

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on June 29, 2006, in Austin, Texas. The meeting opened at 9:08 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
 Richard Monroe, 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 11:37 a.m. on June 21, 2006, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

A service award was presented to Chairman Williamson for 5 years with TxDOT.

A resolution was presented to General Counsel Richard Monroe upon his retirement.

RESOLUTION

Recognize the 50th anniversary of President Dwight D. Eisenhower signing the Interstate Highway Act into law on June 29, 1956

This item was presented by Public Information Office Director Randall Dillard.

ITEM 1. Approval of Minutes from the May 25, 2006 regular meeting of the Texas Transportation Commission, and approval of revised minutes from the April 27, 2006 meeting

Commissioner Johnson made a motion, seconded by Commissioner Houghton, and the commission approved the minutes of the May 25, 2006 regular meeting of the Texas Transportation Commission, and the revised minutes from the April 27, 2006 meeting.

ITEM 12. RAIL PROJECT

Ellis County – Authorize the acquisition of a 4.57-mile rail facility, known as the “Waxahachie Industrial Lead,” between milepost 798.03 near Waxahachie and milepost 802.60 near Nena (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:

110565
TPP

Transportation Code, Chapter 91, authorizes the Texas Department of Transportation (department) to acquire abandoned rail facilities. In approving the acquisition of abandoned rail facilities, the Texas Transportation Commission (commission) is required to consider the local and regional economic benefit realized from the disbursement of funds to acquire the rail facility in comparison to the amount of the disbursement.

Pursuant to this legislation, the commission has adopted rules prescribing policies and procedures for the department's acquisition of abandoned rail facilities, codified as 43 TAC §§7.20-7.22. Those rules require the department to request that a municipality, county, or rural rail transportation district in which all or a segment of the rail facility is located provide documentation concerning the local and regional economic impact of an abandonment. The rules also require the department, if a determination is made that there is a need to acquire the rail facility, to conduct one or more public hearings to receive public comment on the proposed acquisition.

The Union Pacific Railroad Company (UP) has filed a notice of exemption with the Surface Transportation Board (STB) for UP to abandon a 4.57-mile segment of rail line, known as the Waxahachie Industrial Lead, between milepost 798.03 near Waxahachie, and milepost 802.60 near Nena, in Ellis county (see Exhibit A).

The department has obtained information concerning the local and regional economic impact of the abandonment from the UP, and has determined, based on this information and information contained in the UP notice filed with the STB, that there is only a limited need to preserve the rail facility for future transportation purposes, as more fully described in the attached Exhibit B.

A public hearing concerning the proposed acquisition was held at the Waxahachie City Hall on June 6, 2006. A summary of public comments on the proposed acquisition is contained in Exhibit B.

The city of Waxahachie (city) has proposed an interim trail use and has filed the necessary documents with the STB. If approved, the city would assume full managerial, financial and legal responsibility for the corridor which would be subject to reversion back to the UP to operate as a railroad at such time the UP deems it necessary to reactivate the line.

The commission has considered the criteria prescribed in §7.22 of the rules, as more fully described in Exhibit B, and has determined that the acquisition of the rail facility should not be authorized at this time.

IT IS THEREFORE ORDERED by the commission, that the department take no further action at this time to acquire the Waxahachie Industrial Lead.

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

The commission received comments from Representative Jim Pitts; and citizen of Liberty Hill Jim Dillon.

ITEM 2. 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.

The commission received comments from citizen of Liberty Hill Jim Dillon.

ITEM 4. TOLL PROJECTS

Caldwell, Guadalupe, and Travis Counties – Authorization to exclude Segments 5 and 6 of SH 130 from the Central Texas Turnpike System

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

110566
FIN

Transportation Code, Chapter 228 and other applicable law authorizes the Texas Transportation Commission (commission) to issue turnpike revenue bonds, bond anticipation notes, and other obligations to finance turnpike 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.

Pursuant to Minute Order 108873, dated April 25, 2002, STATE HIGHWAY 130, including Segments 1 through 6, has been designated as a turnpike project and a controlled access state highway from I-35 at SH 195 to I-10 at Seguin.

Pursuant to Minute Order 108896, dated May 30, 2002, STATE HIGHWAY 45, has been designated as a turnpike project and a controlled access state highway from west of US 183 to SH 130.

Pursuant to Minute Order 108896, dated May 30, 2002, LOOP 1 has been designated as a turnpike 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 45.

The commission has previously issued \$2,199,993,781.80 in obligations to finance a portion of the costs of the Central Texas Turnpike System (System), a turnpike project composed initially of the SH 130 (Segments 1 through 4), SH 45, and Loop 1 project elements (2002 Project), pursuant to an Indenture of Trust and four supplemental indentures. The Indenture of Trust dated July 15, 2002 (indenture), prescribes the terms, provisions and covenants related to the issuance of turnpike revenue bonds and obligations to finance a portion of the costs of the 2002 Project.

The indenture defines the System as being comprised of initially the 2002 Project, and any project to expand, enlarge or extend the System, any project pooled with the System pursuant to Transportation Code, Chapter 228, and any other roads, bridges, tunnels or other toll facilities for which the commission has operational responsibility and

is collecting tolls, unless the commission identifies, in writing delivered to the Trustee, as defined in the indenture, such roads, bridges, tunnels or other toll facilities as not being part of the System for the purposes of the indenture.

IT IS THEREFORE ORDERED by the commission that SH 130 Segments 5 and 6, extending from the southern terminus of Segment 4 at US 183 to I-10 near Seguin, are not part of the Central Texas Turnpike System, as defined in Indenture of Trust dated July 15, 2002 governing obligations issued to finance the 2002 Project.

IT IS FURTHER ORDERED that the executive director of the department is directed to submit to the Trustee written notification that includes a copy of this order, providing that SH 130 Segments 5 and 6, extending from the southern terminus of Segment 4 at US 183 to I-10 near Seguin, are not part of the Central Texas Turnpike System.

ITEM 5. COMPREHENSIVE DEVELOPMENT AGREEMENTS

a. Caldwell, Guadalupe, and Travis Counties – Authorize the executive director to execute an agreement with Cintra Zachry, LP, evidencing a commitment to, once the conditions set out in the agreement have been satisfied, cause the execution of a Facility Concession Agreement (FCA) for the financing, development, design, construction, operation, and maintenance of Segments 5 and 6 of SH 130 from the southern terminus of Segment 4 of SH 130 to I-10 near Seguin in Travis, Caldwell, and Guadalupe counties, and approve the terms of the FCA documents with such changes necessary to satisfy the conditions as the executive director may approve (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:

110567
TTA

Per minute order 109901, the Texas Transportation Commission (Commission) awarded a comprehensive development agreement (CDA) to Cintra Zachry, LP to plan, develop, acquire, design, construct, finance, maintain, and operate the Oklahoma-Mexico priority element of the Trans-Texas Corridor system generally paralleling I-35 (TTC-35), as well as other potential facilities to the extent necessary for connectivity and financing. The agreement was executed by both parties on March 11, 2005.

Under the terms of the CDA, Cintra Zachry, LP has the right to propose self performance of facilities ready for development. Under this provision, Cintra Zachry, LP nominated Segments 5 and 6 of SH 130, a facility that extends from the southern terminus of Segment 4 of SH 130 at US 183 to the I-10 interchange east of Seguin. In April 2005, the department agreed that this facility was appropriate for self performance and that negotiations could be initiated. Subsequent negotiations have resulted in an agreement regarding the facility agreement terms and conditions.

The facility agreement terms and conditions are effectively settled pending environmental clearance of the project and the satisfaction of certain other pre-execution conditions. The department and Cintra Zachry, LP have negotiated a commitment agreement evidencing a mutual commitment to cause the execution of a facility concession agreement (FCA) for the SH 130, Segments 5 and 6 Facility in the form

agreed to by both parties, and the exhibits to the FCA that are contracts (collectively, the FCA Documents), provided that the pre-execution conditions are satisfied within the period agreed upon by both parties.

IT IS THEREFORE ORDERED by the commission that the executive director is authorized and directed to enter into an agreement with Cintra Zachry, LP, evidencing a commitment to, once the conditions set out in the agreement have been satisfied, cause the execution of a FCA for the financing, development, design, construction, operation, and maintenance of the SH 130 Segments 5 and 6 facility, from the southern terminus of Segment 4 of SH 130 to I-10 near Seguin.

IT IS FURTHER ORDERED that the terms and conditions in the FCA Documents are approved with such changes necessary to satisfy the conditions in the commitment agreement as the executive director may approve, such approval to be evidenced by the execution by the executive director of the FCA Documents.

The commission received comments from Dallas Metropolitan Planning Organization Director Michael Morris; Austin District Engineer Bob Daigh; and citizen of Liberty Hill Jim Dillon.

ITEM 6. REGIONAL MOBILITY AUTHORITIES

a. **Cameron County** – Consider final 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 Andrade made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Texas Turnpike Authority Division Director Phillip Russell:

110568
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 long 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 would provide an important north-south corridor and a reliever route for some of the noncommercial traffic, and would 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 financial or engineering and traffic feasibility studies, and the design, financing, acquisition, construction, operation, or maintenance of a turnpike project or system 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 cost of 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 toll equity rules as Title 43, Texas Administrative Code, §§ 27.50-27.58 to prescribe conditions for the commission's participation in the financing of a toll facility of a public or private entity.

In accordance with §§27.53 and 27.54 of the toll equity rules, the commission, in Minute Order 110509 dated April 27, 2006, granted preliminary approval of financial assistance 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. The financial assistance would be used to further study and develop the projects to include environmental studies, traffic and revenue studies if needed, design and engineering services, 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.

In accordance with §27.54 of the toll equity rules, the executive director has negotiated a financial assistance agreement with the authority that complies with the requirements of §27.55 of those rules, including provisions for the repayment of the financial assistance from toll revenue generated from the projects or revenue obtained by the authority under a comprehensive development agreement, or from the proceeds of bonds issued by the authority secured by revenues of the projects. The negotiated terms also provide that a default on this loan will result in an obligation of the authority to transfer all work product related to the projects to the department. The authority has complied with all other applicable requirements of the toll equity rules.

As the financial assistance will be used to pay for the development of needed projects that will serve to relieve congestion in Cameron County by providing an important north-south corridor and reliever route for noncommercial traffic, by improving access to the city of Brownsville's central business district, and by providing an alternate route from South Padre Island to the mainland; and as the executive director has negotiated provisions relating to the disbursement and repayment of the financial assistance, the commission has determined that providing the financial assistance will prudently provide for the protection of public funds.

As the authority has committed to comply with all applicable environmental laws and to assume responsibility for identifying and securing all federal and state environmental permits and commitments necessary for the development of its projects, the commission has determined that the projects will provide for all reasonable and feasible measures to avoid, minimize, or mitigate adverse environmental impacts.

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 and, in accordance with those provisions, the commission grants final 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 enter into a financial assistance agreement with the Cameron County Regional Mobility Authority.

The commission received comments from Cameron County Regional Mobility Authority Director David Garza; Cameron County Regional Mobility Authority Interim Executive Director Pete Sepulveda; Cameron County Regional Mobility Authority Director Laura Betancourt; Cameron County Commissioner John Wood; and citizen of Liberty Hill Jim Dillon.

c. Various Counties – Consider authorizing Cherokee, Harrison, Rusk and Upshur counties to become part of the North East Texas Regional Mobility Authority (MO)

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

110569
TTA

Pursuant to Chapter 370 of the Transportation Code, and 43 TAC Chapter 26 (RMA rules), Gregg and Smith counties petitioned the Texas Transportation Commission (commission) for authorization to form a Regional Mobility Authority (RMA). The petition was filed on June 23, 2004.

By Minute Order 109829 dated October 28, 2004, the commission authorizes the creation of the North East Texas Regional Mobility Authority (NETRMA). The minute order authorized that the initial board of directors be composed of seven members, with six members appointed by the Gregg and Smith counties commissioners courts, and the presiding officer appointed by the Governor.

Texas Administrative Code (TAC), 43 TAC 26.21, provides that one or more counties may request the commission for approval to become part of an existing RMA. The NETRMA has received resolutions from the Cherokee, Harrison, Rusk and Upshur county commissioners courts indicating support for the request to join the NETRMA and the NETRMA has agreed, in writing, to the four county additions to the RMA.

The Commissioners courts of Gregg and Smith counties, the original petitioning counties, have both adopted resolutions indicating support for the request.

The resolutions propose that the board of directors shall be composed of the original seven members, with six members appointed by the Gregg and Smith counties commissioners courts, and the presiding officer appointed by the Governor, with each added county appointing one additional board member.

The commission finds that expansion of the RMA will result in direct benefits to the state, local governments, and the traveling public, and will improve the efficiency of the state's transportation systems. Expansion of the RMA will benefit the state by constructing needed roadway projects, such as the network identified in the original

RMA petition. The expanded RMA will benefit local governments by increasing local control over transportation planning and through additional transportation projects that may be funded through surplus revenue earned by the RMA. The traveling public will also benefit through improved mobility and traffic safety throughout the region encompassed by the expanded RMA.

The commission also finds that the affected political subdivisions in the added counties will be adequately represented on the board.

IT IS THEREFORE ORDERED that the commission authorizes the expansion of the NETRMA by the addition of Cherokee, Harrison, Rusk and Upshur counties.

IT IS FURTHER ORDERED that the board of directors shall be composed of the original seven members, with six members appointed by the Gregg and Smith counties commissioners courts, and the presiding officer appointed by the Governor, with each added county appointing one additional board member.

The commission received comments from Northeast Texas Regional Mobility Association Chairman Jeff Austin III; Linda Thomas; and citizen of Liberty Hill Jim Dillon.

b. El Paso County – Authorize the City of El Paso to create the Camino Real Regional Mobility Authority (MO)

After testimony, commission deferred a vote until later in the meeting. Commissioner Johnson made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Texas Turnpike Authority Division Director Phillip Russell:

The commission received comments from citizen of Liberty Hill Jim Dillon; City of El Paso Mayor John Cook; Senator Eliot Shapleigh; El Paso County Judge Elect Anthony Cobos; Representative Joe Pickett; Greater El Paso Chamber of Commerce President Richard Dayoub; El Paso City Council member J. Alexandro Lozano; El Paso city representative Steve Ortega; and El Paso city representative Eddie Holguin.

ITEM 8. PUBLIC TRANSPORTATION

a. Award Federal §5303, Planning Funding for FY 2007 to Metropolitan Planning Organizations and Federal §5304, State Planning and Research Program (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:

110570
PTN

The Texas Transportation Commission (commission) was designated by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, Metropolitan Planning Program (49 U.S.C. §5303) and State Planning and Research Program (49 U.S.C. §5304), in a letter dated October 4, 2005, and is required to ensure that these grant funds are distributed and utilized in accordance with guidance from FTA.

Title 43, Texas Administrative Code (TAC), §31.21(c) establishes a formula through which §5303 program funds shall be distributed to the metropolitan planning organizations (MPO) of the state; and 43 TAC §31.22 establishes the mechanism through which §5304 program funds are administered by the Texas Department of Transportation (department). The distribution of the FY 2006 apportionment is shown in Exhibit A and has been calculated in accordance with the provisions of §31.21(c) and §31.22.

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 federal FY 2006 §5303 and §5304 FTA allocation for the state FY 2007 program as described in Exhibit A, submit the necessary state application to FTA, and enter into any necessary contracts in accordance with the priorities established in this minute order.

Note: Exhibit A on file with minute order clerk.

b. Award Federal §5316, Job Access/Reverse Commute Program funds for 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:

110571
PTN

The Texas Department of Transportation (department), through Section 3037 of the Transportation Equity Act for the 21st Century (TEA-21), will receive \$2,379,023 FY 2004 Job Access and Reverse Commute funds for work force transportation in colonias located in 30 counties along and near the Texas-Mexico border.

On February 3, 2006, the department published a Notice of Invitation for Texas Colonias Job Access and Reverse Commute Proposals in the Texas Register. The Texas Transportation Commission (commission) finds that the projects listed in Exhibit A are eligible for funding.

The commission desires to award \$2,379,023 to the transit agencies listed in Exhibit A. Should further funds become available in this program as a result of project savings or deobligations, these funds may be made available to the transit agencies also listed on the respective contingency list identified in Exhibit A.

The commission, on February 24, 2005, in Minute Order No. 109971, expressed its intent to award Transportation Development Credits (TDCs) for vehicle purchases included in projects selected under this grant. This minute order expressed the intent that TDCs awarded not exceed \$1,104,000 in value. Each eligible project in Exhibit A is shown with the allocated amount of TDCs for that project's qualifying expenses.

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 described in Exhibit A, submit the necessary state application to the Federal Transit Administration 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.

ITEM 9. Promulgation of Administrative Rules

b. Final Adoption

(2) Chapter 31 – Public Transportation (MO)

Amendments to §31.11, Formula Program (State Programs) (Including Revision to Distribution Formula for Recipients), and §31.36, Section 5311 Grant Program (Federal Programs) (Including Revision to Distribution Formula for Subrecipients)

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:

110572
PTN

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §31.11, relating to formula programs, and §31.36, relating to section 5311 grant programs, 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 - C 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 §31.11, and §31.36 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 C on file with minute order clerk.

The commission received comments from Texas Transit Association Executive Director Ben Herr; EZ Rider General Manager Ken Smithson; and Citibus General Manager John Wilson.

ITEM 6. REGIONAL MOBILITY AUTHORITIES (resumed)

b. El Paso County – Authorize the City of El Paso to create the Camino Real Regional Mobility Authority (MO)

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

110573
TTA

Pursuant to Chapter 370 of the Transportation Code, and 43 TAC Chapter 26 (RMA rules), the City of El Paso (city) petitioned the Texas Transportation Commission

(commission) for authorization to form a regional mobility authority (RMA) in the city of El Paso. The original petition was filed on February 28, 2006.

By letter dated May 18, 2006, the Texas Department of Transportation (department) notified the city that the petition met the requirements of §26.11 of the RMA rules.

The petition identifies the completion of the outer Loop 375 by extending the existing terminus of the Loop 375 at the downtown area westward to Interstate-10 (I-10) at the US 85/NM 273 interchange, as the potential candidate project for development by the RMA. This project will increase mobility for the region through quality transportation infrastructure that allows for choices in reaching the region's transportation destinations.

The board of directors of the RMA, as set forth in the petition, will be composed of seven members, with six members appointed by the El Paso City Council, and the presiding officer, who will serve as chairperson, appointed by the Governor.

On June 12, 2006, the department conducted a public hearing in El Paso, pursuant to §26.12 of the RMA rules, to receive public comment on the proposed formation of the RMA. Notice of the public hearing was published in the *Texas Register* and in a newspaper of general circulation in El Paso County.

At the public hearing, fifteen individuals spoke in favor and five opposed the creation of the RMA. Nine individuals submitted written comments, eight in favor and one opposed to the creation of the RMA. The commission finds that the creation of the RMA has sufficient public support. The commission bases this finding on: (1) the resolution of support from the City Council of the City of El Paso; and (2) the support indicated at the public hearing and in the written comments.

The commission finds that creation of the RMA will result in direct benefits to the state, local governments, and the traveling public, and will improve the efficiency of the state's transportation systems. The RMA will benefit the state by constructing needed roadway projects, such as the projects identified in the city's petition, as the city's potential candidate projects. The RMA will benefit local governments by increasing local control over transportation planning and through additional transportation projects that may be funded through surplus revenue earned by the RMA. The traveling public will also benefit through improved mobility and traffic safety throughout the region encompassed by the RMA. The RMA will improve the efficiency of the state's transportation systems through the construction of the potential candidate project, which will enhance mobility and safety within these segments of the state highway system, and through the development and financing of additional projects in the future.

The commission finds that the potential candidate project is consistent with the approved Texas Transportation Plan, included in the Statewide Transportation Improvement Program, and included in the approved plan of the Metropolitan Planning Organization. Subject to commission approval of the project under §26.31 of the RMA rules, the commission also finds that the project will benefit the traveling public.

IT IS THEREFORE ORDERED that the commission authorizes the creation of the RMA.

IT IS FURTHER ORDERED that the potential candidate project that may be developed, maintained, and operated by the RMA shall be the network identified above.

This order does not constitute final commission approval of the project, which must be obtained under to Chapter 370 of the Transportation Code and the applicable provisions of the RMA rules.

IT IS FURTHER ORDERED that the initial board of directors shall be composed of seven members, with six members appointed by the El Paso City Council, and the presiding officer appointed by the Governor.

ITEM 2. DISCUSSION ITEMS

b. Preparations for upcoming Legislative Appropriations Request

This discussion item was presented by Chief Financial Officer James Bass.

ITEM 3. STRATEGIC PLAN

Approve the Texas Department of Transportation's 2007-2011 Strategic Plan (MO)

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

110574
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, goal, 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 document titled *Agency Strategic Plan for Fiscal Years 2007-11* as shown in Exhibit A, except as it may be altered as requested by the Legislative Budget Board and concurred in by the executive director or his designee, is adopted and approved for submission for the Governor's Office, the Legislative Budget Board and other required officials.

Note: Exhibit A on file with minute order clerk.

ITEM 5. COMPREHENSIVE DEVELOPMENT AGREEMENTS

b. Collin and Denton Counties - Approve conditions for the submission, acceptance, and evaluation of a public sector alternative proposal from the North Texas Tollway Authority (NTTA) to develop, design, construct, finance, maintain and operate the SH 121 toll project from Business SH 121 to US 75 in Denton and Collin counties, and for the comparison of the best value private sector proposals and the NTTA public sector alternative, and authorize the issuance of the final request for detailed proposals for the SH 121 toll project (MO)

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

110575
TTA

In Minute Order 109980, dated February 24, 2005, the Texas Transportation Commission (commission) authorized and directed the Texas Department of Transportation (department) to issue a request for competing proposals and qualifications (RFQ) for the development, design, construction, financing, maintenance and operation of the SH 121 toll project from Business SH 121 to US 75 in Collin and Denton Counties, as well as other potential facilities to the extent necessary for connectivity and financing, pursuant to a comprehensive development agreement (SH 121 toll project).

On March 25, 2005, the department issued the RFQ and determined that four of the proposing teams submitting qualification submittals in response to the RFQ were qualified to be on the short list of teams that will be requested to submit detailed proposals for the project. The department anticipates issuing a request for detailed proposals (RFP) in July 2006. Title 43, Texas Administrative Code, §27.4(e) requires commission approval to issue the RFP.

When the RFQ was issued, the portion of the SH 121 toll project from the Dallas North Tollway to US 75 had not been included in the metropolitan transportation plan as a toll project by the Regional Transportation Council (RTC), the metropolitan planning organization within whose boundaries the SH 121 toll project is located. The Denton County portion of the project, from Business SH 121 to the Dallas North Tollway, had previously been included in the metropolitan transportation plan as a toll project.

On February 9, 2006, the RTC adopted Resolution R06-04, reaffirming its position that the department pursue a comprehensive development agreement for the SH 121 toll project in Denton County.

In February and March, 2006, the department sent letters requesting the RTC's input and recommendations regarding business terms to be required in the comprehensive development agreements (CDA) used to develop transportation projects in the Dallas-Fort Worth region. The RTC, after a series of public hearings, passed a resolution on April 13, 2006, approving recommendations for key business terms for the SH 121 toll project, including toll rates, toll escalation and the distribution of guaranteed payments, with 75 percent paid up front and 25 percent over time.

The RTC's April 13th resolutions also support use of a CDA for the SH 121 toll project, invites the North Texas Tollway Authority (NTTA) to submit a public sector alternative for the SH 121 toll project, includes the Collin County portion of the project in the metropolitan transportation plan as a toll project, and provides that the private sector proposals will be compared with the public sector alternative based on the same objective evaluation criteria.

In response to the department's May 2006 request, the RTC, during its June 15, 2006 meeting, recommended evaluation criteria and weighting to be included in the RFP, to be used to select the best value private sector CDA proposer and for the comparison of the best value private sector CDA proposal and the public sector alternative submitted by NTTA. The price criterion, consisting of the guaranteed payments paid 75 percent up front and 25 percent in equal annual payments over time, would comprise 80 percent of the evaluation score. The duration of the construction schedule and the project

development plan (including the project management approach, quality management approach, and technical solutions) would each comprise 10 percent of the evaluation score.

On June 21, 2006, the NTTA Board of Directors adopted a resolution directing staff to prepare a public sector alternative for the SH 121 toll project for NTTA Board approval prior to submission to the department.

IT IS THEREFORE ORDERED by the commission that the comparison between the best value proposer, selected after the department's evaluation of CDA proposals submitted in response to the request for proposals for the SH 121 toll project, and the public sector alternative submitted by the NTTA, will be based on, as recommended by the RTC, (1) the highest net present value of guaranteed payments to the department, which will be based on the key business terms set by the RTC, with 75 percent of total payments being in the form of an upfront payment and 25 percent of the total payments being a guaranteed, constant annual payment (escalated at an assumed rate of inflation) over the term of the lease, (2) the duration of the construction schedule, and (3) the project development plan, with the weightings of those criteria being 80 percent-10 percent-10 percent, respectively, as recommended by the RTC.

IT IS FURTHER ORDERED that to promote fairness and maximize competition, the NTTA will submit its public sector alternative for the SH 121 toll project on equivalent terms as the private sector CDA proposals submitted in response to the request for proposals, no later than the date the private sector CDA proposals are due.

IT IS FURTHER ORDERED that the department review the NTTA's submittal to ensure it conforms to all requirements in the RFP or equivalent terms approved by the department, without deviations or exceptions. A non-conforming submittal shall not be considered.

IT IS FURTHER ORDERED that the department select an apparent best value CDA proposer for the SH 121 toll project, and that the department then compare the best value CDA proposal for the SH 121 toll project with the NTTA's submittal, based on the criteria set out in the RFP, to determine which alternative provides the best overall value to the region.

IT IS FURTHER ORDERED that the department request the staff of the RTC perform its own comparison of the NTTA public sector alternative with the best value CDA proposal based on the criteria set forth in the RFP to determine which alternative provides the best overall value to the region.

IT IS FURTHER ORDERED that the department submit its recommendations to the commission for approval regarding the selection of the best value CDA proposer and the department and the RTC each submit its recommendation to the commission for approval regarding the best overall value for the development of the SH 121 toll project.

IT IS FURTHER ORDERED that the department is authorized and directed to issue a final request for detailed proposals for the development, design, construction, financing, maintenance and operation of the SH 121 toll project from Business SH 121 to US 75 in Collin and Denton Counties, as well as other potential facilities to the extent necessary for connectivity and financing.

ITEM 7. 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:

110576
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, May 18, 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 \$7,764,890.

Note: Exhibit A on file with minute order clerk.

ITEM 9. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:**a. Proposed Adoption Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001: (to be published in the Texas Register for public comment)****(1) Chapter 11 – Design (MO)****Amendments to §11.50, Access Management, §11.51, Definitions, §11.52, Delegation of Access Permit Authority to Municipalities, §11.55, Local Access Roads, and New §11.56, Connection with Regionally Significant Highway (Access Connections to State Highways)**

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:

110577
OGC

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§11.50 - 11.52 and §11.55, and new §11.56 relating to access connections to state highways, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed 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 §§11.50 - 11.52 and §11.55 and new §11.56 are proposed for adoption and are 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.

(2) Chapter 17 – Vehicle Titles and Registration (MO)

Amendments to §17.28, Specialty License Plates, Symbols, Tabs, and Other Devices (Motor Vehicle Registration)

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order presented by Vehicle Titles and Registration Division Director Rebecca Davio:

110578
OGC

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §17.28, relating to specialty license plates, symbols, tabs and other devices, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed 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 §17.28 are proposed for adoption and are 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.

(3) Chapter 18 – Motor Carriers (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:

110579
OGC

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §18.2, §18.13, §18.14, §18.16, and §18.32, relating to motor carriers, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed 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 proposed for adoption and are 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 through D on file with minute order clerk.

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

b. Final Adoption

(1) Chapter 1 – Management and Chapter 25 – Traffic Operations (MO)
Amendments to §1.85, Department Advisory Committees (Advisory Committees) and §§25.500-25.504 and New §25.505 (Safe Routes to School Program)

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

110580
OGC

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §1.85, relating to advisory committees, §§25.500 – 25.504, and new §25.505, relating to the safe routes to school program, to be codified under Title 43, Texas Administrative Code, Part 1.

The preambles, adopted amendments, and new section, 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 §1.85, §§25.500–25.504, and new §25.505, 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 Texas Bicycle Coalition Executive Director Robin Stallings.

ITEM 10. PASS-THROUGH TOLL

Authority to Issue a Request for Competing Proposals

Bastrop and Lee Counties – Authorize the executive director to issue a request for competing proposals to private entities to design, construct, finance, and maintain US 290 East from 1.0 mile east of FM 696 in Bastrop County to Navarro Street in Giddings and US 290 from 0.5 mile east of FM 141 to 2.05 miles east of FM 141 in Lee County under a pass-through toll agreement. The request for competing proposals relates to a proposal for a project to be developed under a pass-through toll agreement received from Zachry American Infrastructure (MO)

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

110581
FIN

On April 24, 2006, Zachry American Infrastructure (ZAI), a private entity, submitted a proposal for a pass-through toll agreement. ZAI's proposal provides for the design, construction, financing, and maintaining of 23.8 miles of US 290 East from 1.0 mile east of FM 696 in Bastrop County to Navarro Street in Giddings in Lee County, and the rehabilitation of 1.546 miles of US 290 East from 0.505 mile east of FM 141 to 2.05 miles east of FM 141 in Lee County.

Section 222.104(b), Transportation Code, authorizes the 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 design, development, financing, 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 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.

Sections 5.54 and 5.55 of the commission's rules provide that the commission may authorize the department's executive director, upon receipt of a pass-through toll proposal from a private entity, to solicit competing proposals for the project after considering the: (1) financial benefits to the state; (2) local public support for the project; (3) whether the project is in the department's Unified Transportation Program (UTP); (4) extent to which the project will relieve congestion on the state highway system; (5) potential benefits to regional air quality that may be derived from the project; (6) compatibility of the proposed project with existing and planned transportation facilities; and (7) qualifications of the proposer to accomplish the proposed work.

After considering the factors described by §5.54, the commission determines that: (1) the proposal has the potential to provide significant financial benefits to the state; (2) ZAI's proposal indicated broad support for the project and did not identify any opposition; (3) the project identified in the proposal is in the current UTP, therefore future funding sources should be identified; (4) the project identified in the proposal demonstrates 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 Capital Area Council of Governments (CAPCOG); (5) potential benefits to regional air quality must be quantified and documented by CAPCOG through the air quality conformity process in accordance with all state and federal regulations; (6) the project is compatible with existing and planned transportation facilities; and (7) ZAI's proposed team for implementation, management and completion of the project appears qualified to accomplish the proposed work.

Pursuant to Section 5.55 of the commission's rules, the department will publish notice of the request for competing proposals in the Texas Register and in one or more newspapers of general circulation. The notice will state that the department has received a proposal for a pass-through toll agreement from a private entity, that the department

intends to evaluate the proposal, and that the department may negotiate a pass-through toll agreement with the proposer.

The notice will state that the department will accept for simultaneous consideration any competing proposal received within 45 days of the publication of the notice in the Texas Register, or such additional time as authorized by the commission. The notice will summarize the proposed project, identify its location, and specify the general criteria that will be used to evaluate all proposals and the relative weight given to the criteria.

After evaluation of properly submitted proposals, the department will rank proposals and may select the private entity whose proposal provides the best value to the department. The department will negotiate a pass-through toll agreement with that proposer.

Before the project in this proposal is planned, developed, or constructed using funds administered by the department, the project: (1) must be included in the Capital Area Council of Governments' Transportation Plan; (2) must be included in the department's UTP, thereby identifying committed funding for the project; (3) prior to construction, must be included in the Capital Area Council of Governments' 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 and directed to issue a notice of request for competing proposals to private entities to design, construct, finance, and maintain 23.8 miles of US 290 East from 1.0 mile east of FM 696 in Bastrop County to Navarro Street in Giddings in Lee County, and the rehabilitation of 1.546 miles of US 290 East from 0.505 mile east of FM 141 to 2.05 miles east of FM 141 in Lee County under a pass-through toll agreement. In this regard staff shall consider that it is the intent of the commission that staff considers all forms of financing.

IT IS FURTHER ORDERED that the executive director or his designee is authorized to negotiate a pass-through toll agreement with the private entity whose proposal, based on the department's evaluation, provides the best value to the department. If the negotiations are unsuccessful, the department may reject all proposals or proceed to the next most highly ranked proposal and attempt to negotiate an agreement with that party. Upon completion of successful negotiations, 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.

IT IS FURTHER ORDERED that the executive director or his designee is authorized to negotiate a pass-through toll agreement with Zachry American Infrastructure if no competing proposals are received in response to the notice for competing proposals. 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.

ITEM 11. TRANSPORTATION PLANNING AND PROGRAMMING**a. Approve appointment of one member to the Grand Parkway Association Board of Directors (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:

110582
TPP

The Texas Transportation Commission (commission) by Minute Order 108239, dated June 29, 2000, appointed Lori Quinn, to serve a six-year term on the Board of Directors (board) of the Grand Parkway Association, a transportation corporation created by the commission under Transportation Code, Chapter 431.

Ms. Quinn's term expires on June 29, 2006.

Pursuant to Title 43, Texas Administrative Code (TAC), §15.85, the board has nominated Ms. Quinn for a second term on the board and has submitted the prescribed documentation for commission review:

Lori Quinn
10330 A Lake Road
Houston, Texas 77070

The board, as authorized by the executive director of the Texas Department of Transportation, published not less than 20 days prior to the date of this order, an appropriate notice of the nomination and of its proposed consideration by the commission, and has furnished the commission with the requisite publisher's affidavit.

Based upon the review and consideration of all relevant information as documented and filed with the commission, and based upon the board's recommendation, it appears to the commission that the nominee is fully eligible and qualified to serve as a member of the board in accordance with Transportation Code, Chapter 431, and with 43 TAC, Chapter 15, Subchapter H.

IT IS THEREFORE ORDERED by the commission that effective on the date of this order, Lori Quinn is hereby appointed to serve as a member on the board for the Grand Parkway Association, with a term expiring June 29, 2012.

b. Various Counties – Appoint members to the Border Trade Advisory Committee (MO)

Commissioner Andrade 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:

110583
TPP

Title 43, Texas Administrative Code, §1.84(d)(1), explains that the Border Trade Advisory Committee (committee) provides a forum for the exchange of communications among the Texas Transportation Commission (commission), the Texas Department of Transportation (department), the governor, and committee members representing border trade interests. The committee's advice and recommendations will provide the governor, the commission, and the department with a broad perspective regarding the effect of transportation choices on border trade in general and on particular communities. The

members of the committee also provide an avenue for interested parties to express opinions with regard to border trade issues.

43 TAC §1.84(d)(3) outlines the duties of the committee. The committee shall:

- define and develop a strategy for identifying and addressing the highest priority border trade transportation challenges;
- make recommendations to the commission regarding ways in which to address the highest priority border trade transportation challenges;
- advise the commission on methods for determining priorities among competing projects affecting border trade; and
- perform other duties as determined by the commission, the executive director, or the executive director's designee.

In accordance with Transportation Code, §201.114, the commission will appoint the members of the committee, which to the extent practicable must include:

- the presiding officers, or persons designated by the presiding officers, of the policy boards of metropolitan planning organizations wholly or partly in the department's Pharr, Laredo, Odessa, or El Paso transportation district;
- the person serving, or a person designated by the person serving, in the capacity of executive director of each entity governing a port of entry in this state; and
- a representative each from at least two institutes or centers operated by a university in this state that conduct continuing research on transportation or trade issues.

The commission will appoint members to staggered three-year terms expiring on August 31 of each year, except that the commission may establish terms of less than three years for some members in order to stagger terms. The border commerce coordinator designated under Government Code, §772.010, shall serve as the chair of the committee.

IT IS THEREFORE ORDERED by the commission that the Border Trade Advisory Committee is created and that the individuals or positions named in the attached Exhibit A are appointed as members of the Border Trade Advisory Committee.

Note: Exhibit A on file with minute order clerk.

ITEM 13. STATE INFRASTRUCTURE BANK

City of Haskell – Consider granting preliminary approval of an application from the City of Haskell to borrow \$500,000 from the State Infrastructure Bank to pay for water line adjustments on US 277 and US 380 (MO)

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

110584
FIN

Section 350 of the National Highway System Designation Act of 1995 (Public Law No. 104-59) authorizes states to establish a State Infrastructure Bank (SIB) for the purpose of making loans and providing other financial assistance to public and private entities. Transportation Code, Chapter 222, Subchapter D, created a SIB within the Texas Department of Transportation (department). The Texas Transportation Commission (commission) has adopted administrative rules implementing that

subchapter and establishing eligibility criteria for an entity applying for financial assistance from the SIB. These rules are codified as Title 43, Texas Administrative Code, Chapter 6.

In accordance with 43 TAC §6.23, the City of Haskell has submitted an application to borrow \$500,000 to pay for water line adjustments on US 277 and US 380 in the city of Haskell.

The project is on the interstate highway system and eligible for federal aid. The project is consistent with the Texas Transportation Plan and is included in the Statewide Transportation Improvement Program.

The city has represented that the loan will be secured by tax revenues. The present and projected financial condition of the SIB is sufficient to cover this request.

On March 27, 2006, the Haskell City Council passed a resolution authorizing submission of this application to the SIB. This resolution indicates the official written approval of the projects by the governing body of the city and demonstrates local public support.

The proposed project and loan conform with the purpose of the SIB and will expand the availability of funding for transportation projects and reduce direct state costs.

In accordance with 43 TAC §6.31, the department has reviewed and analyzed the application, finds the application to be in compliance with the requirements of 43 TAC, Chapter 6, and recommends that the commission grant preliminary approval of the application pursuant to 43 TAC §6.32.

NOW, THEREFORE, IT IS DETERMINED that the application for SIB financial assistance submitted by the city of Haskell meets the requirements of 43 TAC §6.32(c)(1) and §6.32(c)(2), and in accordance with that section, the commission grants preliminary approval of the application to borrow \$500,000 from the State Infrastructure Bank and directs the executive director to implement the actions authorized and required by that section.

ITEM 14. TRAFFIC OPERATIONS

Approve the FY 2007 Highway Safety Plan (MO)

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

110585
TRF

The Texas Traffic Safety Act of 1967 (H.B. 353, 60th Legislature) and the United States Code, Title 23, Section 402, require a highway safety program designed to reduce traffic crashes and deaths, injuries and property damage.

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) also appropriated various traffic safety incentive programs to the states.

The Texas Department of Transportation has, in compliance with these requirements, developed the FY 2007 Highway Safety Plan (HSP).

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the HSP is approved and the executive director is directed to enter into any necessary agreements and proceed in the most feasible and economical manner with program

development at an estimated total cost of \$40,922,924 as shown in Exhibit A. The estimated cost for this program is contingent upon the appropriation of funds by the U.S. Congress and could increase or decrease from the requested amount.

IT IS FURTHER ORDERED that, should additional federal funds become available, the director of the Traffic Operations Division is authorized to approve an increase in the HSP up to 10 percent of the total approved budget and the executive director or the director's designee is authorized to approve an increase in the HSP up to 50 percent of the total approved budget, or to the extent of the additional federal funds.

Note: Exhibit A on file with minute order clerk.

ITEM 15. CONTRACTS

a. Award or Reject Highway Improvement Contracts

(1) Maintenance

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

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 June 8 and 9, 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.

110586
CST

(2) Highway and Building Construction

STP 2000 (586) TE in Fort Bend County which was originally due to be rejected was deferred until the July commission meeting. Commissioner Johnson made a motion, seconded by Commissioner Houghton, and the commission approved the following minute order, rejecting Project No. STP 2006 (607) in Bell County; CC 805-4-21 in Hays County; SFT 121-2-52 in Hill County; CC 173-6-38 in Hunt County; SFT 561-1-20 in Kaufman County; SFT 204-9-50 in Robertson County; C 38-6-29 in Starr County; CC 683-4-13 in Travis County; SFT 475-7-12 in Walker County; and SFT 18-5-66 in Webb County, as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

110587
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 June 8 and 9, 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.

The commission received comments from RDV, Inc. Owner Larry Deavers.

b. Contract Claim

Karnes County – Project STP 2003(372) – Approve a claim settlement with T.D.M., Ltd. for additional compensation

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

110588
MNT

In KARNES COUNTY on VARIOUS HIGHWAYS, T.D.M., Ltd. (contractor) was awarded construction project STP 2003(372) in the amount of \$528,469.23.

The contractor filed a claim against the Texas Department of Transportation (department) for additional compensation in the amount of \$173,504.17 for various issues associated with late start and shut down delays, additional barricade and flagger costs, and refusal to accept lab test results for base material.

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 \$53,762.50 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 \$53,762.50 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 16. BUILDING CONSTRUCTION

a. Bell County – Belton Area Engineer/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 design and construction of a building or other facility on state-owned property in exchange for existing properties (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:

110589
MNT

Transportation Code, Chapter 201, 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.

Under that authority, the department intends to issue a Request for Qualifications and Proposals to select a qualified private entity to design, develop and construct a department maintenance facility in exchange for the existing Belton, Temple and Killeen maintenance facilities. Any difference in value between the proposed new facility and the department property to be exchanged will be provided from the Maintenance Division's

budget to the extent funds are available. The construction of a new facility on new state-owned property, to the latest standards of the department will benefit the traveling public and the department.

The department's existing facility, located at 1502 Old Holland Road, Belton, with an appraised value of \$481,914, 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-1.

The department's existing facility, located at 3801 North 3rd, Temple, with an appraised value of \$285,000, 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-2.

The department's existing facility, located at 2102 Martin Luther King Boulevard, Killeen, with an appraised value of \$835,000, 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-3.

The construction of the new area engineer and maintenance facility is to be completed on department property, located at the Northeast Corner of Loop 121 and Connell Street in the city of Belton, Bell County, Texas, more particularly described by metes and bounds in Exhibit B.

The department proposes to negotiate a Development and Exchange Agreement with the three top ranked proposers, beginning with the top ranked proposer, to procure the new facility based on whose proposal provides the best value to the department. Best value will be based on cost estimates for the site development, professional design services, construction cost and all associated costs for the new facility.

IT IS THEREFORE ORDERED by the commission that the department issue a Request for Qualifications and Proposals and commence negotiations with the top three ranked proposers to design and construct a new facility for the department in exchange for the existing three maintenance facility properties located in Belton, Temple and Killeen, and partial capital funding.

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 with one of the top three ranked proposers.

Note: Exhibits A-1 through A-3 and Exhibit B on file with minute order clerk.

b. Dallas County – Dallas Southwest Area Engineer/Maintenance Facility (Cedar Hill) – 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 design and construction of a building or other facility on state-owned property in exchange for existing properties (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:

110590
MNT

Transportation Code, Chapter 201, Section 201.1055, authorizes agreements with private entities for the acquisition, design, construction or renovation of buildings for

Texas Department of Transportation (department) by various methods. The methods include the exchange of existing department owned property and improvements in return for the design and construction of a building or other facility required to support department operations on department owned property.

Under that authority, the department intends to issue a Request for Qualifications and Proposals to select a qualified private entity to design, develop and construct a department area engineer and maintenance facility in exchange for the existing Grand Prairie 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.

The department's Grand Prairie maintenance facility is no longer needed for the purposes for which it was acquired. This facility is located at 4202 Corn Valley Road, Grand Prairie, Dallas County, with an appraised value of \$402,253. A metes and bounds description of this property is attached as Exhibit A.

The new area engineer and maintenance facility will be constructed on property currently owned by the State of Texas located at Lots 1-3 High Meadows Industrial Park in the city of Cedar Hill, Dallas County, Texas, more particularly described by metes and bounds in Exhibit B. The site of the new construction is also a part of Exhibit B.

The department proposes to negotiate a Development and Exchange Agreement with the four top ranked proposers beginning with the first ranked proposer to procure the new facility based on whose proposal provides the best value to the department. Best value will be based on cost estimates 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 department issue a Request for Qualifications and Proposals and commence negotiations with the four top ranked proposers beginning with the first ranked proposer to design and construct a new facility for the department in exchange for the existing Grand Prairie maintenance facility and partial capital funding, on department property.

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 with the one of the top four ranked proposers.

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

c. McLennan County – Waco Area Engineer/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 design and construction of a building or other facility on state-owned property in exchange for existing properties (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:

110591
MNT

Transportation Code, Chapter 201, 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 in return for the design and construction of a building or other facility required to support department operations on department owned property.

Under that authority, the department intends to issue a Request for Qualifications and Proposals to select a qualified private entity to design, develop and construct a department area engineer and maintenance facility in exchange for the existing Waco area engineer and 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.

The department's existing facility, located at 7108 Woodway Drive, Waco, with an appraised value of \$1,246,700, 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 7703 Bagby Road in the city of Waco, McLennan County, Texas, more particularly described by metes and bounds in Exhibit B.

The department proposes to negotiate a Development and Exchange Agreement with the top three ranked proposers, beginning with the top ranked proposer, to procure the new facility based on whose proposal provides the best value to the department. Best value will be based on cost estimates 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 department issue a Request for Qualifications and Proposals and commence negotiations with the top three ranked proposers to design and construct a new facility for the department in exchange for the existing Waco area engineer and maintenance facility and partial capital funding, on department property.

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 with one of the top three ranked proposers.

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

d. Rockwall County – Dallas Northeast Area Engineer/Maintenance Facility (Garland) – 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 design and construction of a building or other facility on state-owned property in exchange for existing properties (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:

110592
MNT

Transportation Code, Chapter 201, 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.

Under that authority, the department intends to issue a Request for Qualifications and Proposals 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.

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 a Development and Exchange Agreement with the top ranked three proposes, beginning with the top ranked proposer, to procure the new facility based on whose proposal provides the best value to the department. Best value will be based on cost estimates 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 department issue a Request for Qualifications and Proposals and commence negotiations with the top three ranked proposers to design and construct a new facility for the department in exchange for the existing Rockwall maintenance facility and partial capital funding, on department property.

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 with one of the top three ranked proposers.

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

ITEM 17. ROUTINE MINUTE ORDERS

Commissioner Andrade 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) Amarillo District – Consider a donation from the U.S. Department of Justice for a department employee's travel expenses to participate in the AMBER National Alert Conference to be held in Albuquerque, New Mexico July 17-18, 2006 (MO)

110593
OGC

This minute order considers a donation of an estimated \$791.00 from the United States Department of Justice (USDOJ) for a Texas Department of Transportation (department) employee's travel expenses to participate in the AMBER National Alert Conference to be held in Albuquerque, New Mexico from July 17-18, 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 and is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department. Members of the donor's organization may be interested in a contract, but, nonetheless, the commission finds 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 \$791.00 by USDOJ is considered. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgment of the donation.

(2) Bridge Division – Acknowledge a donation from the Precast/Prestressed Concrete Institute (PCI) for a department employee's travel expenses related to attendance and judging of the PCI 2006 Bridge Design Awards that was held in Chicago, Illinois June 1-2, 2006 (MO)

110594
OGC

This minute order acknowledges a donation of an estimated \$599.35 from the Precast/Prestressed Concrete Institute (PCI) for a Texas Department of Transportation

(department) employee's travel expenses related to attendance and judging of the PCI 2006 Bridge Design Awards that was held in Chicago, Illinois from June 1-2, 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 and is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department. Members of the donor's organization may be interested in a contract, but, nonetheless, the commission finds 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 \$599.35 by PCI 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 acknowledgment of the donation.

(3) Lamar County – Consider a fixed donation from Paris Economic Development Corporation for engineering and installation costs for a dedicated deceleration lane along US 82 westbound at the employees' entrance to Campbell Soup in Paris (MO)

110595
OGC

This minute order considers a fixed \$50,000 donation by Paris Economic Development Corporation (PEDC) to the Texas Department of Transportation (department) for engineering and installation costs for a dedicated deceleration lane along the westbound mainlanes of US 82 at the employee entrance to Campbell Soup.

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 and is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department.

IT IS THEREFORE ORDERED by the commission that the fixed donation of \$50,000 by PEDC 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.

(4) Vehicle Titles and Registration Division – Consider an in-kind donation from State Farm Insurance to provide media time, and possibly materials, for the “Put Texas in your corner” campaign (MO)

110596
OGC

This minute order considers a donation up to \$1.5 million by State Farm Insurance Companies to the Texas Department of Transportation (department) to provide in-kind participation in college and high school sports sponsorships as well as in-kind media time and print materials for the “Put Texas in your corner” vehicle registration compliance campaign.

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 and is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department.

IT IS THEREFORE ORDERED by the commission that the donation up to \$1.5 million by State Farm Insurance Companies 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.

The commission received comments from Vehicle Titles and Registration Division Director Rebecca Davio; and State Farm Insurance Texas Zone Marketing Manager Ronnie Vandivier.

b. Eminent Domain Proceedings

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

110597
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

<u>EXHIBIT</u>	<u>COUNTY</u>	<u>HIGHWAY</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
1	Fort Bend	US 90A	0027-07-040	1
2	Grayson	FM 1417	0202-08-040	15
3	Grayson	FM 1417	0202-08-040	23
4	Grayson	FM 1417	0202-08-040	27
5	Grayson	FM 1417	0202-08-040	28
6	Live Oak	US 59	0447-01-055	43
7	Bowie	FM 559	1020-01-045	30

NON-CONTROLLED ACCESS (continued)

EXHIBIT	COUNTY	HIGHWAY	ROW CSJ NO.	PARCEL
8	Williamson	RM 2338	2211-01-021	45
9	Williamson	RM 2338	2211-01-021	47
10	Grayson	FM 1417	2456-01-007	53
11	Lampasas	FM 2657	3131-03-008	28
12	Lampasas	FM 2657	3131-03-008	55
13	Harris	Gulf Bank Road	8003-12-008	241
14	Harris	Gulf Bank Road	8003-12-008	254
15	El Paso	Buford Road	8056-24-003	11

CONTROLLED ACCESS

EXHIBIT	COUNTY	HIGHWAY	ROW CSJ NO.	PARCEL
A	Bell	IH 35	0015-07-076	40
B	Bell	IH 35	0015-07-076	41AC
C	Bell	IH 35	0015-07-076	49E
D-1	Hidalgo	US 83	0039-17-144	73
D-2	Hidalgo	US 83	0039-17-144	106A
E	Tarrant	SH 199	0171-04-051	413E
F	Angelina	US 59	0176-03-120	7
G	Angelina	US 59	0176-03-120	16
H	Angelina	US 59	0176-03-120	51
I	Polk	US 59	0177-01-090	19 & 19TE
J	Montgomery	US 59	0177-05-100	14
K	Montgomery	US 59	0177-05-100	23
L	Montgomery	US 59	0177-05-100	24
M	Harris	SH 35	0178-09-001	11G
N	Bell	SH Loop 363	0184-04-042	13, pts 1&2
O	Dallas	IH 35E	0196-03-231	7
P	Dallas	IH 35E	0196-03-231	33
Q	Dallas	IH 35E	0196-03-231	67
R	Maverick	SH Loop 480	0299-14-021	6
S	Maverick	SH Loop 480	0299-14-021	9
T	Travis	SH 130	0440-06-008	361 & 361E
U	Travis	SH 130	0440-06-008	400 & 400E
V	Travis	SH 130	0440-06-008	405 & 405E
W	Travis	SH 130	0440-06-008	406 & 406E
X	Travis	SH 130	0440-06-008	407
Y	Travis	SH 130	0440-06-008	408
Z	Travis	SH 130	0440-06-008	409
AA	Travis	SH 130	0440-06-008	410
BB	Travis	SH 130	0440-06-008	411
CC	Travis	SH 130	0440-06-008	412
DD	Travis	SH 130	0440-06-008	414 & 414E
EE	Travis	SH 130	0440-06-008	431
FF	Travis	SH 130	0440-06-008	1423

CONTROLLED ACCESS (continued)

EXHIBIT	COUNTY	HIGHWAY	ROW CSJ NO.	PARCEL
GG	Travis	SH 130	0440-06-008	1426
HH	Travis	SH 130	0440-06-008	1435, pts 1&2
II	Travis	SH 130	0440-06-008	1436
JJ	Travis	SH 130	0440-06-008	1439
KK	Travis	SH 130	0440-06-008	1450
LL	Bexar	IH Loop 410	0521-04-246	6
MM	Dallas	IH 635	2374-01-150	6
NN	Dallas	IH 635	2374-01-150	8
OO	Dallas	IH 635	2374-02-115	40, pts 1&2
PP	Dallas	IH 635	2374-02-116	34
QQ	Dallas	IH 635	2374-02-116	44
RR	Smith	SH Loop 49	3487-02-008	3
SS	Smith	SH Loop 49	3487-02-008	5

Note: Exhibits 1 through 15 and A through SS on file with minute order clerk.

c. Highway Designation

Ellis County – Redesignate a segment of Business US 67-Q as State Spur 73, remove segments of Business US 67-Q and FM 1387 from the state highway system and designate FM 1387 along an existing city street (MO)

110598
TPP

In ELLIS COUNTY (county) in the city of Midlothian (city), city officials have requested that a segment of BUSINESS US 67-Q (BU 67-Q) be redesignated on the state highway system as STATE SPUR 73. The city has also requested that a segment of BU 67-Q be removed from the state highway system and returned to the city for control, jurisdiction, and maintenance. In order to facilitate the flow of traffic, promote public safety, and maintain continuity on the state highway system, the city has also requested that FARM TO MARKET ROAD 1387 be designated along an existing city street, locally known as 10th Street, and remove the former segment of FM 1387 from the state highway system and return control, jurisdiction, and maintenance to the city.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that a segment of BU 67-Q be redesignated as State Spur 73, a segment of BU 67-Q and a segment of FM 1387 be removed from the state highway system and returned to the city and that FM 1387 be designated along an existing city street.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that:

1. A segment of BU 67-Q is removed from the state highway system from the intersection of US 67 southward to the intersection of US 287 and returned to the city for control, jurisdiction and maintenance, a distance of approximately 1.01 miles.
2. The concurrent designation of BU 67-Q with US 287 is removed from the intersection of the former location of BU 67-Q (8th Street) westward to the existing intersection of BU 67-Q (5th Street), a distance of approximately 0.19 mile.

3. A segment of BU 67-Q is redesignated on the state highway system as State Spur 73, from the intersection of US 287 southward to the intersection of US 67, a distance of approximately 1.3 miles.
4. Designate FM 1387 along an existing city street, from the existing intersection of FM 1387 (Avenue E) southward to the intersection of US 287 (Avenue G) the new terminus, a distance of approximately 0.17 mile.
5. A segment of FM 1387 is removed from the state highway system from the intersection of FM 1387 (10th street) westward to the former intersection of BU 67-Q (9th Street) and returned to the city for control, jurisdiction and maintenance, a distance of approximately 0.08 mile.

IT IS FURTHER ORDERED that upon approval by the commission, this minute order, along with all other pertinent information, be forwarded to the American Association of State Highway and Transportation Officials Special Committee on U.S. Route Numbering for their consideration.

d. Load Zones & Postings

Various Counties – Revise load restrictions on the state highway system

(1) Roadways (MO)

110599
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 (MO)

110600
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 be 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: Exhibit A on file with minute order clerk.

e. Right of Way Dispositions and Donations

(1) Angelina County – US 59 at Daniel McCall Drive in Lufkin – Consider the sale of surplus access rights (MO)

110601
ROW

In the city of Lufkin, ANGELINA COUNTY, on US 59, 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), described in Exhibit A, is no longer needed for a state highway purpose.

Dude Development, Ltd., a Texas limited partnership, (DDL) owner of a 4.848 acre tract of land called Tract One and conveyed by deed recorded under Lufkin County Clerk's Instrument Number 203562 of the Real Property Records of Angelina County, Texas, (DDL 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 DDL for \$47,361.

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 DDL for a cash consideration of \$47,361.

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 DDL for \$47,361.

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

Note: Exhibit A on file with minute order clerk.

(2) Galveston County – I-45 south of Orange Grove Road in League City – Consider the sale of a surplus drainage easement (MO)

110602
ROW

In the City of League City, GALVESTON COUNTY, on INTERSTATE 45, the State of Texas acquired an easement interest in certain land for highway drainage purposes by instrument recorded in Book 2001, Page 119, Official Public Records of Real Property, Galveston 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.

The owner of the fee, Saddle Creek Ranch, Ltd., has requested that the surplus easement be sold for \$18,843.

The commission finds \$18,843 to be a fair and reasonable value for the state's rights and interest in the surplus easement.

NOW, THEREFORE, the commission finds that the surplus easement is 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 releasing the state's rights and interest in the surplus easement to Saddle Creek Ranch, Ltd., for \$18,843.

Note: Exhibit A on file with minute order clerk.

(3) Hays County – I-35 at Cottonwood Creek in San Marcos – Consider the sale of a surplus drainage easement (MO)

110603
ROW

In the city of San Marcos, HAYS COUNTY, on INTERSTATE 35, the State of Texas (state) acquired an easement interest in certain land for highway drainage purposes by instrument recorded in Volume 170, Page 581, Deed Records of Hays County, Texas.

The easement (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.

Prime Outlets At San Marcos II, L.L.C., a Delaware limited liability company, now known as Prime Outlets at San Marcos II Limited Partnership, owner of the fee underlying the surplus easement, has requested that the surplus easement be sold for \$26,475.

The commission finds \$26,475 to be a fair and reasonable value of the state's rights and interest in the surplus easement.

NOW, THEREFORE, the commission finds that the surplus easement is 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 releasing the state's rights and interest in the surplus easement to Prime Outlets At San Marcos II, L.L.C., a Delaware limited liability company, now known as Prime Outlets at San Marcos II Limited Partnership, for \$26,475.

Note: Exhibit A on file with minute order clerk.

(4) Hidalgo County – FM 1016 east of Shary Road in McAllen – Consider the sale of surplus right of way (MO)

110604
ROW

In HIDALGO COUNTY, on FARM TO MARKET ROAD 1016, the State of Texas (state) acquired certain land for highway purposes by instruments recorded in Volume 1952, Pages 262 and 267, Deed Records of Hidalgo County, Texas.

A portion of the land (surplus land), described in Exhibits A, B and C, 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 land to the abutting landowner.

Ridge Sharyland Partners IV, L.P. is the abutting landowner and has requested that the state sell the surplus land to the partnership for \$6,427.

The commission finds \$6,427 to be a fair and reasonable value of 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 all of the state's rights, title and interest in the surplus land to Ridge Sharyland Partners IV, L.P. for \$6,427; **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: Exhibits A, B, and C on file with minute order clerk.

(5) McCulloch County – SH 71 at Voca, southeast of Brady – Consider the lease of right of way (MO)

110605
ROW

In MCCULLOCH COUNTY, on STATE HIGHWAY 71, the State of Texas (state) acquired certain land needed for highway purposes (right of way).

Unimin Texas Company, LP, the abutting landowner, (lessee) has requested to lease a portion of the right of way, described in Exhibit A, for the purpose of constructing a bridge structure over the highway in order to provide unimpeded movement of heavy vehicles from one side of the highway to the other.

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 \$2,500 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 Texas Transportation 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.

(6) Montgomery County – I-45 at League Line Road in Conroe – Consider the exchange of drainage easements (MO)

110606
ROW

In the city of Conroe, MONTGOMERY COUNTY, on INTERSTATE 45, the State of Texas (state) acquired an easement interest in certain land for highway drainage purposes by instrument recorded in Volume 493, Page 111, Deed Records of Montgomery County, Texas.

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

Scott A. Davis (owner), the underlying fee owner, has offered to execute an instrument conveying to the state an easement interest in land needed for the realignment and reconstruction of a new drainage facility (new easement), described in Exhibit B, and desires to make a partial donation to the state of the value of the new easement and the construction cost.

V.T.C.A., Transportation Code, Chapter 201, Subchapter D, authorizes the Texas Department of Transportation (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 by majority vote at an open meeting any gift or donation valued at over \$500, and the commission hereby finds that acceptance of the donation will provide a significant public benefit and will not influence or reasonably appear to influence the department in the performance of its duties.

An Agreement Concerning the Donation of Property to the Texas Department of Transportation (donation agreement) will be executed by the owner and tendered to the department for acceptance under the provisions of Title 43, Texas Administrative Code, Chapter 1, Subchapter G, since the value of the new easement to be provided by the owner, which is \$7,422, plus construction costs of \$14,198, totaling \$21,620, exceeds the value of the surplus easement, which is \$20,898.

The owner has offered to execute a conveyance document under the terms of the donation agreement to convey the new easement to the state and has requested that the state's rights and interest in the surplus easement be released.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission may recommend the release of surplus easements and the exchange of surplus easements as partial or full consideration for other land needed by the state for highway purposes.

It is the opinion of the commission that once the title to the new easement is acceptable to the department, the surplus easement will no longer be needed for a state highway purpose and will be surplus. It would then be proper and correct that the state convey its rights and interest in the surplus easement to Scott A. Davis in exchange and as full consideration for the partial donation and the conveyance of the new easement to the state.

IT IS THEREFORE ORDERED by the commission that the executive director is authorized to tender the following proposal to Scott A. Davis:

Provided that the title to the new easement is acceptable to the department and that Scott A. Davis conveys the new easement to the state, then the commission will recommend the conveyance of the surplus easement in accordance with Transportation Code, Chapter 202, Subchapter B. If this provision is satisfied, the commission authorizes the executive director to accept the donation of the new easement, 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, Administrative Code, Chapter 1, Subchapter G.

IT IS FURTHER ORDERED in consideration of the foregoing premises and in accordance with Transportation Code, Chapter 202, Subchapter B, the commission hereby finds if and when Scott A. Davis satisfactorily complies with all the conditions of this minute order, the surplus easement 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 and interest in the surplus easement to owner in exchange and as full consideration for the conveyance of the new easement to the state.

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

(7) Taylor County – US 83/277 at Ambler Avenue in Abilene – Consider the transfer of title of surplus right of way to the City of Abilene and removal from the state highway system (MO)

110607
ROW

In TAYLOR COUNTY, on US 83/277, the State of Texas (state) acquired certain land needed for highway purposes by instruments recorded in Volume 506, Page 137; Volume 567, Page 246; Volume 626, Page 123, Deed Records of Taylor County, Texas, and in Volume M, Page 405, Civil Minutes, Taylor 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 waive payment for real property transferred to a governmental entity if the estimated cost of future maintenance on the property equals or exceeds the fair value of the property.

The fair value of the surplus land has been determined to be \$7,200, and the state's costs for maintenance over the next 20 years are estimated to be \$21,750.

The City of Abilene has requested that the surplus land be transferred to the city in consideration of the savings to the state of future maintenance costs, since the future maintenance costs exceed the value of the surplus land by \$14,550.

The commission finds \$7,200 to be a fair and reasonable value of the state's rights, title and interest in the surplus land and recommends that the state transfer the surplus land to the city.

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 transferring all of the state's rights, title and interest in the surplus land to the City of Abilene in consideration of the 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.

FURTHER, IT IS ORDERED by the commission that the surplus land be removed from the state highway system and returned to the city for control, jurisdiction and maintenance.

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)

110608
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 limits on various segments of the state highway system, previously established by the commission by minute order and listed in Exhibit C, are no longer necessary or have been incorporated by the cities which have the authority to set speed limits on these sections of the highways.

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 the minute orders establishing the speed zones shown on the attached Exhibit C are canceled.

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

ITEM 20. 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 did not receive any comments.

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 5:13 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 June 29, 2006, in Austin, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation