

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on July 27, 2006, in El Paso, Texas. The meeting opened at 9:03 a.m. with the following commissioners present:

Texas Transportation Commission:

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

Administrative Staff:

Michael W. Behrens, Executive Director
 Steve Simmons, Deputy Executive Director
 Richard Monroe, General Counsel
 Roger Polson, Executive Assistant to the Deputy Executive Director

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

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 2:33 p.m. on July 19, 2006, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

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

The commission received comments from El Paso District Engineer Chuck Berry; Representative Pat Haggerty; Representative Joe Pickett; City of El Paso Mayor John Cook; Borderland Mobility Coalition Co-chairman John Broaddus; Representative Norma Chavez; El Paso County Judge-Elect Anthony Cobos; and Daryl Cole.

ITEM 1. Approval of Minutes of the June 29, 2006 regular meeting of the Texas Transportation Commission

Commissioner Houghton made a motion, seconded by Commissioner Johnson, and the commission approved the minutes of the June 29, 2006, regular meeting of the Texas Transportation Commission.

ITEM 6. TOLL ROAD PROJECTS

a. Authorize the Texas Department of Transportation to issue requests for qualifications for the development of various proposed toll projects statewide under a comprehensive development agreement (MO)

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

110609
TTA

Subchapter E, Chapter 223, Transportation Code prescribes the process by which the Texas Department of Transportation (department) may enter into a comprehensive development agreement (CDA) with a private entity that provides for the design, development, financing, construction, maintenance, repair, operation, extension, or expansion of a toll project on the state highway system.

The department has been in development of various projects in Dallas, Tarrant, and Johnson counties in the Dallas/Fort Worth region, and in Harris, Liberty, Chambers, Montgomery, Fort Bend, Brazoria, and Galveston counties in the Houston/Galveston region, that would provide for the construction, expansion, and extension of tolled mainlanes, managed lanes and interchanges. The candidate CDA projects are listed in Exhibit A to this order.

Section 223.203, Transportation Code prescribes requirements for a solicited proposal and requires the department to publish a request for qualifications in the *Texas Register* that includes the criteria that will be used to evaluate any qualification submittals, the relative weight given to the criteria, and a deadline by which qualification submittals must be received.

Development of these projects is a crucial element in responding to severe recurrent traffic bottlenecks and congestion that occurs in the Dallas/Fort Worth and Houston/Galveston regions and along the proposed project corridors. The magnitude and scope of the planned projects will benefit from implementation through the CDA approach.

The planned improvements will provide increased capacity to serve the needs of regional and local traffic along the proposed project corridors. There exists the potential for expediting the development and completion of these projects through the development of public-private partnerships.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the department is authorized to publish in the *Texas Register* and in one or more newspapers of general circulation a request for qualifications to develop, design, construct, and, if appropriate, finance, maintain, and operate the projects contained in Exhibit A to this order, as well as other facilities to the extent necessary for connectivity, mobility, safety and financing.

Note: Exhibit A on file with minute order clerk.

ITEM 3. STRATEGIC PLAN

Approve the text to accompany the Texas Department of Transportation 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:

110610
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.

A formal version of the strategic plan was submitted with commission approval on July 7, 2006.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the document as shown in Exhibit A is adopted and approved as the text for this, the public version of the agency's 2007-2011 Strategic Plan; and the commission directs the Executive Director or his designee to proceed with the publication and distribution, including submission to the Governor's Office, the Legislative Budget Board and other required officials, of this document.

Note: Exhibit A on file with minute order clerk.

ITEM 4. PUBLIC TRANSPORTATION

a. Award state funds to public transportation providers for FY 2007 as appropriated by the 79th Texas Legislature (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:

110611
PTN

The 79th Legislature, Regular Session, 2005, approved an appropriations bill for the FY 2006-2007 biennium which included \$57,482,135 for public transportation grants for small urban and nonurbanized areas of the state.

The Texas Transportation Commission (commission) desires to award \$28,741,067 of this appropriation for fiscal year 2007.

Title 43, Texas Administrative Code, §31.11 establishes a formula by which public transportation funds shall be distributed to the small urban and nonurbanized areas of the state. The FY 2007 allocation is shown in Exhibit A and has been calculated in accordance with the provisions of §31.11.

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

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

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the allocations as described in Exhibit A and to enter into the necessary contracts for the FY 2007 program of projects upon completion of all application requirements by the local public transportation operators.

Note: Exhibit A on file with minute order clerk.

b. Award FY 2006 Federal §5311(f) Nonurbanized Area Formula Program funding to intercity bus projects (MO)

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

110612
PTN

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

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

On March 17, 2006, the department published a Request for Proposals for Intercity Bus Projects in the *Texas Register*. The commission finds that the projects are eligible for funding and now desires to award \$2,982,929 as listed in Exhibit A.

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 FTA, and enter into the necessary contracts in accordance with the priorities established in this minute order.

Note: Exhibit A on file with minute order clerk.

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

Proposed Adoption

a. Chapter 9 – Contract Management (MO)

Repeal of §9.2 and New §9.2, Contract Claim Procedure, and New §9.6, Contract Claim Procedure for Comprehensive Development Agreement (General)

This item was deferred.

b. Chapter 18 – Motor Carrier (MO)

(1) Withdrawal of Proposed 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); and
(2) Proposed 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 Andrade and the commission approved the following minute order presented by Motor Carrier Division Director Carol Davis:

110613
MCD

On April 27, 2006, by Minute Order 110506, the Texas Transportation Commission (commission) proposed amendments to §18.2, §18.13, §18.14, §18.16, and §18.32. The commission now finds it necessary to withdraw the previously proposed amendments to §18.2, §18.13, §18.14, §18.16, and §18.32, and simultaneously re-propose amendments to §18.2, §18.13, §18.14, §18.16, and §18.32, relating to insurance requirements for motor carriers, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the 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 previously proposed by Minute Order 110506 dated April 27, 2006 are withdrawn and the executive director is directed to take the necessary steps to implement this action, pursuant to Government Code, Chapter 2001.

IT IS FURTHER ORDERED by the commission that the amendments to § 18.2, §18.13, §18.14, §18.16, and §18.32 are re-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 president of The Apartment Movers Rod Johnson.

c. Chapter 31 – Public Transportation (MO)

Amendments to §31.3, Definitions (General), New §31.17, Job Access and Reverse Commute Program, and §31.18, Section 5317 New Freedom Program (Federal Programs)

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

110614
PTN

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §31.3, relating to definitions, and new §31.17, relating to job access and reverse commute program and new §31.18, relating to new freedom program, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments and new sections, 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 §31.3 and new §31.17 and §31.18 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 C on file with minute order clerk.

ITEM 6. TOLL ROAD PROJECTS (continued)

b. Travis and Williamson Counties – Accept the General Engineering Consultant quarterly progress report as of May 31, 2006 for the Central Texas Turnpike System (MO)

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

110615
TTA

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

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

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

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

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

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

The commission has previously engaged PBS&J to serve as general engineering consultant in accordance with the Indenture of Trust. A quarterly progress report for the period ending May 2006, attached as Exhibit A, has been prepared by PBS&J in accordance with Section 406 of the Indenture of Trust.

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

Note: Exhibit A on file with minute order clerk.

ITEM 7. Finance

a. Accept the Quarterly Investment Report as of May 31, 2006 as required by the Public Funds Investment Act (MO)

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

110616
FIN

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

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

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

Pursuant to this legislation, in Minute Order 108970, dated July 25, 2002, the commission approved and adopted a written investment policy and written investment

strategy applicable to funds of the commission held under the Indenture of Trust dated July 15, 2002 securing the outstanding bonds, notes or other obligations issued by the commission to finance a portion of the cost of the initial phase of the Central Texas Turnpike System, also known as the 2002 Project. The investment policy and investment strategy have been amended pursuant to Minute Order 109066, dated October 31, 2002, Minute Order 109339, dated July 31, 2003, Minute Order 109462, dated October 30, 2003, Minute Order 109732, dated July 29, 2004, Minute Order 109963, dated February 24, 2005, Minute Order 110087, dated May 26, 2005, and Minute Order 110145, dated July 28, 2005. The commission also adopted investment strategies in relation to the Texas Mobility Fund on February 24, 2005 and the Lease With an Option to Purchase Houston District Headquarters Complex Project on May 26, 2005. The commission has designated the department's Chief Financial Officer and Deputy Director of Finance as investment officers.

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

Quarterly investment reports will be prepared for each quarter of the department's fiscal year. A quarterly investment report for the 2002 Project for the period ending May 31, 2006, attached as Exhibit A, and a quarterly investment report for the Lease With an Option to Purchase Houston District Headquarters Complex Project for the period ending May 31, 2006, attached as Exhibit B, have been prepared in accordance with Government Code, §2256.023 and Section 9.0 of the investment policy.

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

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

b. Annual review of investment policy (MO)

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

110617
FIN

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

Government Code, §2256.005 requires the commission to adopt a written investment policy regarding the investment of its funds and funds under its control, including a separate written investment strategy for each of the funds or group of funds.

Pursuant to this legislation, in Minute Order 108970, dated July 25, 2002, the commission approved and adopted a written investment policy applicable to funds of the

commission held by Bank One, N.A., (in such capacity with its successors, currently *JP Morgan Trust Company, N.A.*), as Trustee under the Indenture of Trust dated July 15, 2002 between the commission and the trustee.

Government Code, §2256.005(e) and Section 17.0 of the investment policy require the commission to review the investment policy and investment strategy on an annual basis, and to approve by order any modifications to the investment policy and investment strategy. The investment policy and investment strategy of the commission were revised by minute orders 109963, 110087, and 110145 adopted by the commission on February 24, 2005, May 25, 2005 and July 28, 2005, respectively, to update the investment policy and strategies to make it applicable to all funds under the control of the commission and not otherwise required to be invested by the Comptroller of Public Accounts (comptroller) including the Texas Mobility Fund and proceeds from the Lease with Option to Purchase relating to the Houston District Headquarters Complex Project.

The delegation of authority provision for the policy has been amended to authorize the Debt Management Director to perform the duties and responsibilities of the Investment Officer in their absence.

The investment policy and investment strategies are attached as Exhibit A.

IT IS THEREFORE ORDERED by the commission that the investment policy and investment strategies applicable to all funds of the commission not otherwise required to be invested by the comptroller, attached as Exhibit A, has been reviewed and is hereby approved in accordance with Government Code Section §2256.005(e) and Section 17.0 of the investment policy.

Note: Exhibit A on file with minute order clerk.

ITEM 8. State Infrastructure Bank

City of Center – Consider granting preliminary approval of an application from the City of Center to borrow \$475,000 from the State Infrastructure Bank to pay for a water line relocation on SH 7 (MO)

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

110618
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 Center has submitted an application to borrow \$475,000 to pay for water line adjustments on SH 7 near Huana Creek in Shelby County.

The project is on the state 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 utility fund revenues. The present and projected financial condition of the SIB is sufficient to cover this request.

On April 25, 2005, the Center 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 Center 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 \$475,000 from the State Infrastructure Bank and directs the executive director to implement the actions authorized and required by that section.

ITEM 9. CONTRACTS

Award or Reject Highway Improvement Contracts

a. Highway Maintenance and Department Building Construction

Commissioner Houghton made a motion, seconded by Commissioner Johnson and the commission approved the following minute order, rejecting Project No. RMC-614588001 in Bexar County; RMC-614849001 in Bexar County; and RMC-614439001 in Potter County, as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

110619
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for maintenance of the State Highway System, which were publicly opened and read on July 6 and 7, 2006.

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

b. Highway and Transportation Enhancement Building Construction

Commissioner Johnson made a motion, seconded by Commissioner Houghton, and the commission approved the following minute order, rejecting Project No. STP 2000 (586) TE in Fort Bend County; CC 47-18-61 in Grayson County; SFT 1513-2-38 in Johnson County; CL 254-1-129 in Live Oak County; CL 68-2-43 in Lynn County; IM 4502 (121) in Walker County; and STP 2000 (536) TE in Williamson County, as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

110620
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 July 6 and 7, 2006 and deferred from the June 29, 2006 Texas Transportation Commission (commission) meeting as shown on Exhibit A.

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

ITEM 10. BUILDING CONSTRUCTION

a. Comal County – New Braunfels 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 a new site and the design and construction of a building or other facility in exchange for existing properties (MO)

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

110621
MNT

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

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

The department's existing facility, located at 2940 I-35 South, New Braunfels, with an appraised value of \$816,000, will no longer be needed for the purposes for which it was acquired. A metes and bounds description of the property is attached as Exhibit A.

The department's existing property, located at the intersection of I-35 and Solms Road, New Braunfels, with an appraised value of \$1,044,128, 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 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 land and the new facility based on whose proposal provides the best value to the department. Best value will be based on cost estimates for the land acquisition, site development, professional design services, construction cost and all associated costs for the new facility and site.

IT IS THEREFORE ORDERED by the commission that the department issue a Request for Qualifications and Proposals and commence negotiations with the top three ranked proposers to locate a new site, and design and construct a new facility for the department in exchange for land and the existing New Braunfels area engineer and maintenance facilities 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 and B on file with minute order clerk.

b. Kerr County – Kerrville 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:

110622
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 Kerrville 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 1832 North Sidney Baker, Kerrville, with an appraised value of \$1,860,000, will no longer be needed for the purposes for which it was acquired. A metes and bounds description of the property is attached as Exhibit A.

The new area engineer and maintenance facility will be constructed on department property located on 12.476 acres on SH 27, Airport Commerce Parkway in the city of Kerrville, Kerr 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 Kerrville area engineer and maintenance facility and partial capital funding, on department owned 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 11. RIGHT OF WAY

Travis County – Authorize the negotiation of options to purchase for advance acquisition of right of way for FM 973 (MO)

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

110623
ROW

In TRAVIS COUNTY, a project has been proposed to extend FARM TO MARKET ROAD 973 on new location, from US 290/LP 212 east of Manor to .75 - mile south of Manor, approximately two miles.

The Texas Transportation Commission (commission) finds that use of options to acquire property in connection with the FM 973 project may reduce the time required for the acquisition of right of way and can be economically beneficial to the state by either establishing the purchase price at current market value as of the date of the option contract or establishing a methodology for determining a purchase price at the time the option is exercised without the necessity for condemnation, and/or agreeing to restrictions on the owner's future development and improvement of the property. Successful negotiation of options for this project will help preserve the transportation corridor and benefit both the public and land owners along the proposed route.

Although construction of the project is not yet authorized and no final determination has been made on the alignment of the project, preserving the transportation corridor and the completion of the FM 973 project is essential and urgent, as the construction of the project will alleviate congestion and improve traffic flow.

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

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

IT IS THEREFORE ORDERED by the commission that the Austin district engineer is authorized to negotiate with property owners along the proposed route of FM 973 and execute option contracts for the purchase of property of a size and in a location as is reasonably related to the possible future design and alignment of such transportation facility, to expend funds for option fee payments, surveys, title examinations, appraisals and other expenses reasonably necessary to purchase the options, and to exercise the options and expend funds for acquisition of the properties.

ITEM 12. ROUTINE MINUTE ORDERS

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

a. Donations to the Department

(1) Galveston County – Consider a donation from Clear Lake Shores Economic Development Corporation as part of the department’s Landscape Cost Sharing Program for installation, equipment, inspection and maintenance on the department’s right of way adjacent to FM 2094 in Clear Lake Shores in Galveston (MO)

110624
OGC

This minute order considers a donation of \$38,074 from Clear Lake Shores Economic Development Corporation (CLS-EDC) to the Texas Department of Transportation (department) to contribute to a landscape improvement project along FM 2094 in Clear Lake Shores, Texas. The project is part of the department’s Landscape Cost Sharing Program, which allows private businesses, civic organizations, and local governments an opportunity to support the aesthetic improvement of the state highway system.

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, but they are a local affiliation of an organization that periodically makes donations to the department as a joint effort to keep Texas roadways clean. 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 \$38,074 by CLS-EDC is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

(2) Harris County – Consider a donation from Trees for Houston as part of the department's Landscape Cost Sharing Program for the installation, equipment, inspection, maintenance of trees, shrubs and irrigation system on the department's right of way adjacent to I-610 at the Houston Ship Channel (MO)

110625
OGC

This minute order considers a donation of \$762,000 from Trees for Houston to the Texas Department of Transportation (department) to contribute to a landscape improvement project on the department's right of way adjacent to I-610 Loop East at the Houston Ship Channel. The project is part of the department's Landscape Cost Sharing Program, which allows private businesses, civic organizations, and local governments an opportunity to support the aesthetic improvement of the state highway system.

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, but they are a local affiliation of an organization that periodically makes donations to the department as a joint effort to keep Texas roadways clean. 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 \$762,000 by Trees for Houston 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.

(3) Jefferson County – Consider a donation from SEMPRA Energy, Inc. to relocate 3.3 miles of SH 87 to accommodate the construction of the Port Arthur LNG Project (MO)

110626
OGC

This minute order considers a donation of an estimated amount of \$2.85 million to the Texas Department of Transportation (department) from SEMPRA Energy Inc. to provide for land acquisition and exchange of right of way, utility relocation, environmental assessments, schematics, plans specifications and estimates, construction and construction engineering for relocation of approximately 3.3 miles of SH 87 in Port Arthur, Texas.

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.

This donation has been examined, and the department recommends issuance of this minute order on the ground that acceptance of the donation is in the best interest and welfare of the traveling public. The commission finds that the donation will further the department's responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days. The commission also finds that the donor is not subject to department regulation or oversight and that acceptance of this donation will not influence or reasonably appear to influence the department in the performance of its duties. The donor previously donated funds for similar projects, and agreements have been signed without any issues.

IT IS THEREFORE ORDERED by the commission that the donation of \$2.85 million by SEMPRA Energy Inc. 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) Motor Carrier Division – Consider a donation from the Federal Motor Carrier Safety Administration for a department employees travel expenses related to participation in the Unified Carrier Registration Board meetings over a period from May 2006-2008 (MO)

110627
OGC

This minute order considers a donation of an estimated \$10,000 from the Federal Motor Carrier Safety Administration (FMCSA) for a Texas Department of Transportation (department) employee's travel expenses related to attendance at various Unified Carrier Registration (UCR) Board meetings over a period from May 2006 to May 2008.

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 \$10,000 by FMCSA 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 acknowledgment of the donation.

(5) Potter County – Consider a donation from Winchester Apartments to the department's Landscape Cost Sharing Program for the installation of an irrigation system and a simple plant design within the right of way of 9th and Bell Streets in Amarillo (MO)

110628
OGC

This minute order considers a donation of \$12,975 from Winchester Apartments to the Texas Department of Transportation (department) to contribute to a landscape improvement project along 9th and Bell Streets. The project is part of the department's Landscape Cost Sharing Program, which allows private businesses, civic organizations, and local governments an opportunity to support the aesthetic improvement of the state highway system.

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, but they are a local affiliation of an organization that periodically makes donations to the department as a joint effort to keep Texas roadways clean. 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 \$12,975 by Winchester Apartments 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.

(6) **Travel Division** – Consider a donation from the Texas Travel Industry Association (TTIA) to provide lodging, food, beverage, and admission and transportation to area attractions, solicited from various sponsors, for department employee travel counselors to attend the TTIA Study Tour of Western South Texas October 15-20, 2006 (MO)

110629
OGC

This minute order considers a donation of an estimated \$12,915 from the Texas Travel Industry Association (TTIA) to the department to provide food, beverage, lodging, admission and transportation to area attractions during a study tour to educate the department's travel counselors on Western South Texas.

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 \$12,915 by TTIA 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.

b. Eminent Domain Proceedings

Various Counties - noncontrolled and controlled access highways

110630
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	Live Oak	US 59	0447-01-055	39
2	Caldwell	FM 86	0571-02-028	2
3	Bowie	FM 559	1020-01-045	2
4	Bowie	FM 559	1020-01-045	12
5	Bowie	FM 559	1020-01-045	13
6	Bowie	FM 559	1020-01-045	14
7	Bowie	FM 559	1020-01-045	46, 46E, 46TE
8	Bowie	FM 559	1020-01-045	64
9	Bowie	FM 559	1020-01-045	75
10	Williamson	RM 2338	2211-01-021	30
11	Williamson	RM 2338	2211-01-021	51
12	Williamson	RM 2338	2211-01-021	59

NON-CONTROLLED ACCESS (continued)

EXHIBIT	COUNTY	HIGHWAY	ROW CSJ NO.	PARCEL
13	Harris	Gulf Bank Road	8003-12-008	107
14	Harris	Gulf Bank Road	8003-12-008	138
15	Harris	Gulf Bank Road	8003-12-008	169
16	Harris	Gulf Bank Road	8003-12-008	176
17	Harris	Gulf Bank Road	8003-12-008	224
18	Harris	Gulf Bank Road	8003-12-008	227
19	Harris	Gulf Bank Road	8003-12-008	259
20	El Paso	Buford Road	8056-24-003	11

CONTROLLED ACCESS

EXHIBIT	COUNTY	HIGHWAY	ROW CSJ NO.	PARCEL
A	Bell	IH 35	0015-07-076	7AC
B	Bell	IH 35	0015-07-076	8
C	Bell	IH 35	0015-07-076	12
D	Bell	IH 35	0015-07-076	13AC & 13E
E	Bell	IH 35	0015-07-076	17 & 17AC
F	Bell	IH 35	0015-07-076	18 & 18 AC
G	Bell	IH 35	0015-07-076	20 & 20AC
H	Bell	IH 35	0015-07-076	39
I	Bell	IH 35	0015-07-076	45
J	Hidalgo	US 83	0039-17-144	2B
K	Collin	US 75	0047-14-057	11
L	Collin	US 75	0047-14-057	16
M	Collin	US 75	0047-14-057	17
N	Montgomery	US 59	0177-05-100	7B
O	Montgomery	US 59	0177-05-100	21
P	Montgomery	US 59	0177-05-100	31
Q	Dallas	IH 35E	0196-03-231	36
R	Liberty	SH 105	0338-05-025	10
S	Travis	SH 130	0440-06-008	425
T	Travis	SH 130	0440-06-008	426
U	Travis	SH 130	0440-06-008	427A
V	Travis	SH 130	0440-06-008	427B
W	Travis	SH 130	0440-06-008	427C
X	Travis	SH 130	0440-06-008	428 & 428E
Y	Travis	SH 130	0440-06-008	1445A
Z	Travis	SH 130	0440-06-008	1445B
AA	Travis	SH 130	0440-06-008	1446 & 1446E
BB	Travis	SH 130	0440-06-008	1447
CC	Dallas	SH Loop 12	0581-02-115	17
DD	Dallas	SH Loop 12	0581-02-115	48AC
EE	Harris	NASA Road 1 Bypass	0981-01-078	12B

CONTROLLED ACCESS (CONTINUED)

EXHIBIT	COUNTY	HIGHWAY	ROW CSJ NO.	PARCEL
FF	Dallas	IH 635	2374-01-150	38
GG	Dallas	IH 635	2374-02-115	5
HH	Dallas	IH 635	2374-02-115	39
II	Dallas	IH 635	2374-02-116	7
JJ	Dallas	IH 635	2374-02-116	25
KK	Smith	SH Loop 49	3487-02-008	6

Note: Exhibits 1 through 20 and A through KK on file with minute order clerk.

c. Finance

Accept the quarterly cash report for the period ending May 31, 2006 (MO)

110631
FIN

Texas Transportation Code, §201.107 requires the Texas Transportation Commission (commission) to prepare a quarterly statement containing an itemized list of all the money received by the Texas Department of Transportation (department) and the source of the money and of all money paid by the department and the purpose of the payment. The statement shall be filed in the records of the department and a copy submitted to the Governor. The report must comply with each reporting requirement applicable to financial reporting provided by the General Appropriations Act.

The cash statement will be prepared for each quarter of the department's fiscal year. A quarterly cash report for the department for the third quarter of Fiscal Year 2006, ending May 31, 2006, attached as Exhibit A, has been prepared in accordance with Texas Transportation Code, §201.107.

IT IS THEREFORE ORDERED by the commission that the quarterly cash report attached as Exhibit A is approved.

Note: Exhibit A on file with minute order clerk.

d. Load Zones & Postings

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

(1) Roadways

110632
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 Exhibits A and B be fixed, revised, or removed for the month of July 2006, 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: Exhibits A and B on file with minute order clerk.

(2) Bridges

110633
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 Exhibit A be placed or revised 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) Burnet County – FM 1431 east of Marble Falls – Consider the sale of surplus right of way (MO)

110634
ROW

In BURNET COUNTY, on FARM TO MARKET ROAD 1431, the State of Texas (state) acquired certain land for a state highway purpose by instruments recorded in Volume 109, Page 514; Volume 111, Page 138, Deed Records of Burnet County, Texas, and Volume 869, Page 228, Official Public Records of Burnet County, Texas.

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

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

Camp Peniel, Inc. is the abutting landowner and has requested that the state sell the surplus land to the company for \$17,280.

The commission finds \$17,280 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 recommends, subject to approval of the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Camp Peniel, Inc. for \$17,280; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(2) Collin County – US 75 south of Bethany Drive in Allen – Consider the sale of surplus right of way (MO)

110635
ROW

In the city of Allen, COLLIN COUNTY, on US 75, the State of Texas acquired certain land needed for state highway purposes by instruments recorded in Volume 509, Page 160, and Volume 509, Page 176, Deed Records of Collin County, Texas.

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

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

Montgomery Farm Garden District, Ltd., is the abutting landowner and has requested that the surplus land be sold for \$67,012.

The commission finds \$67,012 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Montgomery Farm Garden District, Ltd., for \$67,012; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(3) Donley County – US 287 at Collinson Street in Clarendon – Consider the sale of surplus right of way (MO)

110636
ROW

In the city of Clarendon, DONLEY COUNTY, on US 287, the State of Texas (state) acquired certain land for a state highway purpose by instrument recorded in Volume 63, Page 513, Deed Records of Donley County, Texas, and used other land for which there is no record title in the state's name.

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

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

Gary Hunt and wife, Nena Hunt, are the abutting landowners and have requested that the state sell the surplus land to them for \$2,875.

The commission finds \$2,875 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 Gary Hunt and wife, Nena Hunt, for \$2,875; **SAVE AND EXCEPT**, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(4) Fayette County – I-10 east of US 77 in Schulenburg – Consider the release of surplus access rights (MO)

110637
ROW

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

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

W.H.K. Family Interest Partnership, Ltd. (WHK), owner of a 27.57 acre tract of land conveyed by deed recorded in Volume 1302, Page 786, Official Records of Fayette County, Texas (WHK Tract), is the landowner abutting the property line along which access is proposed to be released and has requested that the state release the surplus access rights to WHK in consideration of WHK's constructing an extension of the frontage road along the WHK Tract. The estimated value of the frontage road extension is \$248,000.

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

The Texas Department of Transportation has determined that the release 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 release the surplus access rights to WHK in consideration of WHK's constructing an extension of the frontage road along the WHK Tract.

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 WHK in consideration of WHK's constructing an extension of the frontage road along the WHK Tract.

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

Note: Exhibit A on file with minute order clerk.

(5) Lubbock County – US 62/82 near Idalou – Consider the release of a highway reservation (MO)

110638
ROW

In LUBBOCK COUNTY, on US 62/82, the State of Texas (state) acquired certain rights and interest in a highway reservation recorded in Volume 523, Page 26, Deed Records, Lubbock County, Texas.

The highway reservation provided that if the land was never used for a highway project and acquisition is no longer proposed due to an indefinite deferment, relocation or abandonment of the proposed highway improvement, then the State Highway Engineer, now the Executive Director, could cancel the highway reservation. The Executive Director has signed a memorandum canceling the highway reservation.

Monsanto Company, one of the current landowners of property covered by the highway reservation, has requested that the state release all of its rights and interest in the highway reservation.

V.T.C.A., Transportation Code, Chapter 202, Subchapter B, authorizes the commission to recommend the release to a landowner of any rights and interest that the state may have acquired in a conveyance instrument.

The commission finds that acquisition of the land is no longer proposed due to an indefinite deferment or abandonment of the proposed highway improvement and that it is proper and correct that the state release all of its rights and interest in the highway reservation to Monsanto Company and all other fee owners currently subject to the reservation.

NOW, THEREFORE, the commission finds that the highway reservation 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 releasing all of the state's rights and interest in the highway reservation to Monsanto Company and all other fee owners currently subject to the reservation.

(6) Lubbock County – Spur 327 at Iola Avenue in Lubbock – Consider the sale of surplus right of way (MO)

110639
ROW

In the city of Lubbock, LUBBOCK COUNTY, on STATE SPUR 327, the State of Texas (state) acquired certain land for a state highway purpose by instrument recorded in Volume 851, Page 66, Deed Records of Lubbock County, Texas.

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

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

The City of Lubbock is the abutting landowner and has requested that the state sell the surplus land to the city for \$20,000.

The commission finds \$20,000 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 recommends, subject to approval of the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to the City of Lubbock for \$20,000; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(7) Somervell County – FM 205 at the Paluxy River west of Glen Rose – Consider the quitclaim of surplus right of way to comply with a reversionary clause (MO)

110640
ROW

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

The instrument conveying the land to the state provided that if the land was abandoned, then any portion would revert to the Estate of Wm. E. Muse, its successors and assigns.

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

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

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

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

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

110641
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 13. 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.

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.

- b. **Preparations for upcoming Legislative Appropriations Request**

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

OPEN COMMENT PERIOD - The commission received comments from Ray Gilbert, and John M. Rooney.

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 1:08 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 July 27, 2006, in El Paso, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation