; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

**(8) Somervell County – FM 205 at the Paluxy River west of Glen Rose – Cancel Minute Order 110640 and consider the quitclaim of surplus right of way to comply with a reversionary clause (MO)**

110807  
ROW

In SOMERVELL COUNTY, on FARM TO MARKET ROAD 205, the State of Texas (state) acquired certain land needed for a state highway purpose by instrument recorded in Volume 39, Page 275, Deed Records of Somervell County, Texas.

The Texas Transportation Commission (commission) approved Minute Order 110640 on July 27, 2006 authorizing the quitclaim of surplus land to the owner of the possibility of reverter reserved to the Estate of Wm. E. Muse, its successors and assigns.

The instrument conveying the land to the state provided that if the land was abandoned, then any portion would revert to the Estate of Wm. E. Muse, its successors and assigns, which is the quitclaim language that should have been authorized in Minute Order 110640.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the quitclaim of the state’s interest to comply with a reversionary clause contained in the instrument that originally conveyed the interest to the state.

The commission finds that it is proper and correct that the state quitclaim all of its rights, title and interest in the surplus land to comply with the reversionary clause contained in the instrument of conveyance to the state.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument quitclaiming all of the state’s rights, title and interest in the surplus land to the Estate of Wm. E. Muse, its successors and assigns, to comply with the reversionary clause contained in the instrument of conveyance to the state.

FURTHER, IT IS ORDERED by the commission that Minute Order 110640 passed on July 27, 2006 is hereby canceled.

Note: Exhibit A on file with minute order clerk.

(9) Tarrant County – I-20 east of Matlock Road in Arlington – Consider the sale of a tract of surplus right of way (MO)

110808  
ROW

In Arlington, TARRANT COUNTY, on INTERSTATE 20, the State of Texas acquired certain land needed for state highway purposes by instruments recorded in Volume 4895, Page 849, and Volume 5018, Page 443, Deed Records of Tarrant County, Texas.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus land to the abutting landowner.

Arlington Highlands, Ltd., a Texas limited partnership, is the abutting landowner and has requested that the surplus land be sold for \$24,050.

The commission finds \$24,050 to be a fair and reasonable value for the state’s rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state’s rights, title and interest in the surplus land to Arlington Highlands, Ltd., a Texas limited partnership, for \$24,050; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state’s rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

**f. Speed Zones****Various Counties – Establish or alter regulatory and construction speed zones on various sections of highways in the state (MO)**110809  
TRF

Transportation Code, §545.352 establishes prima facie reasonable and prudent speed limits for various categories of public roads, streets and highways.

Transportation Code, §545.353 empowers the Texas Transportation Commission (commission) to alter those prima facie limits on any part of the state highway system as determined from the results of an engineering and traffic investigation conducted according to the procedures adopted by the commission.

The Texas Department of Transportation (department) has conducted the prescribed engineering and traffic investigations to determine reasonable and safe prima facie maximum speed limits for those segments of the state highway system shown in Exhibits A and B.

Exhibit A lists construction speed zones in effect when signs are displayed within construction projects. The completion and/or acceptance of each project shall cancel the provision of this minute order applying to said project and any remaining construction speed zone signs shall be removed.

Exhibit B lists speed zones for sections of highways where engineering and traffic investigations justify the need to alter the speeds.

It has also been determined that speed limit on the segment of the state highway system, previously established by the commission by minute order and listed in Exhibit C, is no longer necessary or has been incorporated by the city which has the authority to set speed limits on this section of highway.

The department, in consultation with the Texas Commission on Environmental Quality, has also determined that the environmental speed limit on the segment of FARM TO MARKET ROAD 2004 established by Minute Order 109064, dated October 31, 2002, and listed in Exhibit D, is no longer necessary.

IT IS THEREFORE ORDERED by the commission that the reasonable and safe prima facie maximum speed limits determined in accordance with the department's "Procedures for Establishing Speed Zones" and shown on the attached Exhibits A and B are declared as tabulated in those exhibits. The executive director is directed to implement this order for control and enforcement purposes by the erection of appropriate signs showing the prima facie maximum speed limits.

IT IS FURTHER ORDERED that a provision of any prior order by the commission which is in conflict with a provision of this order is superseded to the extent of that conflict, and that the portions of minute orders establishing speed zones shown on the attached Exhibits C and D are canceled.

Note: Exhibits A through D on file with minute order clerk.

**ITEM 16. Executive Session Pursuant to Government Code, Chapter 551**

- a. **Section 551.071 - Consultation with and advice from legal counsel**
- b. **Section 551.072 - Discussion of real property purchase, exchange, lease, donations**
- c. **Section 551.074 - Discuss the evaluation, designation, reassignment, and duties of department personnel, including district engineers, division directors, and office directors.**

The commission did not meet in executive session.

**OPEN COMMENT PERIOD - The commission received comments from James Von Wolske; Mayor of Eden Charlie Rogers, Jr.; City of Eden Economic Development Director Genora Young; Brady Texas Community Development Director Wendy Ellis; Texas Forest Trail Chair Elect Tim Culp; Texas Independence Trail Resident Vicki Woodard; Van Horn Economic Development Corporation Executive Director Jeff McCoy; Downtown Austin Alliance Transportation Program Director Thomas Butler; City of Austin Assistant Director for Public Works Joe Ramos, Jr.; Texas Downtown Association Executive Director Kim McKnight; Texas Historical Commission Executive Director Larry Oaks; Texas Bicycle Coalition Executive Director Robin Stallings; and Preservation Texas Executive Director Julianne Fletcher. All speakers discussed the cancellation of the call for transportation enhancement projects.**

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commissioners approved adjourning the meeting.

The regular meeting of the Texas Transportation Commission adjourned at 2:15 p.m.

APPROVED:

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Ric Williamson, Chair  
Texas Transportation Commission

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I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on December 14, 2006, in Austin, Texas.

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Dee Hernandez, Chief Minute Clerk  
Texas Department of Transportation