

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on August 23, 2007 in Austin, Texas. The meeting opened at 9:05 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 4:41 p.m. on August 15, 2007, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

The commission presented a resolution to Executive Director Michael Behrens upon his retirement for 37 years of service with the Texas Department of Transportation.

ITEM 1. Approval of Minutes of the July 26, 2007 regular meeting of the Texas Transportation Commission.

Commissioner Holmes made a motion, seconded by Commissioner Underwood, and the commission approved the minutes of the July 26, 2007 regular meeting of the Texas Transportation Commission.

ITEM 3. DISCUSSION ITEM

a. Discuss the creation of committees to assist in and advise on the development of the Trans-Texas corridor

This report was presented by Assistant Executive Director for Engineering Operations Amadeo Saenz. Comments were also made by Government and Public Affairs Division Director Coby Chase and Bryan District Engineer Bryan Wood.

ITEM 2. REPORT**Annual report from the Trans-Texas Corridor Advisory Committee**

This item was presented by Judy Hawley.

ITEM 3. DISCUSSION ITEM**b. Discuss the financial impacts resulting from recent state and federal legislation**

This report was presented by Government and Public Affairs Division Director Coby Chase. Comments were also made by Chief Financial Officer James Bass; Assistant Executive Director for Engineering Operations Amadeo Saenz; and Alamo Regional Mobility Authority Executive Director Terry Brechtel.

ITEM 4. AVIATION**a. Approve funding for airport improvement projects at various locations (MO)**

Commissioner Underwood made a motion, seconded by Commissioner Holmes, and the commission approved the following minute order presented by Aviation Division Director Dave Fulton.

111026
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, July 19, 2007, and Thursday, July 26, 2007, public hearings were held. No comments were received at either hearing.

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 \$12,623,044.

Note: Exhibit A on file with minute order clerk.

b. Approve funding for Routine Airport Maintenance Program at various locations (MO)

Commissioner Underwood made a motion, seconded by Commissioner Holmes, and the commission approved the following minute order presented by Aviation Division Director Dave Fulton.

111027
AVN

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

The Routine Airport Maintenance Program (RAMP) provides financial assistance for publicly owned or operated general aviation, reliever, and non-hub commercial service airports included in the Texas Airport System Plan.

Due to the success of this program, the department requests continuation of the program by providing funds for airport maintenance and small capital improvements on a 50-50 basis up to a maximum of \$50,000 in state funds for Fiscal Year 2008.

A public hearing regarding the funding of the RAMP was held on July 19, 2007, and no comments were received.

IT IS THEREFORE ORDERED by the commission that the airports listed in Exhibit A be awarded grants in accordance with the RAMP and that the executive director, or the director's designee, is authorized to enter into any necessary grant agreements with the appropriate local government agencies necessary to carry out the directives of this minute order.

Note: Exhibit A on file with minute order clerk.

c. Appoint two members to the Texas Aviation Advisory Committee (MO)

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

111028
AVN

Transportation Code §21.003, requires the Texas Transportation Commission (commission) to appoint a six-member Aviation Advisory Committee (committee) to advise the commission and the Texas Department of Transportation (department) on aviation matters.

Transportation Code §21.003, further provides that each member of the committee must have five years of successful experience as an aircraft pilot, an aircraft facilities manager or a fixed-base operator.

The department's administrative rules governing advisory committees (Title 43, TAC, §§1.80-1.85) provide that committee members serve three-year terms.

The terms of two members expire on August 31, 2007; therefore, it is necessary for the commission to appoint two new members for terms to expire on August 31, 2010.

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

Robert Bruce
Boerne, Texas

Peter C. Huff
McKinney, Texas

IT IS THEREFORE ORDERED by the commission that the individuals identified above are hereby appointed for three-year terms as members of the Aviation Advisory Committee, with terms effective September 1, 2007, expiring on August 31, 2010.

Note: Comments were received from proposed TxDOT Aviation Committee members Peter C. Huff and Robert Bruce.

ITEM 8. TOLL PROJECTS

a. Collin, Dallas, and Denton Counties – Consider the cancellation of the procurement for the development, financing, design, construction, operation, and maintenance of the SH 121 toll project from Business SH 121 to US 75 under a comprehensive development agreement (MO)

Commissioner Andrade 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.

111029
TTA

Transportation Code, Chapter 223, Subchapter E (act) authorizes the Texas Department of Transportation (department) to enter into comprehensive development agreements with private entities that provide for the development, design, construction, financing, maintenance, or operation of a toll project on the state highway system.

Pursuant to that authority, the Texas Transportation Commission (commission) has adopted rules prescribing how the department will obtain and evaluate proposals from private entities to develop a toll project under a comprehensive development agreement, codified in 43 TAC §§ 27.1-27.9 (rules).

Pursuant to the act and rules, and the authority granted by the commission in Minute Order 109980, on March 25, 2005, the department issued a request for qualifications (RFQ) for the development, design, construction, financing, maintenance and operation of the SH 121 toll project from Business SH 121 to US 75 in Collin, Dallas, and Denton counties, as well as other potential facilities to the extent necessary for connectivity and financing, through a comprehensive development agreement.

The department determined that four proposer teams submitting qualification submittals were qualified to be on the short list of teams requested to submit detailed proposals. On August 15, 2006, the department issued a request for proposals (RFP). The RFP provided that the comprehensive development agreement will be awarded to the proposer determined to provide the best value to the department.

Pursuant to the act and rules, on February 28, 2007, in Minute Order 110863, the commission conditionally awarded the comprehensive development agreement to Cintra Concesiones de Infraestructuras de Transporte, S.A., subject to, and effective upon the occurrence of, the conditions prescribed in Minute Order 110863. All such conditions have not yet occurred.

Section 27.3(b) of the rules and Section 8.0 of the Instructions to Proposers volume of the RFP for the SH 121 project authorize the department in its sole discretion to:

- (1) reject any or all of the proposals;
- (2) suspend or terminate comprehensive development agreement negotiations with any proposer at any time; and
- (3) cancel, modify, or withdraw the request for proposals.

The commission has determined that it is in the best interest of the state to terminate comprehensive development agreement negotiations with Cintra Concesiones de Infraestructuras de Transporte, S.A., and to cancel the request for proposals for the development of the SH 121 project under a comprehensive development agreement.

IT IS THEREFORE ORDERED by the commission that the procurement for the development, financing, design, construction, operation, and maintenance of the SH 121 toll project from Business SH 121 to US 75 under a comprehensive development agreement is cancelled.

b. Collin, Dallas, and Denton Counties – Authorize the actions required for the finalization of an agreement with the North Texas Tollway Authority for the development, financing, design, construction, operation, and maintenance of the SH 121 toll project from Business SH 121 to US 75 (MO)

Commissioner Andrade 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.

111030
TTA

On March 26, 2007, the Chair of the Regional Transportation Council (RTC) of the North Central Texas Council of Governments, the metropolitan planning organization for the Dallas-Fort Worth region, sent a letter to the Texas Transportation Commission (commission) and the North Texas Tollway Authority (NTTA) that in part asked the NTTA to determine if the NTTA Board wished to submit a binding commitment for the SH 121 toll project. If so, the submission would be due to the RTC no later than May 25, 2007.

On May 18, 2007, the NTTA submitted to the RTC a public sector proposal to finance, design, construct, operate, and maintain the SH 121 toll project from Business SH 121 to US 75 in Collin, Dallas, and Denton counties. After an evaluation of the NTTA proposal, on June 18, 2007, the RTC passed a motion that the NTTA undertake the development, design, construction, financing, operation, and maintenance of the SH 121 toll project, and requested that the commission approve the selection of the NTTA for the SH 121 toll project.

On June 28, 2007, in Minute Order 110968, the commission authorized the Texas Department of Transportation (department) to enter into a project agreement with the NTTA if: (1) within 60 days from the date of this order, RTC staff has negotiated with the NTTA the major terms of the project agreement and has submitted those terms to the department, and a quantification of public benefits anticipated to be derived from the NTTA's development, design, construction, financing, operation, and maintenance of the SH 121 toll project has been agreed to by the RTC; and (2) the NTTA is able to achieve financial close, including payment of the agreed upfront payment amount, concurrently with or no later than 45 days after the execution and delivery of the project agreement.

RTC staff, with the assistance of department staff, has negotiated the major terms of a project agreement for the SH 121 toll project that is consistent with the provisions of past project agreements between the department and the NTTA, and the RTC quantified the anticipated public benefits. The department and the NTTA intend that the project remain on the state highway system until the service commencement date for a specific segment of the project is achieved, at which time, subject to the required public involvement and commission and Governor approval, that segment will be removed from the state highway system and transferred to the NTTA pursuant to the provisions of a transfer agreement. Each segment of the SH 121 toll project will be operated by the NTTA under terms as negotiated in the project agreement for a period that, for each segment, does not exceed 50 years from the service commencement date for Segment 1 of the project.

Transportation Code, §§228.002-228.003 authorize the department to enter into an agreement with a regional tollway authority, including the NTTA, that permits the regional tollway authority to design, develop, finance, construct, maintain, repair, or operate a toll project on the state highway system.

TxDOT expects to receive environmental clearance of Segments 1 through 4 of the project in September, past the 60 day deadline described above. The proposed project agreement contemplates that the project will be environmentally cleared before the agreement is fully executed by both parties.

IT IS THEREFORE ORDERED by the commission that the executive director, subject to environmental clearance of Segments 1 through 4 of the project, is authorized to enter into the project agreement with the North Texas Tollway Authority for the development, financing, design, construction, operation, and maintenance of the SH 121 toll project from Business SH 121 to US 75.

IT IS FURTHER ORDERED that the department, after compliance with the applicable requirements of Transportation Code, §§228.151-228.154 and 43 TAC §§27.11-27.16, is authorized to submit for the commission's approval additional agreements providing for the removal of segments of the project from the state highway system and the transfer of those project segments to the NTTA, to be operated by the NTTA under terms as negotiated in the project agreement for a period that, for each segment, does not exceed 50 years from the service commencement date for Segment 1 of the project.

IT IS FURTHER ORDERED that Minute Order 110968 is cancelled.

Note: Comments were received from Associate General Counsel Jack Ingram; North Texas Tollway Authority Deputy Executive Director Rick Herrington; and General Counsel Bob Jackson.

ITEM 5. PUBLIC TRANSPORTATION

a. Award FY 2006 Federal §5317, New Freedom Program funds (MO)

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

111031
PTN

The Texas Transportation Commission (commission) takes special note of its designation by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, "New Freedom Formula Grant Program" (NF) (49 U.S.C. §5317), 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.

Title 43, Texas Administrative Code, §31.18 establishes a process by which §5317 program proposals shall be evaluated and funds distributed. On April 6, 2007, the department published a Notice of Request for Proposal for NF Projects in the *Texas Register*. Project criteria included: project planning and coordination; demonstrated need; benefits of the project; and service sustainability.

The commission finds that the projects in Exhibit A are eligible for funding and awards a total of \$1,276,318 in federal NF funds. The awarded projects provide new transportation services or new transportation alternatives to provide service that goes beyond the requirements of the Americans with Disabilities Act for individuals with disabilities.

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

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

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

Note: Exhibit A on file with minute order clerk.

Note: The commission received comments from Fort Bend County Assistant County Engineer Ron Drachenberg.

b. Jack County – Reallocation of FY 2007 §5310, Elderly and Persons with Disabilities Program, funds for the Fort Worth District (MO)

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

111032
PTN

The Texas Transportation Commission (commission) takes special note of its designation by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, Formula Grants and Loans for Special Needs of Elderly Individuals and Individuals with Disabilities (49 U.S.C. §5310), in a letter dated October 4, 2005; and further acknowledges that federal program regulations require the Texas Department of Transportation (department) to ensure that grant funds are distributed fairly and equitably within the state.

On March 29, 2007, Minute Order 110879 was approved by the commission for the FY 2007 program of projects for the \$5310 elderly and persons with disabilities grant program, in accordance with the formula prescribed in 43 TAC §31.31(g) and other requirements of the Federal Transit Act. Two projects, Public Transit Services and Texoma Area Paratransit System, approved in the Fort Worth District need to be revised as follows:

American Red Cross	\$80,000
Cleburne, City of	\$33,970
Fort Worth Transportation Authority/The T	\$125,000
Public Transit Services	\$178,000
Texoma Area Paratransit System	\$10,000
The Transit System	\$104,000
	\$530,970

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 allocation of these \$5310 elderly and persons with disabilities grant program funds as identified above, notify the entities in writing, and enter into the necessary contracts for the FY 2007 program of projects.

c. Appoint four members to the Public Transportation Advisory Committee (MO)

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

111033
PTN

Four members of the Public Transportation Advisory Committee (committee) have terms that will expire September 30, 2007. The Texas Transportation Commission (commission) makes the following appointments:

Term expiring September 30, 2010:

Michelle Bloomer, Arlington, Texas - Representing the General Public

Manuel (J.R.) Salazar, Jr., Coleman, Texas - Representing Public

Transportation Providers

Vince Huerta, El Paso, Texas - Representing Public Transportation

Providers

Transportation Code, §455.004, directs the commission to appoint an eleven-member committee to advise the commission on the needs and problems of the state’s public transportation providers, including the methods for allocating state public transportation money; comment on rules or rule changes involving public transportation matters; advise the commission on the implementation of Transportation Code, Chapter 461; and perform other duties as determined by order of the commission.

Title 43, Texas Administrative Code, §1.84, administrative rules for the committee, includes a provision that members serve staggered three-year terms, unless removed sooner at the discretion of the commission.

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

ITEM 6. 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)

(1) Chapter 1 – Management (MO)

Amendments to §1.82, Statutory Advisory Committee Operations and Procedures, §1.85, Department Advisory Committees (Advisory Committees)

Commissioner Houghton made a motion, seconded by Commissioner Underwood, and the commission approved the following minute order presented by General Counsel Bob Jackson:

111034
OGC

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §1.82, statutory advisory committee operations and procedures, and §1.85, department advisory committees, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §1.82, and §1.85, are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

(2) Chapter 9 – Contract Management (MO)

Amendments to §9.20, Partial Payments (Highway Improvement Contracts)

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

111035
OGC

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §9.20, relating to partial payments, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §9.20 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

(3) Chapter 15 – Transportation Planning and Programming (MO)
Amendments to §15.101, Definitions, §15.103, Application Procedures, and §15.105, Apportionment (Border Colonia Access Program)

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

111036
OGC

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §15.101, definitions, §15.103, application procedures, and §15.105, apportionment, relating to the Border Colonia Access Program, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that amendments to §15.101, §15.103, and §15.105 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

(4) Chapter 21 – Right of Way (MO)
Amendments to §21.142, Definitions, §21.150, Permits, §21.154, Lighting and Movement of Signs, New §21.163, Electronic Signs (Regulation of Signs Along Interstate and Primary Highways), Amendments to §21.441, Permit for Erection of Off-Premise Sign, and §21.551, Prohibited Signs (Control of Signs Along Rural Roads)

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

111037
OGC

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §21.142, definitions, §21.150, permits, §21.154, lighting and movement of signs, new §21.163, electronic signs, amendments to §21.441, permit for erection of off-premise sign, and §21.551, prohibited signs, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments and new section, 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 §21.142, §21.150, and §21.154, new §21.163, and amendments to §21.441, and §21.551 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.

Note: The commission received comments from Scenic Texas consultant Terral Smith; El Paso Clear Channel President V J Smith; North Houston Association Board Member Neal Rackleff; Outdoor Advertising Associate of Texas Lee Vela; Clear Channel Outdoor President Blake Custer; and citizen Bruce LaBoon.

(5) Chapter 23 – Travel Information (MO)

Amendments to §23.2, Definitions (General Provisions), and §23.14, Display of Travel Literature in the Texas Travel Information Centers (Travel Information), Repeal of §23.26, Magazine Discount Card Program, Amendments to §23.27, Magazine Ancillary Products, and §23.29, Magazine Advertising (Texas Highways Magazine)

Commissioner Houghton made a motion, seconded by Commissioner Underwood, and the commission approved the following minute order presented by Travel Division Ancillary Product Manager Beverly West:

111038
OGC

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §23.2, definitions, §23.14, display of travel literature in the Texas Travel Information Centers, §23.27, magazine ancillary products, and §23.29, magazine advertising, and repeal of §23.26, magazine discount card program, all relating to travel information, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed repeals and 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 repeal of §23.26 and amendments to §23.2, §23.14, §23.27, and §23.29 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

(6) Chapter 25 – Traffic Operations (MO)

New §25.950, Purpose, §25.951, Definitions, §25.952, Application, §25.953, Determination of Program Eligibility, §25.954, Fee, §25.955, Sign Description, §25.956, Sign Installation and Replacement, and §25.957, Sign Removal (New Subchapter N, Memorial Sign Program for Victims of Impaired Driving)

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

111039
OGC

The Texas Transportation Commission (commission) finds it necessary to propose new §25.950, purpose, §25.951, definitions, §25.952, application, §25.953, determination of program eligibility, §25.954, fee, §25.955, sign description, §25.956, sign installation and replacement, and §25.957, sign removal, all relating to a memorial sign program for victims of impaired driving, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed 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 new §25.950, §25.951, §25.952, §25.953, §25.954, §25.955, §25.956, and §25.957, are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

(7) Chapter 27 – Toll Operations (MO)

Amendments to §27.4, Solicited Proposals, and New §27.10, Formula for Determining Compensation Upon Termination for Convenience (Comprehensive Development Agreements)

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

111040
OGC

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §27.4, relating to solicited proposals, and new §27.10, relating to formula for determining compensation upon termination for convenience, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §27.4 and §27.10 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

ITEM 7. FINANCIAL ASSISTANCE FOR TOLL FACILITIES

a. Bexar County – Consider final approval of a request for financing from the Alamo Regional Mobility Authority to pay for certain costs relating to the development of the SH 16, Wurzbach Parkway, US 281 and Loop 1604 projects, including the costs of developing environmental studies, schematics, and preliminary financial plans, public involvement, and the procurement of bids or proposals (MO)

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

111041
TTA

In Minute Order 109523, dated December 18, 2003, the Texas Transportation Commission (commission) authorized the creation of the Alamo Regional Mobility Authority (Alamo RMA), formerly known as the Bexar County Regional Mobility Authority, with the boundaries of the authority to be the entire geographic area of Bexar County, Texas.

The Texas Department of Transportation (department) and the Alamo RMA have worked together to identify an approach to provide for the funding and development of certain transportation system improvements within the jurisdictional limits of the Alamo RMA.

The Metropolitan Transportation Plan of the San Antonio-Bexar County Metropolitan Planning Organization identifies several projects within the jurisdictional limits of the Alamo RMA to be developed as toll projects including: I-35 near the Bexar/Guadalupe county line to I-37 in the San Antonio Central Business District; SH 16 from I-410 to LP 1604 North; the US 281/Wurzbach Parkway Interchange; and US 281 from LP 1604 to the Bexar County line.

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

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

In accordance with Section 27.53 of the toll equity rules, the Alamo RMA has submitted a request for \$3,965,167 to pay for certain costs relating to the development of (1) SH 16 from I-410 to LP 1604 North; (2) Wurzbach Parkway from Wetmore to Blanco, including the US 281/Wurzbach Parkway Interchange; and (3) US 281 from LP 1604 to the Bexar County line, including the costs of developing environmental studies, schematics and design, preliminary financial plans, public involvement, and the procurement of bids or proposals.

The requested financial assistance would be funded by redirecting the balance of funds remaining out of the financial assistance previously approved in Minute Order 110269, dated October 27, 2005, and Minute Order 110299, dated November 17, 2005, and would be in the form of a loan. The Alamo RMA has requested financial assistance to develop US 281 from LP 1604 to the Bexar County line.

Information and data required by Section 27.53(b) is either contained in the request for financing, the previous requests for financing approved in Minute Order 110269 and Minute Order 110299, or in the petition for authorization to form the authority filed with the department on September 3, 2003. Supplemental information and data required by Section 27.53(c) is contained in the request for financing or has already been provided to the department.

As provided in Minute Order 109523, the Alamo RMA will benefit the state and the traveling public and improve the efficiency of the state's transportation system through the potential construction and operation of the projects, which will enhance mobility and safety within these segments of the state highway system.

The projects are consistent with the approved Texas Transportation Plan and the Metropolitan Transportation Plan of the San Antonio-Bexar County Metropolitan Planning Organization.

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

In accordance with §27.54 of the toll equity rules, the executive director has negotiated a financial assistance agreement with the Alamo RMA that complies with the requirements of §27.55 of those rules, including provisions for the repayment of the

financial assistance from toll revenue generated from the projects or revenue obtained by the Alamo RMA under a comprehensive development agreement, or from the proceeds of bonds issued by the Alamo RMA secured by revenues of the projects. The negotiated terms also provide that a default on this loan will result in an obligation of the Alamo RMA to transfer all work product related to the projects to the department. The Alamo RMA has complied with all other applicable requirements of the toll equity rules.

Based on the above information, the commission has determined that providing financial assistance will prudently provide for the protection of public funds, and that the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate adverse environmental impacts.

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the Alamo Regional Mobility Authority meets the requirements of 43 TAC §27.53 and §27.54 and, in accordance with those provisions, the commission grants final approval of the request for financing in the amount of \$3,965,167, in the form of a loan, and directs the executive director to enter into a financial assistance agreement with the Alamo RMA.

b. 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, 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:

111042
AEO

In DALLAS COUNTY, 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.

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 to prescribe conditions for the commission's financing of a toll facility.

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 facility extending from SH 78 to I-30 along the planned alignment of SH 190, contingent on the execution of a revenue-sharing agreement.

By Minute Order 110913, dated April 26, 2007, the commission approved the removal of the mainlanes on SH 190 from SH 78 to I-30 from the state highway system, and authorized the department, after the successful conclusion of negotiations with the NTTA on a financial assistance agreement, to present for the commission's consideration a minute order providing for: (1) the final approval of the NTTA's application for financial assistance, (2) the NTTA's construction of improvements to the state highway system, and (3) the approval of the connection of the PGBT Eastern Extension to the state highway system. Those negotiations have been successfully concluded.

The negotiated agreement provides that in consideration of the rights and obligations of the parties under the agreement, including the NTTA's obligation to provide revenue sharing to the department in the form of a supplemental toll on the PGBT Eastern Extension, the department will provide financial assistance, in the form of a grant, to the NTTA. Pursuant to Transportation Code, §201.703, the agreement also provides that the department would construct the Lake Ray Hubbard Bridge, which would then become a part of the PGBT Eastern Extension.

Transportation Code, §201.113 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 adopted Title 43, Texas Administrative Code, §27.44 to prescribe conditions for the improvement of the state highway system by regional tollway authorities. 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.

Pursuant to 43 TAC §27.44 and 43 TAC §11.56, the NTTA has submitted a request to the executive director to make improvements to the state highway system required by the PGBT Eastern Extension project and to connect the PGBT Eastern Extension to the state highway system.

The commission finds that the NTTA is fully capable to award and manage the construction contract in a cost-effective and timely manner for the improvement of the state highway system, consistent with applicable federal and state laws and regulations, and finds that the NTTA's improvement of the state highway system will provide for the expeditious completion of a critically needed continuous express-lane facility within this corridor to relieve traffic congestion on the existing state highway system and improve mobility in a rapidly developing area of Dallas County.

Pursuant to 43 TAC §11.56(c), the NTTA agrees to design and construct the portion of the PGBT Eastern Extension project that comprises the connection to the state highway system in compliance with the standards prescribed in 43 TAC §11.56(d). The commission waives those requirements as they apply to the portion of the project that is not the connection as the past performance of the NTTA on previous projects developed

in collaboration with the department indicates that the NTTA will design and construct a safe and durable highway. The project is identified in a conforming transportation improvement program.

The commission waives the requirements of 43 TAC §11.56(c)(1)(C) as the NTTA has a written policy that adequately provides for:

- (1) public involvement, including public hearings on an environmental review;
- (2) an evaluation of direct and indirect effects of the highway project;
- (3) analysis of project alternatives; and
- (4) a written report that briefly explains the NTTA's decision on a project and that specifies the measures to mitigate environmental harm on which the project is conditioned.

IT IS THEREFORE DETERMINED by the commission that the request for financial assistance submitted by the NTTA meets the requirements of 43 TAC §27.53 and §27.54 and, in accordance with those provisions, the commission grants final approval of the request for financing in the amount of \$160,270,000, and authorizes the executive director to enter into a financial assistance and revenue sharing agreement with the NTTA.

IT IS FURTHER ORDERED that, pursuant to Transportation Code, §201.113 and 43 TAC §11.56, the NTTA is authorized to construct improvements to the state highway system required as part of the PGBT Eastern Extension project, and to connect the PGBT Eastern Extension to the state highway system, and the executive director is authorized to enter into a project development agreement with the NTTA that provides for such improvements and connection to the state highway system.

Note: Comments were received from North Texas Tollway Authority Deputy Executive Director Rick Herrington.

c. **El Paso County** – Consider preliminary approval of a request for financing from the Camino Real Regional Mobility Authority (CRRMA) to pay for the costs of independent financial and engineering advisors retained by the CRRMA to assist in negotiations with the department concerning market valuation studies of candidate toll projects comprised of the Northeast Parkway Tollway, express toll lanes along Loop 375, the keystone link of Loop 375 (Cesar Chavez Border Highway Extension West), and express toll lanes along the US 62/180 (Montana) Corridor, and to pay for certain administrative, legal, or other expenses related to the acquisition, construction, maintenance, and operation of those projects (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:

111043
TTA

In Minute Order 110573, dated June 29, 2006, the Texas Transportation Commission (commission) authorized the creation of a regional mobility authority

(RMA) in the city of El Paso, known as the Camino Real Regional Mobility Authority (CRRMA), with the boundaries of the authority to be the entire geographic area of the city of El Paso, Texas.

The Texas Department of Transportation (department) and the CRRMA have worked together to identify an approach to provide for the funding and development of certain transportation system improvements within the jurisdictional limits of the CRRMA.

The CRRMA's goals are to improve mobility by providing relief routes to I-10 and completing Loop 375. This would be accomplished by accelerating the delivery of individual segments and projects with innovative funding and partnerships.

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

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

In accordance with Section 27.53 of the toll equity rules, the CRRMA has submitted a request for \$330,000 to secure independent financial and engineering advisors to assist with negotiations with the department concerning market valuation studies for 12 candidate toll projects under consideration by the department, composed of a system of concurrent-flow express toll lanes along Loop 375, the keystone link of Loop 375 (Cesar Chavez Border Highway Extension West), express toll lanes along the US 62/180 (Montana) corridor, and the Northeast Parkway Tollway from Loop 375 to FM 3255. The financial assistance would also be used for necessary or incidental administrative, legal, and other expenses relating to the development, acquisition, construction, maintenance, and operation of those projects.

Information and data required by Section 27.53(b) is either contained in the request for financing, in the petition for authorization to form the authority filed with the department on February 28, 2006, or is already in the department's possession. Supplemental information and data required by Section 27.53(c) is contained in the request for financing or has already been provided to the department.

As provided in Minute Order 110573, the CRRMA will benefit the state and the traveling public and improve the efficiency of the state's transportation system through the potential construction and operation of these projects, which will enhance mobility and safety within these segments of the state transportation system.

The projects are consistent with the approved Texas Transportation Plan and the Metropolitan Transportation Plan of the El Paso County Metropolitan Planning Organization.

As the CRRMA has indicated that it will fund a portion of the costs of developing the proposed projects with toll revenue and local participation, along with the requested financial assistance, the projects will expand the availability of funding for transportation projects or will reduce direct state costs.

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the Camino Real Regional Mobility Authority meets the requirements of 43 TAC §27.53 and §27.54(a) and, in accordance with those provisions, the commission grants preliminary approval of the request for financing in the amount of \$330,000, in the form of a loan, and directs the executive director to implement the actions authorized and required by those provisions.

Note: Comments from Camino Real Regional Mobility Authority Treasurer David Marcus.

ITEM 9. TRANSPORTATION PLANNING

a. All Counties – Approve the FY 2008-2011 Statewide Transportation Improvement Program (MO)

Commissioner Underwood made a motion, seconded by Commissioner Holmes, and the commission approved the following minute order presented by Transportation Planning and Programming Division Deputy Director Wayne Dennis:

111044
TPP

Title 23, United States Code, §§134 and 135 require each designated metropolitan planning organization (MPO) and the State of Texas (state), respectively, to develop a Transportation Improvement Program (TIP) as a condition to securing federal funds for transportation projects under either Title 23 or the Federal Transit Act.

Section 134(j) requires an MPO to develop its TIP in cooperation with the state and affected transportation operators, and further requires the TIP to be updated at least once every four years and approved by the MPO and the governor of Texas.

Section 135(g) requires the state to develop a Statewide Transportation Improvement Program (STIP) for all areas of the state in cooperation with the MPOs designated for each metropolitan planning area and, with respect to non-metropolitan areas, in consultation with affected local officials, and further requires that the STIP be approved by the governor.

By letter dated June 13, 2002, the governor delegated the power and responsibility for approving the STIP to the Texas Transportation Commission (commission) or its designees.

Pursuant to §§134 and 135, the commission has adopted rules governing the development of transportation plans and programs, codified as 43 TAC Chapter 15, Subchapter A.

Sections 134(j) and 135(g) and 43 TAC §§15.7 and 15.8 specify the requirements and eligibility criteria for projects to be included in the respective TIPs. In accordance with those requirements, TIPs have been developed for each metropolitan planning area, as well as those areas of the state outside designated MPO boundaries (rural TIPs).

The various TIPs developed by the designated MPOs have been presented for public comment by means of various public meetings conducted by relevant authorities throughout the state. Rural TIPs were made available to citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, and other interested parties for review and comment in each of the Texas Department of Transportation's (department's) 25 district offices and at the department's headquarters in Austin.

After due deliberation and consideration, the commission finds that the requirements of §134 have been fully satisfied as they pertain to the development of the prescribed TIPs by each of the 25 MPOs and that the STIP, attached as Exhibit A to this order, fully satisfies the requirements of §135 and 43 TAC §15.8 and is consistent with the Texas Transportation Plan, the Unified Transportation Program (2007 Statewide Preservation Program and 2007 Statewide Mobility Program), and the Strategic Plan.

The commission also finds that the STIP:

- (A) develops, operates, and maintains efficient and effective transportation systems and services;
- (B) improves public safety and security on transportation systems;
- (C) facilitates economic and social prosperity through the efficient movement of people and goods;
- (D) protects, when feasible, and enhances, when practicable, the environment in transportation activities;
- (E) improves and promotes the connectivity of transportation services and systems; and
- (F) optimizes transportation funding to meet the mobile needs of the state.

IT IS THEREFORE ORDERED that the Fiscal Year 2008-2011 STIP, which incorporates the respective TIPs of each designated MPO, as well as rural TIPs, and is attached as Exhibit A to this order, is hereby adopted.

IT IS FURTHER ORDERED that the executive director, or his designee, shall sign all necessary certifications required by federal regulations.

Note: Exhibit A on file with minute order clerk.

b. Cooke, Denton, and Tarrant Counties – Authorize an agreement with the National Railroad Passenger Corporation for the provision of passenger rail service on the Amtrak Heartland Flyer route (MO)

Commissioner Houghton made a motion, seconded by Commissioner Underwood, and the commission approved the following minute order presented by Transportation Planning and Programming Division Deputy Director Wayne Dennis:

111045
TPP

Transportation Code, §91.002 states that the financing and operation of a rail facility are public and governmental functions, exercised for a public purpose and matters of public necessity.

In May 2006, citing funding shortfalls, the National Railroad Passenger Corporation (Amtrak) announced its intent to eliminate the Heartland Flyer route which extends from Fort Worth, Texas to Oklahoma City, Oklahoma. On September 28, 2006, the Texas Transportation Commission (commission) approved Minute Order 110688, authorizing the Texas Department of Transportation to provide \$1,838,000 to Amtrak for the continuance of service for the federal fiscal year beginning October 1, 2006. The State of Oklahoma provided \$2,138,000 for that same year.

Amtrak's operating loss on the Heartland Flyer for the federal fiscal year beginning October 1, 2007, is projected to be \$3,997,000. The State of Oklahoma has agreed to provide \$1,998,500 for the continuance of the service.

Amtrak will cease providing passenger rail service on October 1, 2007, if the State of Texas does not provide \$1,998,500 to offset the operating loss on the Heartland Flyer.

IT IS THEREFORE ORDERED by the commission that the executive director is authorized to enter into any necessary agreements to fund the Heartland Flyer passenger rail service for an amount not to exceed \$1,998,500 for the federal Fiscal Year 2008.

c. Various Counties – Appoint 10 members to the Border Trade Advisory Committee (MO)

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

111046
TPP

Transportation Code, Section 201.114(b), requires the Texas Transportation Commission (commission) to appoint members to the Border Trade Advisory Committee (committee) to assist the commission in defining and developing a strategy and making recommendations for addressing the highest priority border trade transportation challenges.

The Texas Department of Transportation's (department) administrative rules governing advisory committees, Title 43, Texas Administrative Code, Section 1.84, provide that the committee members serve staggered three-year terms.

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

Terms expiring August 31, 2010

- B & M Bridge – President & Chief Operating Officer, Brownsville & Matamoros Bridge Company
- Lake Falcon Dam Crossing, Lake Amistad Dam Crossing, Fort Hancock-El Porvenir Bridge, Fabens-Caseta Bridge, Bridge of the Americas – Commissioner, U.S. Section, International Boundary and Water Commission
- McAllen-Hidalgo International Bridge – Bridge Director, City of McAllen

- Pharr-Reynosa International Bridge on the Rise – Bridge Director, City of Pharr Presidio Bridge – Executive Director, Texas Department of Transportation
- Progreso International Bridge – President, B & P Bridge Company of Weslaco
- Rio Grande City-Camargo Bridge – President, Starr-Camargo Bridge Company
- Veterans International Bridge at Los Tomates, Free Trade Bridge at Los Indios, Gateway International Bridge – Director, International Bridge System, Cameron County
- Ysleta-Zaragoza Bridge, Good Neighbor Bridge, Paso del Norte Bridge – Toll Collection Superintendent, City of El Paso
- Rosalva Guerra, Zapata County Judge

IT IS THEREFORE ORDERED by the commission that the individuals or positions named above are appointed to the Border Trade Advisory Committee for the terms specified.

ITEM 10. FINANCE

a. Adoption of the FY 2008 Operating Budget (MO)

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

111047
FIN

The General Appropriations Act of the 80th Legislature, 2007 Regular Session, has appropriated funds for the operations of the Texas Department of Transportation (department) for Fiscal Year 2008.

The funds shown below are necessary to effectively operate the activities of the department in accordance with the guidelines set forth in the General Appropriations Act.

TEXAS DEPARTMENT OF TRANSPORTATION OPERATING BUDGET FOR FISCAL YEAR 2008	
A.	GOAL: TRANSPORTATION PLANNING (Plan It)
Strategy A.1.1	PLAN/DESIGN/MANAGE \$ 376,904,450
A.1.2	CONTRACTED PLANNING & DESIGN 557,961,815
A.1.3	RIGHT-OF-WAY ACQUISITION 574,633,926
A.1.4	RESEARCH 22,401,095
	TOTAL, GOAL A: \$ 1,531,901,286
B.	GOAL: TRANSPORTATION CONSTRUCTION (Build It)
Strategy B.1.1	TRANSPORTATION CONSTRUCTION \$ 3,270,860,638
B.1.2	AVIATION SERVICES 91,694,873
	TOTAL, GOAL B: \$ 3,362,555,511
C.	GOAL: MAINTENANCE AND PRESERVATION (Maintain It)
Strategy C.1.1	CONTRACTED MAINTENANCE \$ 2,355,970,280
C.1.2	ROUTINE MAINTENANCE 581,653,650
C.1.3	GULF WATERWAY 957,998
C.1.4	FERRY SYSTEM 28,168,550
C.1.5	GROSS WEIGHT AND AXLE FEES 5,400,000
	TOTAL, GOAL C: \$ 2,972,150,478

D. GOAL: OPTIMIZE SERVICES AND SYSTEMS (Use It)	
Strategy D.1.1 PUBLIC TRANSPORTATION	\$ 76,686,881
D.1.2 CLIENT TRANSPORTATION SERVICES	104,889,454
D.1.3 REGISTRATION AND TITLING	69,460,661
D.1.4 VEHICLE DEALER REGULATION	6,156,643
D.2.1 TRAFFIC SAFETY	34,200,078
D.3.1 TRAVEL INFORMATION	19,151,858
D.4.1 AUTOMOBILE THEFT PREVENTION	13,774,920
D.5.1 RAIL SAFETY	1,222,189
TOTAL, GOAL D:	\$ 325,542,684
E. GOAL: INDIRECT ADMINISTRATION (Manage It)	
Strategy E.1.1 CENTRAL ADMINISTRATION	\$ 45,111,955
E.1.2 INFORMATION RESOURCES	38,110,211
E.1.3 OTHER SUPPORT SERVICES	37,745,866
E.1.4 REGIONAL ADMINISTRATION	64,351,073
TOTAL, GOAL E:	\$ 185,319,105
GRAND TOTAL: Texas Department of Transportation	\$ 8,377,469,064

IT IS THEREFORE ORDERED by the Texas Transportation Commission that a cash operating budget of \$8,377,469,064 be authorized for the operations of the department for Fiscal Year 2008; and the executive director is hereby ordered to administer this cash operating budget in the most feasible and economical manner within the guidelines prescribed by the 80th Legislature, 2007 Regular Session.

IT IS FURTHER ORDERED that the executive director is hereby authorized to make necessary adjustments to spending levels in accordance with the General Appropriations Act as may be necessary in the operations of the department.

b. Travis and Williamson Counties – Adoption of the annual operating budget, annual maintenance budget, and annual capital budget for the Central Texas Turnpike System (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:

111048
FIN

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

In TRAVIS AND WILLIAMSON COUNTIES, pursuant to Minute Order 108873, dated April 25, 2002, STATE HIGHWAY 130 has been designated as a toll project and a controlled access state highway from IH 35 at SH 195 to a southern terminus at US 183.

In TRAVIS AND WILLIAMSON COUNTIES, pursuant to Minute Order 108896, dated May 30, 2002, STATE HIGHWAY 45, has been designated as a toll project and a controlled access state highway from west of US 183 to SH 130.

In TRAVIS AND WILLIAMSON COUNTIES, pursuant to Minute Order 108896, dated May 30, 2002, LOOP 1 has been designated as 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 45.

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

Pursuant to Section 702 of the indenture, the commission has covenanted that on or before August 31 in each fiscal year, it will adopt an annual operating, maintenance and capital budget for the system for the ensuing fiscal year and provide copies of such budgets to the Trustee and the US DOT.

As it is currently projected that the 2002 Project will be completed in FY 2008, the commission has directed the department to prepare the annual operating, maintenance and capital budgets for the system for FY 2008. The department has completed these budgets and they are attached as Exhibit A. In accordance with Section 702 of the indenture, the budgets were provided to the General Engineering Consultant for review and comment prior to adoption by the commission.

IT IS THEREFORE ORDERED by the commission that the annual operating, maintenance and capital budgets for the system are adopted for FY 2008.

IT IS FURTHER ORDERED that the executive director is hereby authorized to make necessary adjustments to spending levels in accordance with the indenture as may be necessary in the operations of the system.

c. Annual review of debt and derivative management policies (MO)

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

111049
FIN

Pursuant to various provisions of Texas law, the Texas Transportation Commission (commission) is authorized to issue and incur obligations for transportation, mobility and other projects.

To ensure that all financing programs undertaken by the commission and/or the Texas Department of Transportation (department) are completed in accordance with the highest standards of industry, law and government practice and to confirm the intent of the commission and the department to adhere to sound financial management practices, the commission reviewed and adopted a Debt Management Policy through Minute Order 110656 on August 24, 2006. The policy requires an annual review and, if necessary, amendment. The amended policy is attached hereto as Exhibit A for consideration.

The Debt Management Policy establishes parameters in which to administer the commission's financing programs considering acceptable levels of risk, minimizing interest costs and optimizing future flexibility with consideration to achieving and maintaining the best possible credit ratings.

Pursuant to Chapter 1371, Texas Government Code, as amended, and other applicable Texas law, the commission is authorized to execute credit agreements including interest rate swap and other similar agreements.

To establish responsibilities, objectives and guidelines for the use of interest rate swap and other similar products in order to efficiently and prudently manage the commission's asset/liability profile for each financing program the commission has reviewed and adopted a Derivative Management Policy, also pursuant to Minute Order 110656 on August 24, 2006. The policy also requires annual review and, if necessary, modification. The amended policy is attached hereto as Exhibit B for consideration.

IT IS THEREFORE ORDERED by the commission that the Debt Management Policy and Derivative Management Policy have been reviewed and are hereby approved.

d. Approve the Supplemental Resolutions, the preliminary Official Statements, and other related documents and agreements relating to the State Highway Fund Revenue Financing Program and the issuance of bonds and other obligations under the Financing Program, and authorize designated department officials to deliver one or more series of bonds and act on behalf of the commission in accordance with the requirements of the Resolutions (MO)

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

111050
FIN

Section 49-n, Article III, of the Texas Constitution (constitutional provision) provides that the Texas Legislature may authorize the Texas Transportation Commission (commission) to issue bonds and other public securities and enter into bond enhancement agreements that are payable from revenue deposited to the credit of the State Highway Fund (highway fund) to fund state highway improvement projects.

The constitutional provision provides for the appropriation of amounts from highway fund revenues that are sufficient to pay the principal of and interest on such bonds or other public securities and any cost related to the bonds and other public securities, including payments under bond enhancement agreements; and, the constitutional provision further provides that any dedication or appropriation of revenue to the credit of the highway fund may not be modified so as to impair any outstanding bonds or other public securities secured by a pledge of highway fund revenue unless provisions have been made for a full discharge of those securities.

Pursuant to the constitutional provision, the Texas Legislature enacted Section 222.003, Texas Transportation Code, as amended (enabling act), which authorizes the commission to issue bonds and other public securities secured by a pledge of and payable from revenue deposited to the credit of the highway fund.

The enabling act provides that (i) the aggregate principal amount of such bonds and other public securities may not exceed \$6 billion, (ii) the commission may issue bonds or other public securities in an aggregate principal amount of not more than \$1.5 billion each year, (iii) \$1.2 billion of the aggregate principal amount of such bonds or other public securities must be issued to fund projects (safety projects) that reduce accidents or correct or improve hazardous locations on the state highway system, and (iv) bonds and other public securities and credit agreements may not have a principal amount or terms that are expected to cause annual expenditures with respect thereto to exceed 10 percent (10%) of the amount deposited to the credit of the highway fund in the immediately preceding year.

The enabling act further provides that the Comptroller of Public Accounts (comptroller) shall withdraw from the highway fund amounts determined by the commission to permit timely payment of the principal of and interest on the bonds and other public securities and any cost related to the bonds and other public securities, including payments under credit agreements.

Pursuant to the enabling act, the commission has adopted rules, codified at 43 TAC §§15.170-15.174, that prescribe criteria for selecting projects (including safety projects) eligible for funding under the enabling act.

Pursuant to Minute Order No. 110472, dated March 30, 2006, the commission approved a master resolution, as amended (master resolution), establishing a financing program for bonds, other public securities and credit agreements secured by and payable from revenue deposited to the credit of the State Highway Fund to establish a revenue financing program to provide a financing structure to facilitate the commission's exercise of the powers and authority conferred by the enabling act and pursuant to which the commission is authorized to issue obligations (senior obligations), including bonds, notes and other public securities, and execute credit agreements and qualified hedge agreements, secured by and payable from a pledge of and lien on revenues deposited to the credit of the highway fund, as provided by the master resolution, and further approved a first supplemental resolution to the master resolution which authorized the issuance of "Texas Transportation Commission State Highway Fund First Tier Revenue Bonds, Series 2006" (series 2006 bonds), which were issued in the aggregate principal amount of \$600 million.

Pursuant to Minute Order No. 110729, dated October 26, 2006, the commission further approved a second supplemental resolution to the master resolution which authorized the issuance of "Texas Transportation Commission State Highway Fund First Tier Revenue Bonds, Series 2006-A" (series 2006-A bonds), which were issued in the aggregate principal amount of \$852,550,000, and a third supplemental resolution to the master resolution which authorized the issuance of "Texas Transportation Commission State Highway Fund First Tier Revenue Bonds, Series 2006-B (Variable Rate Bonds)" (series 2006-B bonds and, together with the series 2006 bonds and the series 2006-A bonds, collectively, outstanding senior obligations), which were issued in the aggregate principal amount of \$100 million.

The commission has determined that it is in the best interest of the state to approve a fourth supplemental resolution to the master resolution (supplemental resolution) to authorize the issuance of additional senior obligations (additional senior obligations) in one or more series in the aggregate principal amount not to exceed \$1.5 billion and to prescribe the terms, provisions and covenants related thereto, as set forth in the supplemental resolution.

Under the supplemental resolution, the commission has determined that it is in the best interest of the state for such additional senior obligations to be sold through negotiated sale pursuant to the procedures set forth in the supplemental resolution, including entering one or more bond purchase contracts dated as of the date of pricing under which the underwriters for such additional senior obligations agree to purchase from the commission, and to make a bona fide public offering of, such principal amount of additional senior obligations as is determined by the department representative (as defined in the supplemental resolution) in the respective award certificates for such additional senior obligations, and at such price and subject to such terms as are prescribed in the respective award certificates therefore.

The commission understands that, in connection with the public offering and sale of each series of additional senior obligations, the underwriters expect to distribute an official statement in preliminary and final form, in substantially the form attached hereto (collectively, official statement), which official statement will include a description of the revenues deposited to the credit of the highway fund and other security and payment provisions related to the additional senior obligations.

The commission has determined that it is in the best interest of the state to authorize the department representative to direct the comptroller to withdraw from the highway fund and forward such amounts as are necessary to permit timely payment of obligations issued or incurred pursuant to the master resolution and any supplemental resolution thereto, as provided by the enabling act, and to authorize the department representative to enter into any memoranda and agreements (collectively, management agreements) as are deemed necessary or appropriate by the department representative to evidence such direction and to provide for the management and administration of the highway fund and any other funds and accounts established and maintained in connection with or related to such obligations.

IT IS THEREFORE ORDERED by the commission that the supplemental resolution, the official statement, the bond purchase contract and the paying agent/registrars agreement (collectively, financing documents), in substantially the form attached hereto as Exhibit A, are each hereby approved with such changes as the department representative executing each such document may approve, such approval to be conclusively evidenced by execution of such document; and, each department representative, acting individually, is authorized and directed to take any and all actions necessary or appropriate to effect the delivery of the additional senior obligations in accordance with the terms and conditions of the financing documents.

IT IS FURTHER ORDERED by the commission that each department representative, acting individually, is authorized to direct the comptroller to withdraw amounts from the highway fund and forward such amounts as are necessary to permit timely payment of obligations issued or incurred pursuant to the supplemental resolution; and, each department representative, acting individually, is authorized to execute and deliver such management agreements as are deemed necessary or appropriate to evidence such direction and to provide for the management and administration of the highway fund and any other funds and accounts established and maintained in connection with or related to such obligations.

IT IS FURTHER ORDERED by the commission that any necessary or desirable ancillary documents in connection with the issuance of the additional senior obligations and the performance of the terms and conditions of the financing documents are hereby approved; and, each department representative, acting individually, is authorized and directed to execute and deliver such documents.

IT IS FURTHER ORDERED by the commission that an official statement, in substantially the form attached hereto, is approved for distribution by the underwriters with such changes as a department representative may approve, such approval to be conclusively evidenced by the execution of the official statement; and, the preliminary form of the official statement attached hereto is deemed final for purposes of Rule 15c2-12 of the Securities and Exchange Commission (rule) with such omissions as are permitted by the rule.

IT IS FURTHER ORDERED by the commission that each member of the commission and each department representative, acting individually, is authorized and directed to perform all such acts and execute such documents, including execution of certifications to the underwriters, the Attorney General, the comptroller and other parties, as may be necessary or desirable to carry out the intent and purposes of this order and other orders of the commission relating to the financing program and the financing documents.

e. Authorize the filing of an application with the Bond Review Board for approval of the issuance of obligations secured by revenue in the Texas Mobility Fund for the purpose of financing costs of authorized projects (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:

111051
FIN

Section 49-k, Article III of the Texas Constitution (constitutional provision) and Transportation Code, Chapter 201, Subchapter M, and other applicable law, including Government Code, Chapter 1371, authorize the Texas Transportation Commission (commission) to issue bonds and other obligations secured by all or part of the money in the Texas Mobility Fund (fund). Obligations may be issued to 1) pay all or part of the

costs of constructing, reconstructing, acquiring, and expanding state highways; 2) provide participation by the State in the payment of part of the costs of constructing and providing publicly owned toll roads and other public transportation projects; 3) create debt service accounts; 4) pay interest on obligations for a period of not longer than two years; 5) refund or cancel outstanding obligations and 6) pay the commission's costs of issuance (collectively, projects).

Transportation Code, Chapter 201, Subchapter M, provides that the Commission may guarantee on behalf of the state the payment of any obligations and credit agreements secured by the fund by pledging the full faith and credit of the state to the payment of the obligations and credit agreements in the event the revenue and money dedicated to the fund and on deposit in the fund under the constitutional provision, are insufficient for that purpose.

Transportation Code, §201.947 provides that the commission may not issue obligations before the Texas Department of Transportation (department) has developed a strategic plan that outlines how the proceeds of obligations will be used and the benefit the State will derive from use of money in the Fund. Pursuant to Minute Order 109800, dated September 30, 2004, the Texas Mobility Fund Strategic Plan as developed by the department was adopted and has not been amended.

Pursuant to Minute Order 110081 dated May 4, 2005 (authorizing minute order) the commission has approved a "Master Resolution Establishing the Texas Transportation Commission Mobility Fund Revenue Financing Program" (Master Resolution) to establish a revenue financing program (Mobility Fund Revenue Financing Program) pursuant to which the commission may issue obligations including bonds, notes and other public securities and execute credit agreements secured by and payable from a pledge of and lien on all or part of the moneys in the fund and any applicable state guarantee authorized pursuant to Section 2(c) of the Master Resolution. The authorizing minute order further approved two supplemental resolutions to the Master Resolution which authorized the issuance of the \$900 million Texas Transportation Commission State of Texas General Obligation Mobility Fund Bonds, Series 2005-A (the Series 2005-A Bonds) and the \$100 million Texas Transportation Commission State of Texas General Obligation Mobility Fund Bonds, Series 2005-B (Variable Rate Bonds) (the Series 2005-B Bonds).

Pursuant to Minute Order 110530 dated May 25, 2006, the commission further approved a third supplemental resolution to the Master Resolution which authorized the issuance of the \$750 million Texas Transportation Commission State of Texas General Obligation Mobility Fund Bonds, Series 2006 (the Series 2006 Bonds).

Pursuant to Minute Order 110684 dated September 28, 2006 the commission further approved fourth and fifth supplemental resolutions to the Master Resolution which authorized the issuance of the \$1,040,275,000 Texas Transportation Commission State of Texas General Obligation Mobility Fund Bonds, Series 2006-A and \$150 million Texas Transportation Commission State of Texas General Obligation Mobility Fund Bonds, Series 2006 (Multi-Modal Bonds) (the Series 2006-A Bonds and Series 2006-B Bonds).

Pursuant to Minute Order 110940 dated May 24, 2007, the commission further approved a sixth supplemental resolution to the Master Resolution which authorized the issuance of the \$1,006,330,000 Texas Transportation Commission State of Texas General Obligation Mobility Fund Bonds, Series 2007 (the Series 2005-A Bonds, the Series 2005-B Bonds, the Series 2006 Bonds, the Series 2006-A Bonds, the Series 2006-B and Series 2007 Bonds together with the reimbursement obligations under the liquidity facilities related to the Series 2005-B Bonds and the Series 2006-B Bonds and the Swap agreements related to the Series 2006-A Bonds, collectively "outstanding parity debt").

The commission has determined that the projected debt capacity of the fund exceeds the original estimate of \$4 billion and has determined it to be in the best interest of the state to amend the Master Resolution and issue additional obligations, on parity with the previously issued outstanding parity debt, secured by revenues and money dedicated to the fund and on deposit in the fund under the constitutional provision and by a pledge of the full faith and credit of the state.

Government Code, §1231.041 provides that a state agency may not issue a state security, including a bond, unless the Texas Bond Review Board (board) approves the issuance. On May 5, 2005, the board approved the issuance in one or more series "Texas Transportation Commission State of Texas General Obligation Mobility Fund Bonds" in an aggregate principal amount not to exceed \$4 billion.

The commission has issued substantially all of the \$4 billion previously approved by the board and must receive board approval to issue obligations for the remaining projected debt capacity of the fund.

IT IS THEREFORE ORDERED by the commission that the department is authorized and directed to file with the board an application for approval of the issuance of additional obligations, in an aggregate principal amount not to exceed \$2.5 billion pursuant to and in accordance with the terms of the applicable statutes, and any necessary ancillary documents, for the purpose of financing the costs authorized by law.

IT IS FURTHER ORDERED by the commission that the department is directed to present for the commission's consideration at future meetings, one or more minute orders to approve the final documentation authorizing the issuance of such additional obligations, including any agreements related thereto.

ITEM 11. 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 Nos. RMC-616540001 in Coryell County, and RMC – 616541001 in Limestone County, as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

111052
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 August 7 and 8, 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 Andrade, and the commission approved the following minute order, as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

111053
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 August 7 and 8, 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.

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. Establish statewide annual participation goals for the Historically Underutilized Business Program (MO)

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

111054
BOP

In accordance with Title 43, Texas Administrative Code, §9.54, the Texas Transportation Commission (commission) is establishing annual Historically Underutilized Business (HUB) goals of 26.1 percent for building construction contracts, 57.2 percent for special trade contracts, 20 percent for professional services contracts, 33 percent for other service contracts and 12.6 percent for commodity purchases.

The HUB program was developed by the Texas Department of Transportation (department), under authority of Transportation Code, §201.702, and intended to be consistent where practicable with both Government Code, Chapter 2161, and the department's Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) programs. The annual goals represent participation in contracts and purchases by

HUBs determined by a percentage of the total cost of all state and locally funded contracts, other than highway construction and highway maintenance contracts.

To maintain consistency with the state HUB Program requirements contained in Government Code, Chapter 2161, and under Texas Administrative Code, §9.54, the commission will establish an overall annual HUB participation goal. The commission will establish the goal making use of disparity studies, including the disparity study described in Government Code, §2161.002(c), or its replacement, as well as other relevant information. Making use of this or other disparity studies for establishing its HUB goals satisfies the requirement in Transportation Code, §201.702(b), that the state goal approximates the federal requirements.

The commission established the annual HUB goals for Fiscal Year 2008 based on the availability of HUBs as determined in the disparity study described in Government Code, §2161.002(c).

IT IS THEREFORE ORDERED that the HUB goals stated in this order are effective from September 1, 2007 through August 31, 2008.

Note: Exhibit A on file with minute order clerk.

c. Establish statewide annual participation goals for the Small Business Enterprise Program (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 Business Opportunity Program Office Transportation Engineer Elizabeth Boswell:

111055
BOP

In accordance with Title 43, Texas Administrative Code, §9.55, the Texas Transportation Commission (commission) is establishing an annual Small Business Enterprise (SBE) goal of 23 percent. The Texas Department of Transportation (department), under its authority in Transportation Code, §201.702, to develop programs for disadvantaged businesses, chose to develop the Small Business Enterprise (SBE) Program to assist disadvantaged businesses in the specialized fields of highway construction and maintenance. The program is open to all small businesses that meet the required size limitation. The SBE Program was designed to mirror the Disadvantaged Business Enterprise (DBE) and Historically Underutilized Business (HUB) programs whenever practicable so that those members of the affected industry will not be confronted with different rules based on funding source.

Pursuant to Title 43, Texas Administrative Code, §9.55, the commission, in a procedure similar to that required by the federal DBE Program and roughly equivalent to the HUB goal setting procedures, will establish annual SBE goals based on the availability of SBE firms. The annual goals represent SBE participation in contracts and purchases determined by a percentage of the total cost of highway construction and highway maintenance projects funded with state and local funds.

To determine the availability of SBEs, the department compared the total amount contracted to small businesses in FY 2006 to the total amount awarded to prime contractors in FY 2006. This comparison indicated that 12 percent of the total amount was awarded to small businesses. This percentage does not include awards to material suppliers due to the unavailability of data regarding suppliers. To further encourage the development of small businesses and to take into account the small businesses that furnish materials, the department added 11 percent to the SBE goal for a total of 23 percent.

IT IS THEREFORE ORDERED that the SBE goal of 23 percent is effective from September 1, 2007 through August 31, 2008.

ITEM 12. ROUTINE MINUTE ORDERS

Commissioner Houghton made a motion, seconded by Commissioner Underwood, and the commission approved the following minute orders presented by Executive Director Michael W. Behrens. Commissioner Holmes abstained from voting.

a. Donations to the Department

(1) Right of Way Division – Acknowledge a donation from the International Right of Way Association to pay travel expenses for a department employee to give a presentation and attend the 2007 International Right of Way Annual Educational Conference that was held in Sacramento, California on June 17-20, 2007 (MO)

111056
OGC

This minute order acknowledges a donation of \$1,495 from the International Right of Way Association (IRWA) for a Texas Department of Transportation (department) employee's travel expenses related to giving a presentation and attending the 2007 International Right of Way Annual Education Conference that was held in Sacramento, California on June 17-June 20, 2007.

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 \$1,495 by IRWA is acknowledged. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(2) Right of Way Division – Acknowledge a donation from the International Right of Way Association to pay travel expenses for a department employee to attend the Education Task Force for Public Real Estate Symposium meeting that was held on July 18-20, 2007 in Washington, D.C. (MO)

111057
OGC

This minute order acknowledges a donation of \$1,225.53 from the International Right of Way Association (IRWA) for a Texas Department of Transportation (department) employee's travel expenses related to attend the Education Task Force for Public Real Estate Symposium meeting that was held in Washington D.C. on July 18-20, 2007.

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 \$1,225.53 by IRWA is acknowledged. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(3) 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 the Texas Panhandle from October 14-19, 2007 (MO)

111058
OGC

This minute order considers a donation of food, beverage, lodging, and admission and transportation to area attractions from the Texas Travel Industry Association (TTIA), and solicited from various sponsors, to the Texas Department of Transportation (department) during a study tour to be held from October 14-19, 2007 to educate the department's travel counselors on the Texas Panhandle. The donation is worth an estimated \$12,950.

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 interested in or likely to become interested in a contract, purchase, payment, or claim with or against the department. The commission has determined that acceptance of the donation would nonetheless provide significant public benefits and would 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 from TTIA worth an estimated \$12,950 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 list) (MO)

111059
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	Coryell	US 84	0055-03-025	52
2	Dallas	Mockingbird Lane	0092-07-050	5
3	Brazos	SH 21	0117-02-031	2
4	Denton	US 380	0134-09-059	33
5	Denton	US 380	0134-09-059	36
6	Brazoria	SH 35	0178-02-072	57
7	Brazoria	SH 35	0178-02-072	65
8	Brazoria	SH 35	0178-02-072	74
9	Brazoria	SH 35	0178-02-072	8
10	Harris	SH 35	0178-09-001	5A
11	Austin	SH 36	0187-03-059	29
12	Austin	SH 36	0187-03-059	30
13	Austin	SH 36	0187-03-059	31
14	Austin	SH 36	0187-03-059	32
15	Tarrant	SH 26	0363-01-126	37E
16	Tarrant	SH 26	0363-01-127	7

NON-CONTROLLED ACCESS (continued)

EXHIBIT	COUNTY	HIGHWAY	ROW CSJ NO.	PARCEL
17	Collin	FM 982	0387-05-017	123
18	Collin	FM 982	0387-05-017	67
19	Collin	FM 982	0387-05-017	95
20	Upshur	SH 155	0520-02-045	5
21	Cameron	FM 511	0684-01-060	23B
22	Baylor	US 277	5500-00-002	1

CONTROLLED ACCESS

EXHIBIT	COUNTY	HIGHWAY	ROW CSJ NO.	PARCEL
A	McLennan	IH 35	0015-01-194	29
B	Harris	US 290	0050-06-076	2AAQ
C	Bell	US 190	0185-01-033	22
D	Dallas	IH 35E	0196-03-231	23
E	Dallas	IH 35E	0196-03-231	46
F	Dallas	IH 35E	0196-03-231	53
G	Angelina	US 69	0200-02-035	84
H	Angelina	US 69	0200-02-035	85
I	Angelina	US 69	0200-02-035	86
J	Williamson	SH 195	0440-01-037	24
K	Williamson	SH 195	0440-01-037	25
L	Williamson	SH 195	0440-01-037	31, 31E
M	Williamson	SH 195	0440-01-037	32
N	Williamson	SH 195	0440-01-037	34
O	Williamson	SH 195	0440-01-037	35
P	Williamson	SH 195	0440-01-037	38
Q	Montgomery	IH 45	0675-08-089	110
R	Montgomery	IH 45	0675-08-089	111
S	Montgomery	IH 45	0675-08-089	112
T	Montgomery	IH 45	0675-08-089	113
U	Montgomery	IH 45	0675-08-089	137
V	Montgomery	IH 45	0675-08-089	139
W	Montgomery	IH 45	0675-08-089	144
X	Montgomery	IH 45	0675-08-089	17
Y	Montgomery	IH 45	0675-08-089	171
Z	Montgomery	IH 45	0675-08-089	21
AA	Montgomery	IH 45	0675-08-089	22
BB	Caldwell	SH 195	0836-01-013	10
CC	Williamson	SH 195	0836-01-013	2
DD	Brazoria	SH 332	0847-03-032	3
EE	Dallas	IH 635	2374-01-151	25
FF	Dallas	IH 635	2374-01-151	35

CONTROLLED ACCESS (continued)				
EXHIBIT	COUNTY	HIGHWAY	ROW CSJ NO.	PARCEL
GG	Dallas	IH 635	2374-01-151	36
HH	Coryell	FM 2657	3131-03-008	5
II	Midland	SH 349	1718-07-030	4

Note: Exhibits 1 through 22 and A through II on file with minute order clerk.

c. Highway Designations

(1) Denton and Tarrant Counties – Extend the designation of FM 1938 along a new location (MO)

111060
TPP

In DENTON and TARRANT COUNTIES, officials in the cities of Westlake, Southlake, and Keller have requested that a new location be designated on the state highway system as an extension of FARM TO MARKET ROAD 1938.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended approval of this designation.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that FM 1938 is designated on the state highway system along a new location from the intersection of FM 1709 to the intersection of State Highway 114, a distance of approximately 3.6 miles.

(2) Motley County – Redesignate a segment of FM 94 as FM Spur 94 and redesignate existing FM Spur 94 as FM 94 (MO)

111061
TPP

In MOTLEY COUNTY (county), officials at the City of Matador (city) have requested that a segment of FARM TO MARKET ROAD 94 be redesignated on the state highway system as FARM TO MARKET SPUR 94. In order to facilitate the flow of traffic, promote public safety, and maintain the integrity of the state highway system, the existing location of FARM TO MARKET SPUR 94 will be redesignated as FARM TO MARKET ROAD 94.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended approval of this action.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that:

1. FM 94 is redesignated along the current location of Farm to Market Spur 94 from the intersection of the current Farm to Market Spur 94 southward to the intersection of US 62, a distance of approximately 0.85 mile.
2. The existing location of Farm to Market Spur 94 is redesignated as FM 94, a distance of approximately 0.78 mile.

d. Right of Way Dispositions and Donations

(1) Camp County – FM 557, 3.75 miles west of US 259 – Consider the exchange of right of way (MO)

111062
ROW

In CAMP COUNTY, on FARM TO MARKET ROAD 557, the State of Texas acquired certain land needed for highway purposes by instrument recorded in Volume 61, Page 67, Official Public Records of Camp County, Texas.

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

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

Land needed by the state for highway purposes (new land), described in Exhibit B, has been conveyed to the state. Nelson Roach is the abutting landowner to the surplus land and has requested that the surplus land be conveyed to him. The state has paid the difference between the value of the surplus land and that of the new land pursuant to the state's offer.

It is the opinion of the commission that it is proper and correct that the state convey the surplus land to the abutting landowner in exchange and as consideration for the conveyance of the new land to the state.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Nelson Roach in exchange and as consideration for the conveyance of the new land to the state; **SAVE AND EXCEPT**, however, there is excepted and reserved herefrom all of the state's rights, titles and 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) Dallas County – US 75 at North Carroll Avenue in Dallas – Amend Minute Order 110170 to correct the purchaser's name (MO)

111063
ROW

In the city of Dallas, DALLAS COUNTY, on US 75, the State of Texas (state) acquired certain land needed for highway purposes by instrument recorded in Volume 90005, Page 0072, Deed Records of Dallas County, Texas.

The Texas Transportation Commission (commission) approved Minute Order 110170 on July 28, 2005, authorizing the sale of surplus land. The minute order incorrectly identified the purchaser of the surplus land. The purchaser's name is being corrected by this minute order.

In accordance with V.T.C.A., Natural Resources Code, Section 31.0671, the commission may recommend the sale of surplus land to the Permanent School Fund if the sale is for market value.

NOW, THEREFORE, IT IS ORDERED that Minute Order 110170 be amended only with respect to the incorrect reference to the name of the purchaser of the surplus land in that minute order, and all other provisions of Minute Order 110170 are to remain unchanged.

FURTHER, the commission recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to the State of Texas for the use and benefit of the Permanent School Fund.

(3) Palo Pinto – SH 108 at East Broadway in Mingus – Consider the quitclaim of right of way to correct an error in the legal description (MO)

111064
ROW

In PALO PINTO COUNTY, on STATE HIGHWAY 108, the State of Texas acquired certain land needed for state highway purposes by instrument recorded in Volume 148, Page 17, Deed Records of Palo Pinto County, Texas.

A portion of the land (surplus land), described in Exhibit A, was not intended to be acquired and is not needed for a highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend that surplus land be quitclaimed to resolve an error in an instrument that conveyed an interest in real property to the state for a highway right of way.

Randy Krajcar, Sandra King, William J. Raffaele and Donny Raffaele are the heirs of the original grantor and have requested that the surplus land be quitclaimed to them to correct the error in the original legal description.

The commission finds that an error in the legal description resulted in the acquisition of real property not intended to be included and not needed for a highway purpose.

NOW, THEREFORE, the commission finds that the surplus land was acquired in error and is not needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument quitclaiming all of the state's rights, title and interest in the surplus land to Randy Krajcar, Sandra King, William J. Raffaele and Donny Raffaele.

Note: Exhibit A on file with minute order clerk.

e. Speed Zones

Various Counties – Establish or alter regulatory and construction speed zones on various sections of highways in the state (MO)

111065
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 and B 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 meeting was recessed at 1:31 p.m. to enter into Executive Session. The meeting was reconvened at 2:53 p.m.

OPEN COMMENT PERIOD – There were no open comments.

The regular meeting of the Texas Transportation Commission adjourned at 2:54 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 August 23, 2007, in Austin, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation