

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on April 26, 2007 in Austin, Texas. The meeting opened at 9:06 a.m. with the following commissioners present:

Texas Transportation Commission:

Ric Williamson	Chair
Hope Andrade	Commissioner
Ted Houghton, Jr.	Commissioner
Ned Holmes	Commissioner
Fred Underwood	Commissioner

Administrative Staff:

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

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

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 3:06 p.m. on April 18, 2007, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

ITEM 1. Approval of Minutes of the March 29, 2007 regular meeting of the Texas Transportation Commission.

Commissioner Underwood made a motion, seconded by Commissioner Holmes, and the commission approved the minutes of the March 29, 2007 regular meeting of the Texas Transportation Commission.

ITEM 2. AVIATION

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

Commissioner Holmes made a motion, seconded by Commissioner Underwood, and the commission approved the following minute order presented by Aviation Division Project Management Director Bill Fuller.

110907
 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, March 22, 2007, 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 \$15,508,055.

Note: Exhibit A on file with minute order clerk.

Note: The commission received comments from City of McKinney Councilmember Pete Huff and Collin County Regional Airport Director Ken Wiegand.

ITEM 3. TRANSPORTATION PLANNING

Various Counties – Appointment of four members to the Port Authority Advisory Committee (MO)

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

110908
TPP

Transportation Code, Section 55.006, requires the Texas Transportation Commission (commission) to appoint a seven-member Port Authority Advisory Committee (committee) to advise the commission and the Texas Department of Transportation (department) on port issues and to provide a forum for exchange of information between the commission, the department, and committee members representing the Texas port system.

The department’s administrative rules governing advisory committees, Title 43, Texas Administrative Code, Section 1.84, provide that the committee members serve staggered three-year terms, unless removed sooner at the discretion of the commission.

The commission has determined that the individuals listed below fulfill the statutory requirements to serve as members of the committee and shall serve the terms specified:

Terms expiring in February 26, 2010

- | | |
|-----------------------|---|
| Wade Battles | Port of Houston Authority |
| Chris Fisher | Port of Beaumont – Upper Texas Coast |
| Robert H. Van Borssum | Port Lavaca/Point Comfort – Lower Texas Coast |
| John LaRue | Port of Corpus Christi – Lower Texas Coast |

IT IS THEREFORE ORDERED by the commission that the individuals identified above are appointed for the terms specified as members of the Port Authority Advisory Committee.

ITEM 4. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

a. Proposed Adoption (to be published in the Texas Register for public comment)

Chapter 9 – Contract Management (MO)

Amendments to §9.2, Contract Claim Procedure (General) and §9.38, Contract Management (Contracting for Architectural, Engineering, and Surveying Services)

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

110909
OGC

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §9.2 and §9.38, relating to contract claim procedure and contract management, 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 - 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 §9.2 and §9.38 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, B and C on file with minute order clerk.

b. Final Adoption

Chapter 27 – Toll Projects (MO)

Amendments to §27.2, Definitions, §27.3, General Rules for Private Involvement, §27.4, Solicited Proposals, §27.5, Unsolicited Proposals, and New §27.7, Design-Build Contracts, §27.8, Conflict of Interest and Ethics Policies, and §27.9, Sanctions (Comprehensive Development Agreements)

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

110910
OGC

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §27.2, §27.3, §27.4, §27.5 and new §27.7, §27.8, and §27.9, all relating to design-build contracts and comprehensive development agreements, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments and new sections, 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 §27.2, §27.3, §27.4, §27.5 and new §27.7, §27.8, and §27.9 are adopted and are authorized for filing with the Office of the Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

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

ITEM 5. TOLL PROJECTS

a. All Counties – Authorize waiver of the requirement of the payment of a toll for certain vehicles and classes of vehicles (MO)

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

110911
TTA

Free passage on toll projects on the state highway system is governed by the Transportation Code, the administrative rules of the Texas Department of Transportation (department), and applicable trust agreements and bond indentures.

Transportation Code, §228.054(a) provides that the operator of a vehicle, other than an authorized emergency vehicle, that is driven or towed through a toll collection facility shall pay the proper toll. Section 228.054(e) further provides that the department may waive the requirement of the payment of a toll or may authorize the payment of a reduced toll for any vehicle or class of vehicles.

In accordance with Transportation Code, §362.901 and 43 TAC §27.81(b), the department generally allows free passage on toll projects for military vehicles in convoy and individually. However, pursuant to 43 TAC §27.81(h), the provision of free passage for military vehicles on toll projects that are governed by a trust agreement or indenture in existence on the effective date of the administrative rule is governed by the terms of that trust agreement or indenture.

Section 502(b) of the Indenture of Trust (indenture) for the Central Texas Turnpike System (CTTS) provides that the Texas Transportation Commission (commission) shall not grant free passage or reduced tolls within a class, except that, in its discretion, it may:

- reduce tolls through the use of commutation or other tickets or privileges based upon frequency or volume if the reduction is expected to result in an increase in revenues;
- grant free passage or reduce tolls for operational, emergency, or safety reasons;
- grant free passage to members, officers and employees of the department acting in the discharge of their official duties related to the state highway system;
- grant free passage for use by the Army, Air Force, Navy, Coast Guard, Marine Corps, or militia or any branch thereof in time of war or other emergency;

- grant free passage to public safety officers of the United States, the State and its agencies and political subdivisions when any of them (1) are acting in the discharge of their official duties, (2) can provide proper identification, (3) are using marked public safety vehicles, and (4) are traveling under flashing lights and sirens; and
- grant temporary free access for agents and contractors of the department acting on behalf of the department in connection with the construction, improvement, maintenance or operation of the toll system.

Pursuant to 43 TAC §27.82(f), the commission may authorize a private entity under contract to operate a department toll project to set toll rates for the use of the toll project and to establish an administrative fee charged to owners of vehicles that use the toll project without paying the proper toll, if:

- the private entity is required under the contract to submit to the department for approval the methodology for the setting of tolls, increasing the amount of the tolls, and the setting of an administrative fee to be imposed to recover the cost of collecting an unpaid toll;
- the private entity is required to submit to the department for approval any proposed change in an approved methodology for the setting of a toll or an administrative fee;
- the private entity will operate the toll project under a comprehensive development agreement or under a contract resulting from a procurement under 43 TAC §27.83 that provides an operational concession to the private entity; and
- the commission approves the award of the contract to the private entity. The policy related to free passage on department toll projects established in this order does not apply to private entities under contract to operate a department toll project that are authorized to set toll rates for the use of the toll project in accordance with 43 TAC §27.82(f). Those contracts will include tolling regulations prescribing the tolling methodology required to be approved by the department that includes initial maximum toll rates and limitations on escalating the amount of the tolls, as well as defining those vehicles exempt from the payment of tolls.

In Minute Order 110836, which expires April 27, 2007, the Texas Transportation Commission (commission) authorized free passage on TxDOT toll roads as follows:

- (1) on the CTTS, authorized emergency vehicles as defined in Transportation Code, §541.201 (fire department and police vehicles, ambulances, municipal department or public service corporation emergency vehicles, private vehicles of volunteer firefighters or certified emergency medical services employees or volunteers, industrial emergency response vehicles, and vehicles of blood or tissue banks) when responding to an emergency or, in the case of police vehicles, pursuing an actual or suspected violator of the law;
- (2) on non-CTTS TxDOT toll roads, authorized emergency vehicles as defined in Transportation Code, §541.201 (fire department and police vehicles, ambulances, municipal department or public service corporation

emergency vehicles, private vehicles of volunteer firefighters or certified emergency medical services employees or volunteers, industrial emergency response vehicles, and vehicles of blood or tissue banks) when the operator of the vehicle is on duty;

(3) marked, recognizable military vehicles, except on the CTTS, where such vehicles may only receive free passage during time of war or other emergency;

(4) department contractors working on the construction, improvement, maintenance, or operation of the toll project or system being traveled; and

(5) any vehicle in the time of a declared emergency or natural disaster, as determined by the executive director of the department.

The department has determined that expanding the circumstances under which free passage may be granted to authorized emergency vehicles on the CTTS will enhance the overall safety of the traveling public. Further, it has been determined that the amount of emergency vehicle traffic on CTTS is *de minimus*, and that providing free passage would have no material affect on CTTS revenues. However, the department reserves the right to reconsider this decision if a material impact on revenue is realized in the future.

IT IS THEREFORE ORDERED that free passage on TxDOT toll roads shall be granted to the following:

(1) authorized emergency vehicles as defined in Transportation Code, §541.201 (fire department and police vehicles, public or private ambulances, municipal department or public service corporation emergency vehicles, private vehicles of volunteer firefighters or certified emergency medical services employees or volunteers when responding to a fire alarm or medical emergency, industrial emergency response vehicles when responding to an emergency, and vehicles of blood or tissue banks when making deliveries of blood, drugs, medicines, or organs);

(2) marked, recognizable military vehicles, except on the CTTS, where such vehicles may only receive free passage during time of war or other emergency;

(3) department contractors working on the construction, improvement, maintenance, or operation of the toll project or system being traveled; and

(4) any vehicle in the time of a declared emergency or natural disaster, as determined by the executive director of the department.

IT IS FURTHER ORDERED that the policy established in this order does not apply to temporary free passage, not exceeding 24 hours, that is provided for operational, safety, or emergency reasons, as determined by the executive director of the department or his designee, except that, in the case of the CTTS, temporary free passage may only be granted as allowed under the indenture.

b. Travis and Williamson Counties – Accept the General Engineering Consultant quarterly progress report for the Central Texas Turnpike System as of February 28, 2007 (MO)

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

110912
TTA

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

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

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

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

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

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

The commission has previously engaged PBS&J to serve as general engineering consultant in accordance with the Indenture of Trust. A quarterly progress report for the period ending February 2007, 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.

c. Various Counties – Consider amending, approving a waiver of certain requirements in, or dissolving the regional protocol with the North Texas Tollway Authority for the development, construction, operation and implementation of current and future toll projects in the Dallas/Fort Worth region previously approved by Minute Order 110653 (MO)

This item was deferred.

The commission received comments from North Texas Tollway Authority Acting Executive Director Jerry Hiebert.

d. Dallas County – Consider final approval of a request for financing from the North Texas Tollway Authority to pay for certain costs relating to the development of the eastern extension of the President George Bush Turnpike (Eastern Extension), approve the connection of the Eastern Extension with a segment of the state highway system, remove a segment of SH 190 from SH 78 to I-30 from the state highway system, and authorize the North Texas Tollway Authority to make improvements to the state highway system in connection with the Eastern Extension project (MO)

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

110913
TTA

In DALLAS COUNTY, NEW LOCATION, an extension of STATE HIGHWAY 190 between SH 78 and I-30 was designated a part of the state highway system by Minute Order 91227, dated January 29, 1991.

By Minute Order 110302, dated November 17, 2005, the mainlanes on SH 190 from SH 78 to I-30 were designated as a toll project on the state highway system, and designated as a controlled-access facility for the purpose of development, maintenance and operation.

By Minute Order 110819, dated January 25, 2007, the Texas Transportation Commission (commission) granted preliminary approval of a request by the North Texas Tollway Authority (NTTA) for financial assistance in the amount of \$160,270,000 to be used for the acquisition of right of way, relocation utility adjustments, and related costs and services for the eastern extension of the President George Bush Turnpike (PGBT), a planned 10-mile long facility extending from SH 78 to I-30, contingent on the execution of a revenue-sharing agreement.

Transportation Code, §222.103 authorizes the Texas Department of Transportation (department) to participate, by spending money from any available source, in the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission. The commission adopted Title 43, Texas Administrative Code, §27.50-27.58 (toll equity rules) to prescribe conditions for the commission's financing of a toll facility. Under Section 27.54(c), the commission may approve the financial assistance after the completion of negotiations for the financial assistance agreement. The negotiations are ongoing and have not yet been completed.

NTTA's construction of the PGBT Eastern Extension requires additional approvals by the commission. Transportation Code, §201.103(b) authorizes the commission to remove a segment of the state highway system that it determines is not needed for the system. Transportation Code, §201.113(a) authorizes the commission to enter into an agreement with a regional tollway authority governed by Transportation Code, Chapter 366, under which the regional tollway authority makes improvements to the state highway system. The commission's rules at Title 43, Texas Administrative Code, §11.56 require the commission to approve a public or private entity's connection of a regionally significant highway to the state highway system.

Because of the NTTA's planned construction of the PGBT Eastern Extension along the planned alignment of SH 190, pursuant to Transportation Code, §201.103 and §221.001, the executive director has recommended that the mainlanes on SH 190 from SH 78 to I-30 be removed from the state highway system.

IT IS THEREFORE ORDERED by the commission that the mainlanes of a segment of SH 190 from SH 78 to I-30 are removed from the state highway system.

IT IS FURTHER ORDERED that, after the successful conclusion of negotiations with the NTTA on a financial assistance agreement, the department is authorized and directed to present, for the commission's consideration, a minute order providing for the final approval of the NTTA's application for financial assistance, the NTTA's construction of improvements to the state highway system, and the approval of the connection of the PGBT Eastern Extension to the state highway system.

Note: The commission received comments from North Central Texas Council of Governments Director of Transportation Michael Morris, City of Garland Mayor Bob Day, and North Texas Tollway Authority Acting Executive Director Jerry Hiebert.

ITEM 6. FINANCE

Accept the Quarterly Investment Report as of February 28, 2007 as required by the Public Funds Investment Act (MO)

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

110914
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, Minute Order 110145, dated July 28, 2005, and Minute Order 110617, dated July 27, 2006. The commission also adopted investment strategies in relation to the Texas Mobility Fund on February 24, 2005 and the Lease With an Option to Purchase Houston District Headquarters Complex Project on May 26, 2005. The commission has designated the department's Chief Financial Officer and Deputy Director of Finance as investment officers.

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

Quarterly investment reports will be prepared for each quarter of the department's fiscal year. A quarterly investment report for the 2002 Project for the period ending February 28, 2007, attached as Exhibit A, and a quarterly investment report for the Lease With an Option to Purchase Houston District Headquarters Complex Project for the period ending February 28, 2007, 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.

ITEM 7. STATE INFRASTRUCTURE BANK

Preliminary Approval

Williamson County – Round Rock Transportation System Development Corporation – Consider granting preliminary approval of an application from the Round Rock Transportation System Development Corporation to borrow \$16 million from the State Infrastructure Bank to pay for various improvements to Hester's Crossing and I-35 in Williamson County (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:

110915
FIN

The Round Rock Transportation System Development Corporation (corporation) submitted an application for \$16 million in financial assistance from the State Infrastructure Bank (SIB) under Title 43 Texas Administrative Code, Chapter 6 (rules).

The application satisfied all requirements of the rules, including passage by the corporation of a resolution authorizing submission of the application to the Texas Department of Transportation (department). The corporation intends to use the SIB loan to pay for construction projects in the Hester's Crossing area including a collector-distributor, modification to the eastern intersection at Dell Way, reconstruction of the existing bridge and other ancillary items in the city of Round Rock (project).

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

Based on department review and analysis of the application, the Texas Transportation Commission (commission) makes the following findings: 1) the corporation has offered its sales tax revenues as security to assure likely repayment of the financial assistance; 2) the project is consistent with the Statewide Transportation Plan; 3) the project is listed in the 2008-2011 Statewide Transportation Improvement Program and is consistent with the State Implementation Plan; 4) the project will improve both the safety and efficiency of state transportation systems; and 5) the repayment of the financial assistance under negotiated terms will expand the availability of funding for other transportation projects and reduce direct state costs.

NOW, THEREFORE, IT IS DETERMINED that the application for SIB financial assistance submitted by the Round Rock Transportation System Development Corporation meets the requirements of commission rules, and in accordance with those rules and applicable law, the commission grants preliminary approval of the application to borrow \$16 million from the State Infrastructure Bank, and directs the executive director to commence negotiations and other actions authorized and required by its rules.

ITEM 8. TRAFFIC OPERATIONS

Various Counties – Authorize federal funds and state matching funds for intelligent transportation system projects (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:

110916
TRF

The Texas Department of Transportation (department) has an ongoing Intelligent Transportation System/Commercial Vehicle Operations (ITS/CVO) program to maximize highway safety and increase government and industry productivity through the application of ITS/CVO technologies that support regulatory and enforcement functions.

The Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU) has authorized a commercial vehicle information systems and networks (CVISN) program to promote the deployment of ITS/CVO applications. SAFETEA-LU has also created various programs to fund CVISN activities.

Federal funds for CVISN related projects are available to the department through these programs. Based on the requirements of SAFETEA-LU, participants in these

programs must provide at least 20 percent of the total cost of a project. Federal grants, which do not require a local match, may also be available to the department as a match for CVISN projects.

TxDOT has partnered with the Department of Public Safety, Comptroller of Public Accounts, Texas Motor Transportation Association, Texas Bus Association, and private carriers to identify the next three CVISN programs for Texas: Electronic Credentials, Safety Information Exchange, and Electronic Screening.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that an amount not to exceed \$1.09 million in federal funds and \$1.09 million in state matching funds as shown in Exhibit A is approved in Category 10, Supplemental Transportation Projects, of the 2007 Unified Transportation Program, for projects which the Federal Motor Carrier Safety Administration has awarded funding.

IT IS FURTHER ORDERED that the executive director or his designee is authorized to continue applying for additional CVISN/ITS funding. Any federally funded project under this program with a total cost of \$1.5 million or less can be approved by the executive director, who thereby can enter into any necessary agreements and proceed in the most feasible and economical manner with program development. The commission must approve federally funded projects with a total cost in excess of \$1.5 million. The department shall not expend more than a total of \$9.5 million in federal funds and \$6 million in state funds under the authority of this paragraph.

Note: Exhibit A on file with minute order clerk.

ITEM 9. CONTRACTS

a. Award or Reject Highway Improvement Contracts

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

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order rejecting Project No. RMC 6156-56-001 in Hidalgo County as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

110917
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for maintenance of the State Highway System, which were publicly opened and read on April 10 and 11, 2007.

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

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

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

110918
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for improvement of the State Highway System, which were publicly opened and read on April 10 and 11, 2007.

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. In addition it is necessary to correct a typographical error from the March 29, 2007 Conditional Award List as shown on Exhibit A.

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

b. Bexar County – Project 6156-68-001. Award of maintenance contract to second lowest bidder (MO)

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

110919
MNT

Project RMC 6156-68-001 (Culvert Replacement) was let on February 21, 2007 in the San Antonio District. K-Bar Services, Inc., was the low bidder but has failed to execute the contract. The second lowest bidder, NNA Financial Services, Co., has indicated in writing that they are willing to perform the work at the unit bid prices set forth in the lowest bid.

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

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

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

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

IT IS THEREFORE ORDERED by the commission that K-Bar Services, Inc. be allowed to withdraw its bid for the contract for Project RMC 6156-68-001.

IT IS FURTHER ORDERED that the contract for Project RMC 6156-68-001 be awarded to NNA Financial Services, Co. in the low bid amount of \$280,628.00.

Note: Exhibit A on file with minute order clerk.

ITEM 10. ROUTINE MINUTE ORDERS

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

a. Donations to the Department

(1) Austin County – Consider a donation from Western International Gas & Cylinders, Inc. for construction of a continuous left turn lane on SH 159 north of Bellville (MO)

110920
OGC

Western International Gas & Cylinders, Inc. proposes to donate to the Texas Department of Transportation (department) an estimated \$189,000 necessary for the construction of a continuous left turn lane in order to provide safer access to the donor's facilities on SH 159 north of Bellville.

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 estimated donation of \$189,000 by Western International Gas & Cylinders, 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.

(2) Montgomery County – Consider a donation from Kingwood Service Association contributing to a Landscape Cost Sharing Program project on US 59 in Kingwood (MO)

110921
OGC

This minute order considers a donation of approximately \$412,343 from Kingwood Service Association to the Texas Department of Transportation (department) to contribute to a landscape improvement project on US 59 in Kingwood, 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, has not been a party to a contested case before the department during the last 30 days, 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. The commission also 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 approximately \$412,343 by Kingwood Service Association 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) **Smith County** – Consider a donation from Trane Co. for engineering and installation costs of a new traffic signal at the company's entrance along SH 110 in Tyler (MO)

110922
OGC

This minute order considers a donation of approximately \$116,399 by Trane Co. to the Texas Department of Transportation (department) for the engineering and installation costs of a new traffic signal at the entrance of the donor's facility located on SH 110 in Tyler.

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 estimated donation of \$116,399 by Trane Co. is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

b. Eminent Domain Proceedings

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

110923
ROW

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

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

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

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

IT IS THEREFORE ORDERED that the executive director is hereby authorized and directed to transmit this request of the commission to the attorney general to file or cause to be filed against all owners, lienholders and any owners of any other interests in said parcels of land, proceedings in eminent domain to acquire in the name of and on

behalf of the state, for said purposes, fee simple title to each such parcel of land as are more particularly described in each of the exhibits attached hereto and made a part hereof, and such additional lesser estates or property interests as are more fully described in each of said exhibits, save and excepting, oil, gas and sulphur, as provided by law, to wit:

NON-CONTROLLED ACCESS

EXHIBIT	COUNTY	HIGHWAY	ROW CSJ NO.	PARCEL
1	Brazoria	SH 35	0178-02-072	45C
2	Brazoria	SH 35	0178-02-072	67
3	Brazoria	SH 35	0178-02-072	72
4	Bell	US 190	0185-01-033	13
5	Bell	US 190	0185-01-033	48
6	Austin	SH 36	0187-03-058	9
7	Henderson	US 175	0198-02-030	47 & 47E
8	Anderson	US 175	0198-03-029	135
9	Anderson	US 79	0205-07-065	25 & 25E
10	Anderson	US 79	0205-07-065	40
11	Anderson	US 79	0205-07-065	89E
12	Anderson	US 79	0205-07-065	90E
13	Anderson	US 79	0205-07-066	81
14	Anderson	US 79	0205-07-066	88
15	Tarrant	SH 26	0363-01-123	47
16	Tarrant	SH 26	0363-01-123	49
17	Tarrant	SH 26	0363-01-123	70A
18	Tarrant	SH 26	0363-01-123	70B
19	Tarrant	SH 26	0363-01-123	71
20	Tarrant	SH 26	0363-01-123	76
21	Tarrant	SH 26	0363-01-123	90
22	Tarrant	SH 26	0363-01-123	140
23	Harrison	SH 154	0402-03-033	6
24	Cass	FM 3129	3195-01-013	1
25	Cass	FM 3129	3195-01-013	2
26	Cass	FM 3129	3195-01-013	3
27	Cass	FM 3129	3195-01-013	6

CONTROLLED ACCESS

EXHIBIT	COUNTY	HIGHWAY	ROW CSJ NO.	PARCEL
A	Johnson	IH 35W	0014-03-085	5AC
B	Bell	IH 35	0015-14-117	57
C	Collin	US 75	0047-14-057	14
D	San Jacinto	US 59	0177-02-072	62
E	San Jacinto	US 59	0177-02-072	84
F	Henderson	US 175	0198-02-028	94
G	Anderson	US 79	0205-07-065	31

CONTROLLED ACCESS

EXHIBIT	COUNTY	HIGHWAY	ROW CSJ NO.	PARCEL
H	Harris	IH 45	0500-03-548	3
I	Tarrant	SH 121	0504-02-018	16
J	Tarrant	SH 121	0504-02-018	42
K	Tarrant	SH 121	0504-02-018	43A
L	Tarrant	SH 121	0504-02-018	43B
M	Tarrant	SH 121	0504-02-018	44
N	Tarrant	SH 121	0504-02-018	48
O	Tarrant	SH 121	0504-02-018	63
P	Tarrant	SH 121	0504-02-018	92
Q	Johnson	SH 121	0504-05-002	118
R	Midland	SH 349	1718-07-030	4
S	Dallas	IH 635	2374-01-151	10
T	Dallas	IH 635	2374-01-151	13
U	Dallas	IH 635	2374-01-151	14
V	Smith	SH Loop 49	3487-01-010	110
W	Smith	SH Loop 49	3487-01-010	131
X	Smith	SH Loop 49	3487-01-010	150

Note: Exhibits 1 through 27 and A through X on file with minute order clerk.

c. Finance

Accept the quarterly cash report for the period ending February 28, 2007 (MO)

110924
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 second quarter of Fiscal Year 2007, ending February 28, 2007, 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 roadways on the state highway system:

(1) Roadways (MO)

110925
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 for the month of April 2007, 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)

110926
BRG

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

e. Right of Way Dispositions and Donations

(1) Concho County – FM 1929 and FM 2134 at O.H. Ivie Reservoir – Consider the transfer of title of surplus right of way to Concho County and removal from the state highway system (MO)

110927
ROW

In CONCHO COUNTY, on FARM TO MARKET ROADS 1929 and 2134, the State of Texas (state) acquired certain land for a state highway purpose by various instruments recorded in the Deed Records of Concho County, Texas.

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

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

The appraised value of the surplus land is \$21,368. The San Angelo district has advised that maintenance of the surplus land for ten years is estimated to cost the state \$356,566, which exceeds the value of the surplus land. Concho County has requested that the surplus land be transferred to the county in consideration of the estimated savings to the state of future maintenance costs.

The commission finds \$21,368 to be a fair and reasonable value for the state's rights, title and interest in the surplus land, and it is the opinion of the commission that it is proper and correct that the state convey to the county all of its rights, title and interest in the surplus land in consideration of the estimated savings to the state of future maintenance costs, which exceed the value of the surplus land.

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

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

IT IS FURTHER ORDERED that this recommendation and finding is subject to the district providing an acceptable survey to specifically describe and locate the surplus land to be transferred, as generally shown on Exhibit A.

Note: Exhibit A on file with minute order clerk.

(2) Denton County – FM 2931 north of US 380 – Consider the sale of a surplus drainage easement (MO)

110928
ROW

In DENTON COUNTY, on FARM TO MARKET ROAD 2931, the State of Texas acquired an easement interest in certain land for highway drainage purposes by instrument recorded in Volume 573, Page 610, Deed Records of Denton 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.

CHS Providence, L.P., a Delaware limited partnership, the owner of the fee underlying the surplus easement, has requested that the surplus easement be sold to the partnership for \$22,586.

The commission finds \$22,586 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 CHS Providence, L.P., a Delaware limited partnership, for \$22,586.

Note: Exhibit A on file with minute order clerk.

(3) Hopkins County – SH 11 between SH 19 and SH 154 – Consider the donation of 0.267 acre of land for a new location highway construction project (MO)

110929
ROW

In HOPKINS COUNTY, on STATE HIGHWAY 11, between State Highway 19 and State Highway 154, the Texas Department of Transportation (department) is acquiring the right of way for a new location highway construction project.

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

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

Lowe's Home Centers, Inc., a North Carolina corporation (owner) is the owner of the property described in Exhibit A. The owner wants to donate this property, estimated at \$81,500, to the department for construction of a new location roadway.

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

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

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

Note: Exhibit A on file with minute order clerk.

(4) Taylor County – North 13th Street in Abilene – Consider the sale of a surplus maintenance site (MO)

110930
ROW

In the city of Abilene, TAYLOR COUNTY, on North 13th Street, the State of Texas acquired certain land for a state highway purpose by various instruments recorded in the Deed Records of Taylor County, Texas.

The land, described in Exhibit A, and improvements (surplus property) are no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the department advertised the surplus property for sale.

Bontke Brothers Construction Co., Inc. submitted a bid of \$131,000, which was the highest valid bid received.

The Texas Transportation Commission (commission) finds \$131,000 to be a fair and reasonable value of the state's rights, title and interest in the surplus property.

NOW, THEREFORE, the commission finds that the surplus property 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 property to Bontke Brothers Construction Co., Inc. for a cash consideration of \$131,000; 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 property.

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)

110931
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 the speed limit on one segment of the state highway system, previously established by the commission by minute order and listed in Exhibit C, is no longer necessary or has been incorporated by the city which has the authority to set the speed limit on this section of the highway.

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

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

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

ITEM 11. 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.**

OPEN COMMENT PERIOD – There were no open comments.

The regular meeting of the Texas Transportation Commission adjourned at 11:28 a.m.

APPROVED:

Ric Williamson, Chair
Texas Transportation Commission

xxx

I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on April 26, 2007, in Austin, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation