

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on April 27, 2006, in Brownsville, Texas. The meeting opened at 9:20 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
 Richard Monroe, General Counsel
 Roger Polson, Executive Assistant to the Deputy Executive Director

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 10:20 a.m. on April 19, 2006, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

The commission recognized students from Morningside Elementary School.

ITEM 1. Approval of Minutes of the March 30, 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 March 30, 2006, regular meeting of the Texas Transportation Commission.

Receive comments from area public officials, community and civic leaders, and private citizens. Report by the Pharr District.

The commission received comments from Pharr District Engineer Mario R. Jorge; Cameron County Judge Gilberto Hinojosa; City of Harlingen Mayor Rick Rodriguez; Brownsville Navigation District CEO Bernard List; Hidalgo County MPO Director Andrew Canon; and Brownsville Urban System Director Norma Zamora.

ITEM 2. REPORT

Status report on the development of an Interstate-quality facility from I-37 to the Rio Grande Valley

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

The commission received comments from City of Edinburg Mayor Richard Garcia; Cameron County Commissioner David Garza; Hidalgo County Regional Mobility Authority Co-Chair Dennis Burleson; I-69 Alliance Texas President and CEO Bill Summers; Port of Corpus Christi Commissioner Judy Hawley; City of Corpus Christi Mayor Henry Garrett; and City of Harlingen Mayor Rick Rodriguez.

ITEM 3. DISCUSSION ITEMS

a. Commission recommendations to the Texas Legislature regarding potential statutory changes that would improve the operation of the department

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

b. Preparations for upcoming Legislative Appropriations Request

This discussion item was presented by Finance Division Director James Bass.

ITEM 4. STRATEGIC PLAN

Adoption of proposed structure and approach for the department's Strategic Plan

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

110505
GBE

Texas Government Code, Chapter 2056, requires that each state agency prepare a five-year strategic plan every biennium.

The strategic plan represents the commitment by the Texas Department of Transportation (department) to provide safe and productive movement of people and goods.

The vision, mission, philosophy, goals, objectives, strategies, and measures in this plan focus on delivering the high quality, aesthetic and accessible systems expected by the ultimate users of the Texas transportation systems.

The strategic plan is dynamic and the department will continuously monitor external and internal conditions and issues, such as the update of the Texas Transportation Plan, for necessary refinements to objectives, strategies, and measures.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the department develop the 2007-2011 Strategic Plan and related documents following the structure shown in Exhibit A.

Note: Exhibit A on file with minute order clerk.

ITEM 5. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

Final Adoption

a. Chapter 18 – Motor Carriers

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, §18.17, Single State Registration System, and Repeal of §18.18, Temporary Registration of International Motor Carriers, (Motor Carrier Registration), Amendments to §18.51, Household Goods Agents, §18.58, Moving Services Contract - Options for Carrier Limitation of Liability, and §§18.63-18.65, (Consumer Protection), and §18.82, Definitions, §§18.87-18.93, and §18.96, Disposal of Certain Vehicles, (Vehicle Storage Facility) and Withdrawal of §18.32, Motor Carrier Records (Records and Inspections)

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

110506
MCD

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §18.2, §18.13, §18.14, §18.16, §18.17, §18.51, §18.58, §§18.63-18.65, §18.82, §§18.87-18.93 and §18.96, adopt the repeal of §18.18, and withdraw §18.32, all relating to motor carriers, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments and repeal, 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 §18.2, §18.13, §18.14, §18.16, §18.17, §18.51, §18.58, §§18.63-18.65, §18.82, §§18.87-18.93 and §18.96, the repeal of §18.18, and withdrawal of §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 E on file with minute order clerk.

The commission received comments from The Apartment Movers President Rod Johnson.

b. Chapter 21 – Right of Way (MO)

New §21.23, State Participation in Toll-Related Relocations (Utility Adjustment, Relocation, or Removal)

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

110507
ROW

The Texas Transportation Commission (commission) finds it necessary to adopt new §21.23, relating to state participation in toll-related relocations, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted 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 new §21.23 is adopted and is 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.

ITEM 6. TRANSPORTATION PLANNING AND PROGRAMMING

Hays and Travis Counties – Tender a proposal to Hays County and the City of Buda to construct a new location facility on the state highway system from I-35 (at Main Street) to SH 45, realign FM 2001, and construct interchanges at I-35/FM 2001 and I-35/Main Street

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

110508
TPP

In HAYS AND TRAVIS COUNTIES, projects have been proposed to realign a section of FM 2001 east of I-35 and extend Main Street from I-35 to SH 45, which includes the construction of an interchange and frontage roads.

The City of Buda (city) and Hays County (county) both have a considerable interest in the development of these projects. This area is becoming increasingly urbanized and is experiencing rapid development. The proposed projects will provide for improved north-south mobility by enhancing utilization of the SH 45/SH 130 toll roads. In addition, the projects will provide safer and improved access to area developments, and facilitate incident management along I-35.

IT IS THEREFORE ORDERED by the Texas Transportation Commission (commission) that the executive director is authorized to tender the following proposal to the city and the county:

Provided the city and county will:

- A. FM 2001 Realignment and Overpass Road Project
 - 1. Obtain all required environmental clearance, right of way, utility relocation and construction plans for the FM 2001 realignment from the I-35/Overpass Road interchange to FM 2001 (approximately 1.5 miles);
 - 2. Provide 100 percent funding for the right of way, construction plans and construction of the realignment of FM 2001 from the existing FM 2001/Overpass Road intersection, south and east to FM 2001 (approximately 1.4 miles);

3. Provide 100 percent funding for the right of way and construction plans for the I-35/Overpass Road interchange and improvements to Overpass Road from I-35 to the existing FM 2001 (approximately 0.1 mile); and
 4. Agree for the county to accept the abandoned portion of FM 2001.
- B. I-35/Main Street Extension and Interchange Project
1. Obtain all required environmental clearance, right of way, utility relocation and construction plans for the Main Street Extension project from I-35 to SH 45;
 2. Submit a State Infrastructure Bank (SIB) loan application for up to \$15 million to fund the phased construction of the Main Street Extension project from I-35 to SH 45;
 3. Provide 100 percent funding of the construction plans for the reconstruction of the I-35/Main Street interchange and associated frontage road and ramp improvements;
 4. Provide funding for 10 percent of the right of way and utility relocation for the I-35/Main Street interchange and associated frontage road and ramp improvements; and
 5. Consider other financing mechanisms to repay the SIB loan or fund the phased construction of the Main Street Extension from I-35 to SH 45.

The department will:

1. Add the 1.5 mile realignment of FM 2001 (which includes the 0.1 mile segment of Overpass Road and the 1.4 mile realignment of FM 2001) to the state highway system;
2. Remove existing FM 2001 from I-35 to approximately 2.0 miles east from the state highway system and transfer the right of way to the county;
3. Fund the construction and acquire the right of way for the eastern expansion of the I-35/FM 2001 interchange from I-35 to approximately 0.1 mile east (Overpass Road);
4. Fund 100 percent of the construction and 90 percent of the right of way and utility adjustments for the I-35/Main Street interchange and related frontage road and ramp improvements;
5. Assist the city in the preparation of a SIB loan application;
6. Schedule the construction for both the I-35/Main Street interchange and related frontage road improvements and extension as early as practical; and
7. Upon completion of construction, add the extension of Main Street, from I-35 to SH 45, a distance of approximately 3.0 miles, to the state highway system.

IT IS FURTHER ORDERED by the commission that the executive director is hereby authorized to enter into any necessary agreements with the city and the county containing the terms consistent with the provisions of this order.

This order shall become operative upon acceptance by the city and the county; and if not accepted within 90 days of the date of this order, the order shall be automatically cancelled.

ITEM 7. TOLL ROAD PROJECTS

a. Cameron County – Consider preliminary approval of a request for financing from the Cameron County Regional Mobility Authority to pay certain costs for preliminary engineering, financial planning and preliminary development of the West Loop project from US 77/83 to Palm Boulevard in the city of Brownsville; and for environmental studies, design, legal services and preliminary development of the second causeway project (MO)

Commissioner Houghton made a motion, seconded by Commissioner Andrade and the commission approved the following minute order presented by Texas Turnpike Authority Division Director Phillip Russell:

110509
TTA

In Minute Order 109788, dated September 30, 2004, the Texas Transportation Commission (commission) authorized the creation of the Cameron County Regional Mobility Authority (authority), with the boundaries of the authority to be the entire geographic area of Cameron County.

Minute Order 109788 further provided that the initial project to be developed, maintained, and operated by the authority would be a proposed 7.25-mile toll road, known locally as West Loop. The West Loop project would consist of a four lane divided facility that would follow the current right of way of the Union Pacific Railroad beginning at US 77/83 and extend south to Palm Boulevard in the city of Brownsville. The project will provide an important north-south corridor and a reliever route for some of the noncommercial traffic, and will provide for improved access to the Brownsville central business district. An additional project being pursued by the authority is the Second Causeway to South Padre Island. The second causeway would provide a much needed alternate route from the island to the mainland and would facilitate evacuation in the event of a hurricane.

Transportation Code, §370.301 authorizes the Texas Department of Transportation (department) to provide for or contribute to the payment of costs of the design, financing, construction, operation, or maintenance of a turnpike project by a regional mobility authority (RMA) on terms agreed to by the department and the RMA. Transportation Code, §222.103 authorizes the department to participate, by spending money from any available source, in the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission.

Pursuant to Transportation Code, §222.103, the commission adopted Title 43, Texas Administrative Code, §27.50-27.58 (toll equity rules) to prescribe conditions for the commission's financing of a toll facility of a public or private entity.

In accordance with Section 27.53 of the toll equity rules, the authority has submitted a request for \$41.4 million that would be used to further study and develop the West Loop and Second Causeway projects in Cameron County, to include environmental studies, traffic and revenue studies if needed, design and engineering services, right of way acquisition, relocation assistance, legal and financial advisory services, marketing, and public education and outreach related activities. This would also include any direct or indirect project costs associated with these activities. The authority has requested that the financial assistance be in the form of a grant.

Department staff recommends that a total of up to \$21.6 million in financial assistance be preliminarily approved, to be used for the purposes described by the authority with the exception of right of way acquisition and relocation assistance. The financial assistance would consist of \$12.4 million for the West Loop project and \$9.2 million for the Second Causeway project, both from TxDOT's preliminary engineering funds allocated to the Pharr District.

Information and data required by Section 27.53(b) is either contained in the request for financing or in the petition for authorization to form the authority filed with the department on June 15, 2004. Supplemental information and data required by Section 27.53(c) is contained in the request for financing or has already been provided to the department.

As provided in Minute Order 109788, the authority will benefit the state and the traveling public and will improve the efficiency of the state's transportation system by constructing needed roadway projects, such as these projects, which will enhance mobility and safety within the regional transportation system, and through the development and financing of additional projects in the future.

The proposed project and work by the authority is consistent with the approved Texas Transportation Plan and is included, as applicable, in the approved plan of the Metropolitan Planning Organization.

As the authority has indicated that it may fund a portion of the costs of developing the proposed projects with bond proceeds and other funding provided by the authority, along with the requested financial assistance, the projects will expand the availability of funding for transportation projects or will reduce direct state costs.

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the Cameron County Regional Mobility Authority meets the requirements of 43 TAC §27.53 and §27.54(a) and, in accordance with those provisions, the commission grants preliminary approval of the request for financing in the amount of \$21.6 million, in the form of a loan, consisting of \$12.4 million for the West Loop project and \$9.2 million for the Second Causeway project, and directs the executive director to implement the actions authorized and required by those provisions.

The commission received comments from Corpus Christi Regional Mobility Authority Chairman David Alex; and Cameron County Regional Mobility Authority Interim Executive Director Pete Sepulveda.

b. Denton and Collin Counties – Designate tolled mainlanes on SH 121 from 0.23 miles east of Business SH 121 to the Dallas North Tollway in Collin County as a toll project on the state highway system, and as a controlled-access facility for the purpose of development, maintenance and operation (MO)

Commissioner Houghton made a motion, seconded by Commissioner Andrade and the commission approved the following minute order presented by Texas Turnpike Authority Division Director Phillip Russell:

110510
TTA

In DENTON AND COLLIN COUNTIES, STATE HIGHWAY 121, from 0.23 miles east of Business SH 121 to the Dallas North Tollway, currently planned as a six-lane divided highway to be on the state highway system. The existing section will consist of a proposed controlled access facility with three tolled mainlanes and non-tolled discontinuous one-way frontage roads in each direction.

Transportation Code, §228.051 provides that the Texas Transportation Commission (commission) by order may designate one or more lanes of a segment of the state highway system as a toll project or system.

Transportation Code, §203.003 authorizes the commission to lay out, construct, maintain, and operate a designated state highway, with control of access as necessary to facilitate the flow of traffic and promote the public safety and welfare.

IT IS THEREFORE ORDERED by the commission that the tolled mainlanes on SH 121 from 0.23 miles east of Business SH 121 to the Dallas North Tollway is designated as a toll project on the state highway system.

IT IS FURTHER ORDERED that SH 121 from 0.23 miles east of Business SH 121 to the Dallas North Tollway is designated as a controlled access facility for the purpose of development, maintenance and operation.

c. Travis and Williamson Counties – Accept the General Engineering Consultant quarterly progress report for the Central Texas Turnpike System as of February 28, 2006 (MO)

Commissioner Houghton made a motion, seconded by Commissioner Andrade and the commission approved the following minute order presented by Texas Turnpike Authority Division Director Phillip Russell:

110511
TTA

In TRAVIS and WILLIAMSON COUNTIES, STATE HIGHWAY 130 has been designated a toll project and a controlled access state highway from I-35 north of Georgetown to a southern terminus at US 183.

In TRAVIS and WILLIAMSON COUNTIES, STATE HIGHWAY 45N has been designated a toll project and a controlled access state highway from west of US 183 to SH 130.

In TRAVIS and WILLIAMSON COUNTIES, STATE HIGHWAY LOOP 1 has been designated a toll project and a controlled access state highway from the intersection of existing Loop 1 and FM 734 (Parmer Lane) in Austin to the intersection of Loop 1 and SH 45N.

The Texas Transportation Commission (commission) has issued toll revenue bonds and other obligations to finance a portion of the costs of the 2002 Project of the Central Texas Turnpike System, a toll project composed of the SH 130, SH 45N, and Loop 1 project elements, and has entered into an Indenture of Trust dated July 15, 2002 with Bank One, National Association, as Trustee to secure the revenue bonds and other obligations issued for the 2002 Project.

In Section 406 of the Indenture of Trust, the commission covenants that at least quarterly during the construction of the 2002 Project it will cause the general engineering consultant to prepare a progress report in connection with such construction, including current projections with respect to the date the 2002 Project will be open to traffic, the date on which construction will be completed, the cost of the 2002 Project, and the amount of funds required each six months during the remaining estimated period of construction to pay the costs of the 2002 Project.

Section 406 of the Indenture of Trust requires copies of the quarterly progress report to be filed with the commission, the U.S. Department of Transportation, and the Trustee, and to be made available by the Trustee to owners of obligations issued for the 2002 Project.

The commission has previously engaged PBS&J to serve as general engineering consultant in accordance with the Indenture of Trust. A quarterly progress report for the period ending February 2005, attached as Exhibit A, has been prepared by PBS&J in accordance with Section 406 of the Indenture of Trust.

IT IS THEREFORE ORDERED by the commission that the general engineering consultant's quarterly progress report attached as Exhibit A is accepted.

Note: Exhibit A on file with minute order clerk.

ITEM 8. FINANCE

Various Counties – Accept the Quarterly Investment Report as of February 28, 2006 as required by the Public Funds Investment Act (MO)

Commissioner Houghton made a motion, seconded by Commissioner Andrade and the commission approved the following minute order presented by Chief Financial Officer James Bass:

110512
FIN

Government Code, Chapter 2256 (Public Funds Investment Act) authorizes the Texas Transportation Commission (commission) to purchase, sell, and invest its funds and funds under its control in investments authorized under the Public Funds Investment Act, in accordance with investment policies approved by the commission.

Government Code, §2256.005 requires the commission to adopt a written investment policy regarding the investment of its funds and funds under its control, including a separate written investment strategy for each of the funds or group of funds under its control, and to designate one or more officers or employees of the Texas Department of Transportation (department) as investment officer to be responsible for the investment of funds consistent with the investment policy.

Government Code, §2256.023 requires the designated investment officer to prepare and submit to the commission and the executive director, not less than quarterly, a written report of investment transactions for all funds covered by the Public Funds Investment Act for the preceding reporting period. The report must describe in detail the investment position of the department on the date of the report, and must be prepared jointly and signed by each investment officer.

Pursuant to this legislation, in Minute Order 108970, dated July 25, 2002, the commission approved and adopted a written investment policy and written investment strategy applicable to funds of the commission held under the Indenture of Trust dated July 15, 2002 securing the outstanding bonds, notes or other obligations issued by the commission to finance a portion of the cost of the initial phase of the Central Texas Turnpike System, also known as the 2002 Project. The investment policy and investment strategy have been amended pursuant to Minute Order 109066, dated October 31, 2002, Minute Order 109339, dated July 31, 2003, Minute Order 109462, dated October 30, 2003, Minute Order 109732, dated July 29, 2004, Minute Order 109963, dated February 24, 2005, and Minute Order 110087, dated May 26, 2005. The commission also adopted investment strategies in relation to the Texas Mobility Fund on February 24, 2005 and the Lease With an Option to Purchase Houston District Headquarters Complex Project on May 26, 2005. The commission has designated the department's Chief Financial Officer and Deputy Director of Finance as investment officers.

Section 9.0 of the investment policy requires the investment officer to prepare and submit to each member of the commission and the executive director of the department an investment report on no less than a quarterly basis. The report must be prepared in accordance with the requirements of that section, including containing sufficient information to provide for a comprehensive review of investment activity and current investment instruments and performance for the reporting period.

Quarterly investment reports will be prepared for each quarter of the department's fiscal year. A quarterly investment report for the 2002 Project for the period ending February 28, 2006, attached as Exhibit A, and a quarterly investment report for the Lease With an Option to Purchase Houston District Headquarters Complex Project for the period ending February 28, 2006, attached as Exhibit B, has been prepared in accordance with Government Code, §2256.023 and Section 9.0 of the investment policy.

IT IS THEREFORE ORDERED by the commission that the quarterly investment reports attached as Exhibits A and B are accepted.

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

ITEM 9. PASS-THROUGH TOLLS

Authority to Negotiate Agreement

Hidalgo County - Authorize the executive director to negotiate a pass-through toll agreement with Hidalgo County Road District No. 5 or with Hidalgo County for improvements to various highway projects in the county (MO)

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

110513
FIN

On January 20, 2006 Hidalgo County Road District No. 5 (county) submitted a proposal for a pass-through toll agreement. The county's proposal provided for the county to make improvements to: FM 494 (FM 495 to FM 1924); FM 494 (FM 1924 to FM 676); Mile 5 N (Abram Rd. to FM 492); FM 676 (FM 492 to SH 107); FM 676 (SH 107 to Taylor Rd.); SH 364 (FM 495 to FM 1924); SH 364 (FM 1924 to FM 676); Abram Rd. (BS 83 to Roque Salinas); Abram Rd. (SH 495 to Canal); and Abram Rd. (Canal to FM 676).

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.

Section 5.54 of the commission's rules provide that the commission may authorize the department's executive director or his designee to negotiate a pass-through toll agreement with a public entity after considering the following factors: (1) financial benefits to the state; (2) local public support for the projects; (3) whether the projects are in the department's Unified Transportation Program (UTP); (4) the extent to which the projects will relieve congestion on the state highway system; (5) the potential benefits to regional air quality; (6) compatibility of the proposed projects with existing and planned facilities; and (7) the entity's experience in developing highway projects.

After considering factors described by §5.54, the commission determines that: (1) the proposal has the potential to provide significant financial benefits to the state, subject to the outcome of the negotiations with the county; (2) the county's proposal indicated broad support for the projects and did not identify any opposition; (3) none of the projects identified in the proposal are in the current UTP, therefore future funding sources should be identified; (4) the projects identified in the proposal 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 Hidalgo County Metropolitan Organization (HC-MPO); (5) potential benefits to regional air quality must be quantified and documented by HC-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 county has experience developing highway projects, and presently has not delegated responsibility to a Program Manager that has extensive experience in roadway conceptual planning, preliminary engineering, and design and construction support services for highway projects.

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 HC-MPO Metropolitan Transportation Plan; (2) must be included in the department's UTP, thereby identifying committed funding for each project; (3) prior to construction, must be included in the HC-MPO Transportation Improvement Program and the department's Statewide Transportation Improvement Program; and (4) 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 Hidalgo County Road District No. 5 or Hidalgo County. 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 Mission Mayor Norbeto Salinas.

ITEM 10. RIGHT OF WAY

Denton County – Authorize the negotiation of options to purchase for advance acquisition of right of way for I-35E (MO)

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

110514
ROW

In DENTON COUNTY, a project has been proposed to widen INTERSTATE 35 East (I-35E) from PGBT to north of FM 407, approximately 7.8 miles.

The Texas Transportation Commission (commission) finds that use of options to acquire property for possible use in connection with the I-35E project may reduce the time required for the 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 no final determination has been made on the alignment of the project and there is no release authorizing acquisition of right of way, preserving the transportation corridor and the completion of the I-35E project is essential and urgent, as the construction of the project will alleviate congestion and improve traffic flow.

Transportation Code, §201.103 and §361.032 authorize 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 Dallas district engineer is authorized to negotiate with property owners along the proposed route of I-35E 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 11. CONTRACTS**a. Award or Reject Highway Improvement Contracts****(1) Maintenance**

Commissioner Houghton made a motion, seconded by Commissioner Andrade and the commission approved the following minute order presented by Construction Division Director Thomas Bohuslav:

110515
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 April 11 and 12, 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 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 highway maintenance 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 Building Construction

Commissioner Houghton made a motion, seconded by Commissioner Andrade, and the commission approved the following minute order, rejecting Project No. SFT 716-1-42 in Austin County; CL 506-1-86 in Brazos County; SPT 2006 (411) in Hale County; IM 0202 (215) in Howard County; STP 2006 (397) in Scurry County; SFT 152-1-64 in Travis County; and BR 2006 (413) in Wilbarger County, as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

110516
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 April 11 and 12, 2006.

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 Texas Transportation Commission (commission) respectively award to the lowest bidder or reject, as indicated, those highway improvement contracts identified on attached Exhibit A to this order.

IT IS THEREFORE ORDERED by the commission that the highway improvement 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. Contract Claim

Various Counties – Project CSR 924-00-34 – Approve a claim settlement with Kothmann, LTD. for additional compensation

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

110517
MNT

In VARIOUS COUNTIES on VARIOUS HIGHWAYS, Kothmann, LTD. (contractor) was awarded construction project CSR 924-00-34 in the amount of \$997,028.03.

The contractor filed a claim against the Texas Department of Transportation (department) for additional compensation in the amount of \$39,241.32 for various issues associated with increased costs for material, equipment, and labor for the quantity overrun of bid item 540-0506 MTL BEAM GD FEN (12 GA)(TIM POST).

Pursuant to Title 43, Texas Administrative Code, §9.2, the Contract Claim Committee met informally with the contractor, and the claim was successfully resolved.

The agreed resolution requires that the contractor be paid the sum of \$929.85 in full and final satisfaction of the claim. This consideration shall be payable only after the department is in receipt of a duly authorized and completed Settlement Agreement and Release containing a specific promise by the contractor to release and hold harmless the State of Texas, its officers, and employees with regard to all claims and disputes arising from the contract.

IT IS THEREFORE ORDERED by the Texas Transportation Commission (commission) that the sum of \$929.85 is authorized to be expended from funds under the control and jurisdiction of the commission, and the executive director is directed to take the necessary steps to secure a warrant in this amount payable to the contractor.

ITEM 12. BUILDING CONSTRUCTION

a. Maverick County – Eagle Pass Maintenance Facility - Authorization for the department to issue a Request for Qualifications and Proposals, then select, rank, and negotiate a Development and Exchange Agreement with the top-ranked design-build firm for the acquisition of land and the design and construction of a building or other facility in exchange for existing property (MO)

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

110518
MNT

Transportation Code, Chapter 201, Subchapter C, Section 201.1055, authorizes the Texas Department of Transportation (department) to exchange existing property and improvements with a private entity in return for the acquisition of land and the design and construction of a building or other facility required to support department operations.

Under that authority, the department intends to issue a Request for Qualifications and Proposals to select a qualified private entity to provide a new site, and design, develop and construct a department maintenance facility in exchange for the existing Eagle Pass maintenance facility. The construction of a new facility to the latest standards of the department will benefit the traveling public and the department.

The department's existing facility, located at 2440 US 277, Eagle Pass (valued at an estimated cost of \$1,355,000) 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 department proposes to negotiate a Development and Exchange Agreement with the top ranked private entity whose proposal provides the best value to the department based on cost estimates for land acquisition, site development, professional design services, construction cost and all associated costs for the new facility and site.

IT IS THEREFORE ORDERED by the commission that the department issue a Request for Qualifications and Proposals and commence negotiations with the top ranked private entity to locate a new site, and design and construct a new facility for the department in exchange for the existing Eagle Pass maintenance facility.

IT IS FURTHER ORDERED that the department may reissue a Request for Qualifications and Proposals for this project in the event that suitable terms for a Development and Exchange Agreement cannot be accomplished.

Note: Exhibit A on file with minute order clerk.

b. Starr County – Rio Grande City Maintenance Facility - Authorization for the department to issue a Request for Qualifications and Proposals, then select, rank, and negotiate a Development and Exchange Agreement with the top-ranked design-build firm for the acquisition of land and the design and construction of a building or other facility in exchange for existing property (MO)

Commissioner Houghton 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:

110519
MNT

Transportation Code, Chapter 201, Subchapter C, Section 201.1055, authorizes the Texas Department of Transportation (department) to exchange existing property and improvements with a private entity in return for the acquisition of land and the design and construction of a building or other facility required to support department operations.

Under that authority, the department intends to issue a Request for Qualifications and Proposals to select a qualified private entity to provide a new site, and design, develop and construct a department maintenance facility in exchange for the existing Rio Grande City maintenance facility. The construction of a new facility to the latest standards of the department will benefit the traveling public and the department.

The department's existing facility, located at 3939 East US 83, Rio Grande City (valued at an estimated cost of \$1,045,000) 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 department proposes to negotiate a Development and Exchange Agreement with the top ranked private entity whose proposal provides the best value to the department based on cost estimates for land acquisition, site development, professional design services, construction cost and all associated costs for the new facility and site.

IT IS THEREFORE ORDERED by the commission that the department issue a Request for Qualifications and Proposals and commence negotiations with the top ranked private entity to locate a new site, and design and construct a new facility for the department in exchange for the existing Rio Grande City maintenance facility.

IT IS FURTHER ORDERED that the department may reissue a Request for Qualifications and Proposals for this project in the event that suitable terms for a Development and Exchange Agreement cannot be accomplished.

Note: Exhibit A on file with minute order clerk.

ITEM 13. ROUTINE MINUTE ORDERS

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

a. Donations to the Department

(1) Falls County – Consider a donation from Wal-Mart Stores, Texas, L.P. contributing funds and property toward development of a continuous frontage road section along SH 6 in Marlin (MO)

110520
OGC

This minute order considers an estimated amount of \$280,000 in cash and \$550,000 worth of property for a total amount of \$830,000 from Wal-Mart, Stores Texas, L.P. (WST) to the Texas Department of Transportation (department). The donation will accelerate a high priority project for improvement of the SH 6 Corridor.

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, has not been a party to a contested case before the department during the last 30 days, and is not subject to department regulation or oversight. Periodically, WST approaches the department with similar donations in order to accommodate traffic safety around their shopping centers.

IT IS THEREFORE ORDERED by the commission that the estimated donation of \$830,000 by WST 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) **Houston District** – Consider a donation from Oak Ridge Associated Universities for travel expenses related to a department employee giving presentations at the 2006 Annual Meeting of the Department of Energy Emergency Management Issues Special Interest Group to be held in Las Vegas, Nevada from May 1-4, 2006 (MO)

110521
OGC

This minute order considers a donation of an estimated \$1,620 in travel expenses from the Oak Ridge Associated Universities (ORAU) for a Texas Department of Transportation (department) employee to give presentations at the 2006 Annual Meeting of the Department of Energy Emergency Management Issues Special Interest Group being held in Las Vegas, Nevada from May 1 – 4, 2006.

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, is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, 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 an estimated \$1,620 by ORAU 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.

b. Eminent Domain Proceedings

Various Counties - noncontrolled and controlled access highways

110522
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	Fort Bend	US 90A	0027-07-040	4
2	Harris	US 90	0028-02-045	69
3	Baylor	US 277	0157-01-064	5, pts 1&2
4	Baylor	US 277	0157-01-064	13
5	Baylor	US 277	0157-01-064	27
6	Dallas	Loop 12	0353-05-107	20

NON-CONTROLLED ACCESS (continued)

<u>EXHIBIT</u>	<u>COUNTY</u>	<u>HIGHWAY</u>	<u>ROW CSJ NO</u>	<u>PARCEL</u>
7	San Jacinto	SH 150	0395-02-031	1
8	Live Oak	US 59	0542-07-011	14
9	Live Oak	US 59	0542-07-011	15
10	Live Oak	US 59	0542-07-011	22
11	Live Oak	US 59	0542-07-011	23
12	Harris	Gulf Bank Road	8003-12-008	127
13	Harris	Gulf Bank Road	8003-12-008	130A
14	Harris	Gulf Bank Road	8003-12-008	131, pts 1&2
15	Harris	Gulf Bank Road	8003-12-008	170C
16	Harris	Gulf Bank Road	8003-12-008	229

CONTROLLED ACCESS

<u>EXHIBIT</u>	<u>COUNTY</u>	<u>HIGHWAY</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
A	Bell	IH 35	0015-07-076	16
B	Bell	IH 35	0015-07-076	35AC
C	Bell	IH 35	0015-07-076	46
D	Bell	IH 35	0015-14-117	47
E	Bell	IH 35	0015-14-117	49
F	Bell	IH 35	0015-14-117	50
G	Harris	US 90	0028-02-045	61
H	Webb	Loop 20	0086-14-037	1
I	Travis	SH 71	0113-13-086	118A
J	Harris	SH 35	0178-09-001	11C
K	Bell	Loop 363	0184-04-042	11
L	Bell	Loop 363	0184-04-042	12, pts 1&2
M	Dallas	IH 35E	0196-03-231	18
N	Dallas	IH 35E	0196-03-231	37
O	Dallas	IH 35E	0196-03-231	70
P	Bell	FM 2305	0232-04-012	37 & 37E
Q	Harris	IH 10	0271-07-260	716
R	Maverick	Loop 480	0299-14-018	1, pts 1&2
S	Liberty	SH 105	0338-05-025	27
T	Johnson	SH 121	0504-05-002	99
U	Dallas	IH 635	2374-01-150	2AC
V	Dallas	IH 635	2374-01-152	11
W	Dallas	IH 635	2374-01-152	14
X	Dallas	IH 635	2374-01-152	15
Y	Dallas	IH 635	2374-02-115	9
Z	Dallas	IH 635	2374-02-115	44
AA	Dallas	IH 635	2374-02-115	45
BB	Dallas	IH 635	2374-02-115	46
CC	Smith	Loop 49	3487-01-011	5
DD	Smith	Loop 49	3487-02-008	8
EE	Smith	Loop 49	3487-02-008	19

Note: Exhibits 1 through 16 and A through EE on file with minute order clerk.

c. Load Zones & Postings

Various Counties - Revise load restrictions on various bridges on the state highway system

(1) Roadways

110523
CST

The Texas Transportation Commission (commission) under provision of Texas 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.

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 on the state highway system to determine and fix the maximum loads to be transported or moved on, over or upon the roads of the highway system.

It has been determined from this investigation that the loads on certain sections of roads 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 transported or moved on, over or upon the roads described in Exhibit A be fixed, revised, or removed as set forth therein, superseding any portion of a previous action in conflict. The executive director shall proceed with the erection, revision or removal of signs as appropriate, making the removal of this load limitation effective and operative.

Note: Exhibit A on file with minute order clerk.

(2) Bridges

110524
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 bridges described in Exhibits A and B be placed, revised or removed as set forth therein, superseding any portion of previous action in conflict. The executive director shall proceed with the revision of signs as appropriate, making the placement, revision, or removal of these load limitations effective and operative.

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

d. Right of Way Dispositions and Donations

(1) Bexar County – I-37 between Dawson and Nolan Streets – Consider the lease of right of way (MO)

110525
ROW

In the city of San Antonio, BEXAR COUNTY, on INTERSTATE 37, the State of Texas (state) acquired certain land needed for highway purposes (right of way).

La Villita Del Rio Development, Ltd., the abutting landowner, (lessee) has requested to lease a portion of the right of way, described in Exhibit A, for the purpose of additional parking in conjunction with the use of the abutting property.

The right of way to be leased will not be needed for a highway purpose during the 20-year term of the lease.

The lease will be economically beneficial to the Texas Department of Transportation (department) in that the department will receive the fair market rental value of \$19,646 per year.

V.T.C.A., Transportation Code, Chapter 202, Subchapter C, authorizes the leasing of highway right of way.

IT IS ORDERED by the commission that the Right of Way Division Director is authorized and directed to enter into an acceptable lease agreement between the department and the lessee.

Note: Exhibit A on file with minute order clerk.

(2) McMullen County – SH 72 at SH 16 in Tilden – Consider the sale of surplus right of way (MO)

110526
ROW

In the city of Tilden, MCMULLEN COUNTY, on STATE HIGHWAY 72, the State of Texas (state) acquired certain land needed for highway purposes by instruments recorded in Volume 20, Page 293, and Volume 22, Page 22, Deed Records of McMullen 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 2, the Texas Transportation Commission (commission) may recommend the sale of surplus land to the abutting landowner.

Tilden Lions Club is the abutting landowner and has requested that the surplus land be sold for \$3,900.

The commission finds \$3,900 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. The executive director is authorized to execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Tilden Lions Club for \$3,900; 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.

(3) Tarrant County – SH 360 south of SH 183 in Fort Worth (surplus) and Business SH 114L at Dallas Road in Grapevine (new) – Consider the exchange of right of way (MO)

110527
ROW

In the city of Fort Worth, TARRANT COUNTY, on STATE HIGHWAY 360, the State of Texas (state) acquired certain land for state highway purposes by instrument recorded in Volume 5530, Page 221, 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 V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the exchange of surplus land as whole or partial consideration for other land needed for a state highway purpose.

In the city of Grapevine, TARRANT COUNTY, on BUSINESS STATE HIGHWAY 114L, land needed for a state highway purpose (new land), described in Exhibit B, has been conveyed to the state by the City of Dallas, Texas (city). The city has requested that the surplus land be conveyed in exchange and as consideration for the new land.

It is the opinion of the commission that it is proper and correct that the state convey the surplus land to the city in exchange and as consideration for the conveyance of the new land 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 conveying all of the state's rights, title and interest in the surplus land to the City of Dallas, Texas, in exchange and as consideration for the conveyance of the new land to the state; 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.

(4) Travis County – I-35 at East 51st Street in Austin – Consider the exchange of right of way (MO)

This item was deferred.

(5) Yoakum County – SH 214 at Rogers Avenue in Denver City – Consider the sale of a surplus right of way easement (MO)

110528
ROW

In the city of Denver City, YOAKUM COUNTY, on STATE HIGHWAY 214, the State of Texas acquired an easement interest in certain land needed for highway purposes by instrument recorded in Volume 63, Page 103, Deed Records of Yoakum County, Texas.

A portion of the land (surplus easement), 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 easements.

Royce Hemmeline and Jewell Dean Hemmeline are the owners of the underlying fee and have requested that the surplus easement be sold for \$80.

The commission finds \$80 to be a fair and reasonable value for the state's rights and interest in the surplus easement.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus easement is no longer needed for a state highway purpose and that the value of the surplus easement is less than \$10,000 and authorizes the executive director to execute a proper instrument releasing all of the state's rights and interest in the surplus easement to Royce Hemmeline and Jewell Dean Hemmeline for a cash consideration of \$80.

Note: Exhibit A on file with minute order clerk.

e. Speed Zones

Various Counties - Establish or alter regulatory and construction speed zones on various sections of highways in the state

110529
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 a speed limit on a 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 the highway.

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 portion of the minute order establishing the speed zone shown on the attached Exhibit C is canceled.

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

ITEM 14. 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 City of McAllen City Commissioner Scott Crane.

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

The regular meeting of the Texas Transportation Commission adjourned at 2:24 p.m.

APPROVED:

Ric Williamson, Chair
Texas Transportation Commission

xxx

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 April 27, 2006, in Brownsville, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation