

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on March 29, 2007 in Austin, Texas. The meeting opened at 9:02 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 4:01 p.m. on March 21, 2007, as required by Chapter 551, of the Government Code, referred to as “The Open Meetings Act.”

ITEM 1. Approval of Minutes of the February 28, 2007 regular meeting and March 22, 2007 special meeting of the Texas Transportation Commission.

Commissioner Underwood made a motion, seconded by Commissioner Houghton, and the commission approved the minutes of the February 28, 2007 regular meeting and March 22, 2007 special meeting of the Texas Transportation Commission.

ITEM 2. TRANS-TEXAS CORRIDOR

Appointment of new members to the Trans-Texas Corridor Advisory committee (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.

110876
TTA

Pursuant to 43 TAC §1.85(a)(5), the Texas Transportation Commission (commission) may, by order, create an advisory committee concerning the Trans-Texas Corridor or a project that is part of the Trans-Texas Corridor for the purpose of facilitating and achieving support and consensus from affected communities, governmental entities, and other interested parties in the planning of the Trans-Texas Corridor and in the establishment of development plans for a project that is part of the Trans-Texas Corridor.

Under 43 TAC §1.85(a)(5), a Trans-Texas Corridor advisory committee shall provide advice and recommendations to the Texas Department of Transportation (department) regarding facilities to be included in a development plan for the Trans-Texas Corridor or a project that is part of the Trans-Texas Corridor.

Section 1.85 provides that an advisory committee shall be composed of not more than 24 members, and shall report its advice and recommendations to the executive director of the department or his designee.

Pursuant to Minute Order 110009, dated March 31, 2005, the commission appointed 21 members to the advisory committee. Two additional members were appointed pursuant to Minute Order 110050, dated April 28, 2005. On March 29, 2007, four members will be leaving and will be replaced by four new members.

IT IS THEREFORE ORDERED by the commission that the individuals identified as new members on the attached Exhibit A are appointed as members of the Trans-Texas Corridor Advisory Committee.

Note: Exhibit A on file with minute order clerk.

ITEM 3. REGIONAL REPORT **DALLAS/FORT WORTH AREA PARTNERS IN MOBILITY**

A table discussion led by Director of Transportation, North Central Texas Council of Governments, Michael Morris; Denton County Commissioner Cynthia White; City of Dallas Councilmember Linda Koop; North Richland Hills Mayor Oscar Trevino; Chair, North Texas Tollway Authority, Paul Wageman; Chair, Denton County Transportation Authority, Charles Emery; and Dallas International Airport CEO Jeff Fegan.

ITEM 4. REPORTS

a. Overview of the Automobile Theft Prevention Authority and the “Watch Your Car” prevention program from ATPA Board Chair Mike Gerik

The commission received comments from ATPA Director Susan Sampson and International Association Auto Theft Investigators President Tommy Hansen.

OPEN COMMENT PERIOD – The commission received comments from a representative of the people Jim Dillon.

The commission received comments from Heart of Texas Chapter President Tina Walker regarding Item 11.a.(11).

ITEM 6. AVIATION

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

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

110877
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, February 15, 2007, a public hearing was held and no comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$13,808,000.

Note: Exhibit A on file with minute order clerk.

ITEM 4. REPORTS

c. A presentation about the connection between placement of transportation facilities and their impact on surround lane uses

The commission received comments from Scott Polikov; John Norquist; and Andres Duany.

Commissioner Andrade recognized the 2006 Friend of Texas Transit Award winner John Hendrickson.

b. Receive report on the statewide regional public transportation coordination effort

This report was presented by Public Transportation Division Director Eric Gleason.

ITEM 5. PUBLIC TRANSPORTATION

a. Various Counties – Award federal §5311(f), Nonurbanized Area Formula Program, funding for intercity bus projects (MO)

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

110878
PTN

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

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

The department on October 27, 2006, published a Request for Proposals for intercity bus projects in the *Texas Register*. The commission finds that the projects listed in Exhibit A are eligible for funding and desires to award \$1,427,524 for these projects.

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 authorized to enter into negotiations to distribute the funds not to exceed the amounts as described in Exhibit A, directed to proceed with the allocations as described in Exhibit A, submit the necessary state application to FTA, and enter into the necessary contracts in accordance with the priorities established in this minute order.

Note: Exhibit A on file with minute order clerk.

b. Various Counties – Award FY 2007 federal §5310, Elderly and Persons with Disabilities Program, funds to transportation operators serving the elderly and persons with disabilities (MO)

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

110879
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.

Title 43, Texas Administrative Code, §31.31(g) establishes a formula by which §5310 program funds shall be distributed. The distribution of the FY 2007 allocation, including unobligated funds from previous grants, is shown in Exhibit A and has been calculated in accordance with the provisions of §31.31(g).

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 application to the FTA, and enter into the necessary contracts for the FY 2007 program of projects.

Note: Exhibit A on file with minute order clerk.

c. Various Counties – Correct prior award of federal §5304 Planning Funds to support continuation of coordinated regional public transportation planning (MO)

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

110880
PTN

The Texas Transportation Commission (commission) desires to award funds to support the continued development of coordinated regional planning in public transportation.

The commission on December 14, 2006, by Minute Order 110772, awarded funds under §5304 of the Federal Transit Code for continuing regional coordinated planning. Subsequent to the passage of Minute Order 110772, the Texas Department of Transportation (department) was informed that the lead agencies in two regions had changed.

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 prior awards under Minute Order 110772, to Capital Area Council of Governments and Permian Basin Council of Governments are rescinded and withdrawn.

IT IS FURTHER ORDERED by the commission that the executive director, or the director's designee, is hereby authorized to proceed with the reallocation of \$120,000 in federal §5304 funds as listed in Exhibit A, notify the entities in writing of the commission's approval, and enter the necessary contracts.

Note: Exhibit A on file with minute order clerk.

ITEM 7. TRANSPORTATION PLANNING

a. Authorize project selection process for the 2008 Statewide Preservation Program and the Statewide Mobility Program (MO)

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

110881
TPP

Pursuant to Transportation Code, §201.602, the Texas Transportation Commission (commission) conducted a public hearing on December 14, 2006 to receive testimony concerning the highway project selection process and the relative importance of the various criteria on which the commission bases its project selection decisions.

To clearly distinguish between preservation and enhancement of the state's transportation system, the Unified Transportation Program (UTP) encompasses two documents. The Statewide Preservation Program (SPP) consists of funding categories used to maintain the existing transportation system, and the Statewide Mobility Program (SMP) includes funding categories used to enhance the transportation system.

There were no oral comments received at the public hearing. Written comments were accepted through March 5, 2007, but none were received. Exhibit A contains a summary of the UTP categories and the various funding and development criterion.

The commission is satisfied that the proposed highway project selection process is consistent with the Texas Department of Transportation's goals to reduce congestion, enhance safety, expand economic opportunity, improve air quality and increase the value of the state's transportation assets.

IT IS THEREFORE ORDERED by the commission that the executive director is hereby authorized to utilize the project selection process for developing the 2008 SPP and SMP under the Unified Transportation Program.

Note: Exhibit A on file with minute order clerk.

b. Authorize a variance in the manner in which federal-aid highway construction funds are distributed to parts of the state versus the manner in which they are distributed by the federal government (MO)

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

110882
TPP

Transportation Code, §222.034, requires the Texas Transportation Commission (commission) to distribute federal-aid transportation funds to various parts of the state for a funding cycle through the selection of highway projects in a manner consistent with the federal formulas that determine the amount of federal-aid the state of Texas receives, unless the commission issues a minute order or ruling that identifies the variance and provides particular justification for the variance. A distribution under §222.034 does not include deductions made for the state infrastructure bank or other federal-aid funds reallocated by the federal government.

The funding categories and formulas for the distribution of transportation funds were developed through consensus by various metropolitan planning organizations and elected officials. The commission conducted a public hearing and adopted the project selection process for the 2008 Unified Transportation Program (UTP).

Exhibit A contains an individual evaluation of each federal-aid apportionment program, including particular justification for any variance from the federal-aid apportionment formula and the proposed distribution of the transportation funds through the 2008 UTP.

IT IS THEREFORE ORDERED by the commission that Exhibit A shall serve as the commission's identification and justification of variances, as required by Transportation Code, Section 222.034.

Note: Exhibit A on file with minute order clerk.

c. Approve the funding categories and programs from which funds will be reduced and returned to the federal government to comply with a federal rescission of unobligated federal-aid highway funds apportioned to Texas (MO)

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

110883
DES

On March 19, 2007, the Federal Highway Administration issued a Notice of Rescission of Federal-Aid Apportionments, Classification Code N 4510.643 (notice). The purpose of the notice was to notify the states that \$3,471,582,000 of unobligated federal-aid highway funds apportioned to the states are hereby rescinded as required by Division B, Title 1, Chapter 10 of the Continuing Appropriations Resolution, 2007, Public Law (Pub. L. No.) 110-5. Not later than 30 days after the date of the notice, the states must identify the amounts to be rescinded from funds apportioned under Chapter 1 of Title 23, U.S.C.

The rescission is being applied proportionally to states based upon the fiscal year (FY) 2007 apportionments. The portion of the rescission assigned to the State of Texas is \$288,459,698.

The notice further advises the states that the rescissions may be taken from any unobligated funds apportioned under Chapter 1 of Title 23, including apportionment categories authorized prior to the Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, as amended by the Surface Transportation Extension Act, 2004, Part V, Pub. L. No. 108-310. These categories include Interstate Maintenance, National Highway System, Surface Transportation Program (STP), Congestion Mitigation and Air Quality, Bridge, Recreational Trails, Minimum Guarantee, Minimum Allocation, Interstate Construction, Interstate Substitution, Consolidated Primary, Equity Bonus, Rural Secondary, Urban Systems, and subcategories underneath these programs. States are encouraged to review projects funded from the older apportionment categories to determine if any of the funds can be deobligated and applied to the rescission.

Equity Bonus provides funding to states based on equity considerations to include a minimum rate of return on contributions to the Highway Trust Fund. Approximately seventy percent of Equity Bonus apportionments are programmatically distributed to Interstate Maintenance, National Highway System, Surface Transportation Program, Congestion Mitigation/Air Quality, and Bridge programs by the Federal Highway Administration. This portion of the Equity Bonus is included in the remaining available unobligated balances eligible for rescission in these categories. The remaining Equity Bonus portion is exempt from the obligation limitation.

Transportation Code, §201.103 requires the Texas Transportation Commission (commission) to plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads.

Transportation Code, §203.002 requires the commission to lay out, construct, maintain, and operate a modern state highway system, with emphasis on the construction of controlled access highways, and to plan for future highways.

On March 22, 2007, the commission conducted a special meeting to discuss and receive comments concerning the federal categories and programs from which funds may be reduced and the effects of taking the funds from various apportionment categories.

IT IS THEREFORE ORDERED by the commission that the rescission amount assigned to the State of Texas be first taken from the older apportionment categories.

IT IS FURTHER ORDERED that:

1. The executive director of the Texas Department of Transportation shall, after any funds from older apportionment categories are used, take the approximate amount shown from each of the following eligible federal apportionment categories, as necessary, to make up the total federally requested rescission amount. These amounts are based on the percentage of unobligated funds available for rescission in each of the federal apportionment categories shown below. If funds for rescission are available from older apportionment categories, then the amounts shown below will be proportionally reduced.

Interstate Maintenance - \$71,579,988

National Highway System - \$100,845,450

Surface Transportation Program-Flexible - \$30,298,722

Congestion Mitigation and Air Quality - \$60,852,671

Bridge - \$24,882,867

1. The executive director shall exclude from rescission amounts the STP-Transportation Enhancement and the Equity Bonus apportionment categories. The STP-Transportation Enhancement apportionment category is excluded due to a significant portion of funds from this category being used in funding previous rescissions. The Equity Bonus apportionment category is excluded due to a significant portion of these funds already being programmatically distributed in other apportionment categories eligible for rescission by the Federal Highway Administration and the remainder of these funds being exempt from obligation limitation.
2. Since unobligated balances change on a daily basis in the normal course of obligating federal funds by states, the executive director shall establish the final rescission amounts in consultation with the Federal Highway Administration as near to the deadline for identification of these amounts as practical in accordance with the commission direction established in this minute order.

d. Fort Bend and Harris Counties – Appoint ex-officio director to the Gulf Coast Freight Rail District

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

110884
TPP

The Gulf Coast Freight Rail District (district) was established under the authority of Transportation Code, Chapter 171 and is governed by a board of directors (board). The board is responsible for the management, operation and control of the district.

Transportation Code, Chapter 171 provides that the Texas Transportation Commission (commission) may appoint one Ex Officio Nonvoting Director to the board.

The commission has determined that it would be in the best interest of the citizens of Texas to appoint Ned. S. Holmes, of the commission as the Ex Officio Nonvoting Director of the district.

IT IS THEREFORE ORDERED by the commission that the individual named above is appointed as the Ex Officio Nonvoting Director of the Gulf Coast Freight Rail District for a two-year term.

ITEM 8. TOLL PROJECTS

Dallas County –Authorize publication of request for detailed proposals for the development, financing, design, construction, operation and maintenance of tolled mainlanes along an extension of SH 161 from SH 183, south to I-20 through the cities of Irving and Grand Prairie and other potential facilities to the extent necessary for connectivity, mobility, safety, and financing. Also, authorize payment to each proposer that submits a responsive, but unsuccessful proposal, an amount based upon the value of the work product provided in the proposal that can, as determined by the executive director of the department or his designee, be used by the department, up to a maximum amount per proposer of \$500,000 (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:

110885
TTA

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

On September 29, 2005 by Minute Order 110234, the Texas Transportation Commission (commission) authorized and directed the department to issue a request for qualifications (RFQ) for the financing, design, construction, operation and maintenance of tolled mainlanes along an extension of SH 161 from SH 183, south to I-20 through the cities of Irving and Grand Prairie (the Project or SH 161 toll project). The project is located within the existing right of way and inside the frontage roads currently under construction.

On May 5, 2006 the department issued a RFQ for the project, as well as other potential facilities to the extent necessary for connectivity and financing, through a CDA. The department determined that four of the ten proposing teams submitting qualification submittals in response to the RFQ were qualified to be on the short list of teams that will be requested to submit detailed proposals. The department anticipates issuing a request for detailed proposals (RFP) in May 2007.

Transportation Code, §223.203(m) requires the department to pay an unsuccessful private entity that submits a responsive proposal in response to an RFP, a stipulated

amount in exchange for the work product contained in that proposal. The stipulated amount must be stated in the request for proposals and may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions.

In the RFP, the department anticipates requesting detailed engineering, design, finance, and other information from the short-listed proposers that may be used by the department in the performance of its functions. Payment for this work product would allow the department to use the work product for the benefit of the project or for other department projects without further payment to the applicable proposers. Payment for the work product of proposers is also anticipated to increase the quality of detailed proposals submitted for the project.

IT IS THEREFORE ORDERED by the commission that the department is authorized and directed to issue an RFP for the development of the financing, design, construction, operation and maintenance of tolled mainlanes along an extension of SH 161 from SH 183, south to I-20 through the cities of Irving and Grand Prairie and other facilities necessary for connectivity, mobility, safety, and financing.

IT IS FURTHER ORDERED that the department is authorized to pay to each proposer that submits a responsive, but unsuccessful detailed proposal for the development, design, construction, financing, maintenance, and operation of the SH 161 toll project an amount based upon the value of the work product provided in the proposal that can, as determined by the executive director of the department or his designee, be used by the department in the performance of its functions, up to a maximum amount per proposer of \$500,000.

IT IS FURTHER ORDERED that compensation may only be paid if the work product submitted also meets the minimum criteria and other conditions for payment identified by the department in the SH 161 toll project procurement documents.

ITEM 9. STATE INFRASTRUCTURE BANK

Guadalupe County – Grant final approval of an application from the City of Seguin to borrow \$550,000 from the State Infrastructure Bank to pay for improvements to the I-10 westbound exit ramp and frontage road at the SH 123 intersection in Seguin (MO)

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

110886
FIN

On February 28, 2007, by Minute Order Number 110855, the Texas Transportation Commission (commission) granted preliminary approval of an application for financial assistance from the City of Seguin to borrow \$550,000 from the State Infrastructure Bank (SIB) to pay for improvements to the INTERSTATE 10 westbound exit ramp and frontage road at the SH 123 intersection (project).

Pursuant to the commission's preliminary approval, the executive director implemented and completed negotiations and other actions authorized and required by commission rules. The executive director affirms that the necessary social, economic, and environmental impact study has been completed, and that the department has

approved that study. The executive director recommends that the commission grant final approval of the SIB application for financial assistance.

The commission determines that providing financial assistance will protect the public safety and prudently provide for the protection of public funds, while furthering the purposes of the SIB; and that the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate for adverse environmental impacts.

IT IS THEREFORE ORDERED that the financial assistance application submitted by the City of Seguin to borrow \$550,000 from the State Infrastructure Bank is granted final approval. The executive director is directed and authorized to enter into the financial assistance agreement as negotiated with the City of Seguin to include the following repayment terms: the loan will be repaid over a period of no more than 7 years at 3.71 percent interest per annum.

ITEM 10. CONTRACTS

a. Award or Reject Highway Improvement Contracts

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

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order rejecting Project No. RMC 6157-06-001 in Parmer County as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

110887
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 March 8 and 9, 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 Holmes, and the commission approved the following minute order rejecting Project No. STP 2002(150)TE in Harris County as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

110888
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 March 8 and 9, 2007 as shown on Exhibit A.

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

ITEM 11. ROUTINE MINUTE ORDERS

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

a. Donations to the Department

(1) Bridge Division – Acknowledge a donation from West Virginia University for a department employee’s travel expenses related to participation in the Polymer Composites Conference IV that was held from March 20-22, 2007 in Morgantown, West Virginia (MO)

110889
OGC

This minute order acknowledges a donation of \$937.82 from West Virginia University (WVU) for a Texas Department of Transportation (department) employee’s travel expenses. The employee made a presentation at the Polymer Composites Conference IV that was held from March 20-22, 2007 in Morgantown, West Virginia.

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 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 \$937.82 by WVU 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) **Bridge Division** – Consider a donation from the Precast/Prestressed Concrete Institute (PCI) for a department employee’s travel expenses related to attendance at the PCI Committee Days to be held in Chicago, Illinois from March 30-April 1, 2007 (MO)

110890
OGC

This minute order considers a donation of an estimated \$1,063.65 from the Precast/Prestressed Concrete Institute (PCI) for a Texas Department of Transportation (department) employee’s travel expenses related to attendance at the PCI Committee Days to be held in Chicago, Illinois from March 30-April 1, 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 an estimated \$1,063.65 by PCI is accepted. The executive director or the executive director’s designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

(3) **Construction Division** – Acknowledge a donation from the National Academy of Engineering (NAE) for a department employee’s travel expenses related to participation in the NAE Workshop that was held from February 22-23, 2007 in Cambridge, Massachusetts (MO)

110891
OGC

This minute order acknowledges a donation of \$940.07 from the National Academy of Engineering (NAE) for a Texas Department of Transportation (department) employee's travel expenses. The employee participated in the NAE Workshop that was held from February 22-23, 2007 in Cambridge, Massachusetts.

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.

IT IS THEREFORE ORDERED by the commission that the donation of \$940.07 by NAE 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.

(4) Construction Division – Acknowledge a donation from NACE International for a department employee's travel expenses related to attendance at the NACE certified inspector program bridge painting task group meeting that was held in Nashville, Tennessee on March 15, 2007 (MO)

110892
OGC

This minute order acknowledges a donation of \$671.60 from NACE International for a Texas Department of Transportation (department) employee's travel expenses related to attendance at the NACE certified inspector program bridge painting task group meeting that was held in Nashville, Tennessee on March 15, 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 \$671.60 by NACE International is acknowledged. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgment of the donation.

(5) General Services Division – Consider a donation from the National Property Management Association (NPMA) for a department employee's travel expenses related to participation in a business meeting and attendance at the "Rolling on the River with the NPMA 2007 Central Region Seminar" to be held in Memphis, Tennessee from April 2-3, 2007 (MO)

110893
OGC

This minute order considers a donation to the Texas Department of Transportation (department) from the National Property Management Association (NPMA) for approximately \$618.00 in travel expenses related to a department employee's participation in a business meeting held in conjunction with attendance at the "Rolling on the River with the NPMA 2007 Central Region Seminar" to be held in Memphis, Tennessee from April 2-3, 2007.

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 90th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

This donation has been examined by department personnel. The department recommends issuance of this minute order on the ground that acceptance of the donation is in the best interest and welfare of the traveling public.

The commission finds that the donation will further the department's responsibilities. The donor is not a party to a contested case before the department, has not been a party to a contested case before the department during the last 30 days, and is not 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 provide a significant public benefit 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 of approximately \$618.00 by NPMA is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

(6) Montgomery County – Consider a donation from Kingwood Medical Center for construction of a median left turn lane to align with an existing emergency entrance along US 59, Eastex Freeway, in Kingwood (MO)

110894
OGC

Kingwood Medical Center proposes to donate to the Texas Department of Transportation (department) an estimated \$35,000 necessary for the construction of a median left turn lane in order to provide safer access into an existing emergency entrance to the donor's facilities on US 59, Eastex Freeway, in Kingwood, Texas.

This donation has been examined by department personnel. The department recommends issuance of this minute order on the ground that it is in the best interest and welfare of the traveling public.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

The commission finds that the donation will further the department's responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days. The commission also finds that the donor is not subject to department regulation or oversight and is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department.

IT IS THEREFORE ORDERED by the commission that the estimated donation of \$35,000 by Kingwood Medical Center 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.

(7) Texas Turnpike Authority Division – Acknowledge a donation from the Washington State Department of Transportation for a department employee's travel expenses related to participation on a toll operations peer review panel that was held in Gig Harbor, Washington from February 26-27, 2007 (MO)

110895
OGC

This minute order acknowledges a donation to the Texas Department of Transportation (department) from the Washington State Department of Transportation (WSDOT) for \$1,464.80 in travel expenses related to a department employee that participated on a peer review panel in Gig Harbor, Washington from February 26-27, 2007.

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 90th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

This donation has been examined by department personnel. The department recommends issuance of this minute order on the ground that acceptance of the donation is in the best interest and welfare of the traveling public.

The commission finds that the donation will further the department's responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days. The commission also finds that the donor is not interested in or likely to become interested in a contract, purchase, payment, or claim with or against the department.

IT IS THEREFORE ORDERED by the commission that the donation of \$1,464.80 by the WSDOT 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.

(8) Traffic Operations Division – Acknowledge a donation from Lifesavers Conference, Inc. for a department employee's travel expenses related to participation in the Lifesavers 2007 Conference that was held from March 25-27, 2007 in Chicago, Illinois (MO)

110896
OGC

This minute order acknowledges a donation of \$800 from Lifesavers Conference, Inc. for a Texas Department of Transportation (department) employee's travel expenses. The employee spoke at the Lifesavers 2007 Conference that was held from March 25-27, 2007 in Chicago, Illinois.

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.

The department was a local sponsor of the Lifesavers 2006 Conference. Nonetheless, the commission has determined that acceptance of the donation will provide a significant public benefit and will not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation of \$800 by Lifesavers Conference, Inc. 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.

(9) Travel Division – Consider a \$25,000 donation from MBNA America Bank, N.A. and Bank of America to support the department's Don't Mess with Texas program (MO)

110897
OGC

This minute order considers a \$25,000 donation from MBNA America Bank, N.A. and Bank of America to the Texas Department of Transportation (department) in support of the Don't Mess with Texas Program. The purpose of the Don't Mess with Texas Program is to educate the public and increase awareness in litter prevention and reduce the amount of litter along state maintained roadways. The donation has been examined by department personnel. The department recommends issuance of this minute order on the ground that it is in the best interest and welfare of the traveling public.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

The commission finds that the donation will further the department's responsibilities and that the donors are not a party to a contested case before the department and have not been a party to a contested case before the department during the last 30 days. The commission also finds that the donors are 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 will nonetheless provide significant public benefits and 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 \$25,000 by MBNA America Bank, N.A. and Bank of America has been 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.

(10) Upshur County – Consider a donation from Mr. Bill Oates, a private landowner, for funds associated with planting pine trees on right of way alongside SH 154 (MO)

110898
OGC

This minute order considers a donation of pine trees that are worth an estimated \$10,400 to the Texas Department of Transportation (department) from Mr. Bill Oates, a private property landowner. The trees will be planted on the right of way that is adjacent to Mr. Oates' property on SH 154 in Upshur County.

This donation has been examined, and the department recommends issuance of this minute order on the ground that it is in the best interest and welfare of the traveling public.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department

regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

The commission finds that the donation will further the department's responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days. The commission also finds that the donor is not subject to department regulation or oversight and is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department.

IT IS THEREFORE ORDERED by the commission that the donation of pine trees worth an estimated \$10,400 by Mr. Oates 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.

(11) Various Offices – Consider a donation from WTS International to allow various department employees to attend the 2007 Transportation Gala to be held on April 26, 2007 in Austin (MO)

110899
OGC

This minute order considers a donation of approximately \$1,600 in conference fees from WTS International for Texas Department of Transportation (department) employees' attendance at the 2007 Transportation Gala to be held on April 26, 2007 in Austin, Texas.

The department has determined that acceptance of the donation is in the best interest and welfare of the traveling public and will provide a significant public benefit.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it

determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

The commission finds that the donation will further the department's responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days. The commission also finds that the donor is not subject to department regulation or oversight.

Members of WTS International may be interested in a contract, purchase, payment, or claim with or against the department. Nonetheless, the commission has determined that acceptance of the donation will provide a significant public benefit and will not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation of approximately \$1,600 in conference fees by WTS International is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

b. Eminent Domain Proceedings

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

110900
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	Shackelford	US 180	0011-05-046	1
2	Shackelford	US 180	0011-05-046	2
3	Robertson	SH 6	0049-06-070	3A
4	Robertson	SH 6	0049-06-070	3B
5	Robertson	SH 6	0049-06-070	6
6	Collin	SH 289	0091-04-049	30
7	Wise	US 380	0134-08-038	22
8	Brazoria	SH 35	0178-02-072	22
9	Brazoria	SH 35	0178-02-072	55
10	Brazoria	SH 35	0178-02-072	70
11	Anderson	US 79	0205-07-066	55
12	Tarrant	SH 26	0363-01-123	28
13	Tarrant	SH 26	0363-01-123	56
14	Tarrant	SH 26	0363-01-123	62
15	Tarrant	SH 26	0363-01-123	75
16	Tarrant	SH 26	0363-01-123	120
17	Tarrant	SH 26	0363-01-123	123

NON-CONTROLLED ACCESS (continued)

<u>EXHIBIT</u>	<u>COUNTY</u>	<u>HIGHWAY</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
18	Tarrant	SH 26	0363-01-123	141
19	El Paso	US 62/180	0374-02-080	7
20	Brazoria	SH 332	0847-03-032	7
21	Travis	RM 1431	1378-01-027	7
22	Travis	RM 1431	1378-01-027	9
23	Travis	RM 1431	1378-01-027	10
24	Travis	RM 1431	1378-01-027	11
25	Travis	RM 1431	1378-01-027	12
26	Travis	RM 1431	1378-01-027	13
27	Travis	RM 1431	1378-01-027	14
28	Travis	RM 1431	1378-01-027	15
29	Travis	RM 1431	1378-01-027	16
30	Travis	RM 1431	1378-01-027	18
31	Travis	RM 1431	1378-01-027	19A
32	Travis	RM 1431	1378-01-027	19B
33	Travis	RM 1431	1378-01-027	20 & 20E
34	Travis	RM 1431	1378-01-027	22
35	Travis	RM 1431	1378-01-027	23
36	Travis	RM 1431	1378-01-027	24
37	Travis	RM 1431	1378-01-027	26
38	Travis	RM 1431	1378-01-027	29
39	Hidalgo	FM 1924	1802-01-034	1X
40	Hidalgo	FM 1924	1802-01-034	2X
41	Hidalgo	FM 1924	1802-01-034	3X
42	Hidalgo	FM 1924	1802-01-034	4X
43	Hidalgo	FM 1924	1802-01-034	5X
44	Hidalgo	FM 1924	1802-01-034	6X
45	Williamson	RM 2338	2211-01-021	61

CONTROLLED ACCESS

<u>EXHIBIT</u>	<u>COUNTY</u>	<u>HIGHWAY</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
A	Erath	US 67	0079-08-002	26
B	McLennan	SH 31	0162-01-081	32
C	McLennan	SH 31	0162-01-081	34
D	McLennan	SH 31	0162-01-081	37, 37AC, 37E
E	McLennan	SH 31	0162-01-081	39
F	McLennan	SH 31	0162-01-081	52
G	Montgomery	US 59	0177-05-100	25
H	Brazoria	SH 35	0179-01-040	906
I	Henderson	US 715	0198-02-028	122
J	Angelina	US 69	0200-03-027	11 & 11RR
K	Angelina	US 69	0200-03-027	12
L	Anderson	US 79	0205-07-065	28

CONTROLLED ACCESS (continued)

<u>EXHIBIT</u>	<u>COUNTY</u>	<u>HIGHWAY</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
M	Galveston	IH 45	0500-04-119	10
N	Tarrant	SH 121	0504-02-018	14
O	Tarrant	SH 121	0504-02-018	30B
P	Dallas	SH Loop 12	0581-02-115	19
Q	Dallas	SH Loop 12	0581-02-115	20
R	Brazoria	SH 332	1524-01-072	7
S	Dallas	IH 635	2374-01-150	19
T	Dallas	IH 635	2374-01-150	40
U	Dallas	IH 635	2374-01-151	4
V	Dallas	IH 635	2374-01-151	6
W	Dallas	IH 635	2374-01-151	7
X	Dallas	IH 635	2374-01-151	11
Y	Dallas	IH 635	2374-01-151	22
Z	Dallas	IH 635	2374-01-151	60
AA	Dallas	IH 635	2374-01-151	67
BB	Dallas	IH 635	2374-02-116	45
CC	Coryell	FM 2657	3131-03-008	6
DD	Smith	SH Loop 49	3487-01-010	102
EE	Smith	SH Loop 49	3487-01-010	105

Note: Exhibits 1 through 45 and A through EE on file with minute order clerk.

c. Highway Designations

(1) Brazoria County – Designate SH 35 along a new location and redesignate the former location of SH 35 as SL 419 (MO)

110901
TPP

In BRAZORIA COUNTY (county), county officials have requested that a segment of STATE HIGHWAY 35 be designated along a new location and that the former segment of SH 35 be redesignated as STATE HIGHWAY LOOP 419 on the state highway system.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that a segment of SH 35 be designated along a new location and that the former location of SH 35 be redesignated as SL 419 on the state highway system.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that:

1. SH 35 is designated on the state highway system along a new location from 1.3 miles southwest of the southern intersection of FM 524 and the existing location of SH 35 northeastward, eastward, and southeastward to 0.9 mile northeast of the southern intersection of FM 524 and the existing location of SH 35, a distance of approximately 2.4 miles.
2. The former segment of SH 35 is redesignated on the state highway system as SL 419 from 1.3 miles southwest of the southern intersection of FM 524 and the existing location of SH 35 northeastward, to 0.9 mile northeast of the southern intersection of FM 524 and the existing location of SH 35, a distance of approximately 2.3 miles.

(2) Tarrant County – Remove a segment of SS 347 from the state highway system and return control, jurisdiction, and maintenance to the City of Fort Worth (MO)

110902
TPP

In TARRANT COUNTY (county), in the city of Fort Worth (city), city officials have requested the removal of a segment of STATE SPUR 347 from the state highway system. The city would like to incorporate the roadway into its city street system and has requested control, jurisdiction, and maintenance of this segment of roadway.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that a segment of State Spur 347 be removed from the state highway system and returned to the city.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that a segment of State Spur 347 is removed from the state highway system from the intersection of SH 199 northeastward to the local intersection of Grove street, a distance of approximately 0.6 mile, and returned to the city for control jurisdiction and maintenance.

(3) Wise County – Remove a segment of Business SH 114-H from the state highway system and return control, jurisdiction, and maintenance to the city of Bridgeport and redesignate the remaining segment of Business SH 114-H and Business US 380-E as SL 373 (MO)

110903
TPP

In WISE COUNTY (county), in the City of Bridgeport (city), city officials have requested the removal of a segment of BUSINESS STATE HIGHWAY 114-H from the state highway system. The city would like to incorporate the roadway into its city street system and has requested control, jurisdiction, and maintenance of this segment of roadway. In order to facilitate the flow of traffic, promote public safety, and maintain continuity on the state highway system, the remaining segment of Business SH 114-H and BUSINESS US HIGHWAY 380-E is redesignated as STATE HIGHWAY LOOP 373.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that a segment of Business SH 114-H be removed from the state highway system and returned to the city for control, jurisdiction, and maintenance and the remaining segment Business SH 114-H and Business US 380-E be redesignated on the state highway system as SL 373.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that:

1. A segment of Business SH 114-H is removed from the state highway system and returned to the city for control, jurisdiction, and maintenance from the intersection of FM 920 eastward to the intersection of Business US 380-E, a distance of approximately 0.5 mile.
2. A segment of Business SH 114-H is redesignated on the state highway system as SL 373 from the intersection of Business US 380-E southward to the intersection of SH 114, a distance of approximately 0.2 mile.
3. Business US 380-E is redesignated on the state highway system as SL 373 from the intersection of US 380 southward to the intersection of Business SH 114-H, a distance of approximately 1.2 miles.

d. Load Zones & Postings**Parker County – Revise load restrictions on various bridges on the state highway system (MO)**110904
BRG

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

e. Right of Way Dispositions and Donations**Harris County – I-10 between Baker Road and Cypress Run – Consider the donation of 0.7019 acre of land for a highway improvement project (MO)**110905
ROW

In HARRIS COUNTY, on INTERSTATE 10, between Baker Road and Cypress Run, the Texas Department of Transportation (department) is acquiring the right of way for a highway improvement project.

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

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

The Parkview Center Property Owners Association, a Texas non-profit corporation (owner) is the owner of the property described in Exhibit A. The owner wants to donate this property, estimated at \$33,870, to the department for construction of a sound wall.

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

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

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

Note: Exhibit A on file with minute order clerk.

f. Speed Zones

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

110906
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, B and C on file with minute order clerk.

ITEM 12. Executive Session Pursuant to Government Code, Chapter 551

- a. **Section 551.071** - Consultation with and advice from legal counsel
- b. **Section 551.072** - Discussion of real property purchase, exchange, lease, donations
- c. **Section 551.074** - Discuss the evaluation, designation, reassignment, and duties of department personnel, including district engineers, division directors, and office directors.

OPEN COMMENT PERIOD – There were two speakers who spoke after Item 4.a.

The regular meeting of the Texas Transportation Commission adjourned at 2:47 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 March 29, 2007, in Austin, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation