

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on May 24, 2007 in Austin, Texas. The meeting opened at 9:04 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  
 Steve Simmons, Deputy Executive Assistant  
 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 12:03 p.m. on May 16, 2007, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

**ITEM 1. Approval of Minutes of the April 26, 2007 regular meeting and May 15, 2007 emergency meeting of the Texas Transportation Commission.**

Commissioner Underwood made a motion, seconded by Commissioner Houghton, and the commission approved the minutes of the April 26, 2007 regular meeting and May 15, 2007 emergency meeting of the Texas Transportation Commission.

**ITEM 2. AVIATION**

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

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

110933  
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 Monday, April 16, 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 \$1,396,814.

Note: Exhibit A on file with minute order clerk.

### **ITEM 3. PUBLIC TRANSPORTATION**

#### **a. Bexar and Colorado Counties – Award federal funds to San Antonio VIA Metropolitan Transit Authority and state funds to the Colorado Valley Transit district for Job Access/Reverse Commute Projects (MO)**

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

110934  
PTN

The Texas Transportation Commission (commission) desires to award federal funds to San Antonio VIA Metropolitan Transit Authority (MTA) and award state funds to Colorado Valley Transit (CVT) for Job Access Reverse Commute (JARC) public transportation services.

The commission, on March 29, 2001, passed Minute Order 108461 awarding \$560,000 to various organizations under a discretionary JARC grant. Two of the project sponsors were unable to complete their responsibilities under the awards.

The commission recognizes the importance of the success of the JARC projects and seeks to reprogram and fund the projects. This award will maintain the original purpose and scope of establishing JARC public transportation services in the original geographic locations.

The commission finds that the projects are eligible for funding and awards \$198,296 in federal JARC funds to MTA and \$38,000 in state funds to CVT.

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

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

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the awards described above and enter into the necessary contracts in accordance with the priorities as established in this minute order.

#### **b. Award of transportation development credits to various public transportation agencies to match federal earmark 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:

110935  
PTN

The Texas Transportation Commission (commission) desires to award Transportation Development Credits (TDC) to rural and urban public transportation agencies to be used as the local match for various projects which have expiring federal earmarks that are subject to lapse on September 30, 2007.

The commission acknowledges that many public transportation agencies are constrained between the issues of rising costs of providing public transportation services, and limited non-federal funds that may be used as the required local match for federal programs. These factors may lead public transportation agencies to use their non-federal funds for public transportation operating expenses instead of using those funds to match important capital project needs.

The commission further recognizes that state and federal law permits the substitution of TDC as the required non-federal match for capital projects. Title 43, Texas Administrative Code (TAC), §5.73 establishes a process by which TDC may be awarded at the discretion of the commission. The commission finds that the projects and associated distribution of the TDC as shown in Exhibit A have been reviewed to ensure eligibility, overall benefit to public transportation initiatives and ability to further the goals of the department, as outlined in 43 TAC §5.72 (e).

On December 14, 2006, the commission passed Minute Order 110771, expressing its intent to award TDC for projects that promote public transportation: fleet replacement, fleet expansion, maintenance facilities; and capital projects that support regional coordination and further the goals of the department, which are: reduce congestion; expand economic opportunity; enhance safety; improve air quality; and increase the value of transportation assets.

The commission finds that the projects listed in Exhibit A: reduce congestion by improving reliable transit options thereby increasing levels of ridership; expand economic opportunity by increasing the level of service access for the transit dependent populations to jobs and other necessary activities; enhance safety by reducing mechanical breakdowns thereby enhancing safety especially in system environments and types of service where passenger safety is critical such as dialysis transport; improve air quality by reducing emissions with technological advances in the bus industry; and increase the value of the transportation assets by investing into the replacement of depreciated rolling stock thus yielding savings or efficiencies which can be reinvested into additional trips.

Transportation Code, Chapter 455 assigns a broad spectrum of public transportation roles and missions to the Texas Department of Transportation. Transportation Code, Chapter 456 authorizes the commission to administer funds appropriated for public transportation.

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the allocation, as described in Exhibit A, and enter into the necessary contracts in accordance with the priorities established in this minute order.

Note: Exhibit A on file with minute order clerk.

**ITEM 4. DISCUSSION ITEM**

Report and analysis of statewide pavement conditions and the impacts on present and future available resources

This report was presented by Assistant Executive Director for Engineering Operations Amadeo Saenz. Comments were also made by Deputy Executive Director Steve Simmons and Chief Financial Officer James Bass.

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

**Final Adoption****a. Chapter 5 – Finance (MO)**

New §5.81, Purpose, §5.82, Definitions, §5.83, General Policies, §5.84, Department Contact, §5.85, Application Procedure, §5.86, Suspension of Applications, §5.87, Department Action, and §5.88, Commission Action (Private Activity Bonds)

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

110936  
OGC

The Texas Transportation Commission (commission) finds it necessary to adopt new §§5.81-5.88, relating to private activity bonds, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted 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 sections are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

**b. Chapter 17 – Vehicle Titles and Registration (MO)**

Amendments to §17.3, Motor Vehicle Certificates of Title (Motor Vehicle Certificates of Title)

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

110937  
VTR

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §17.3, relating to motor vehicle certificates of title, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §17.3 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

#### **ITEM 6. TOLL PROJECTS**

**Brooks County** – Designate tolled mainlanes on US 281, as a toll project on the state highway system, from 0.9 miles south of FM 3066, north to the Brooks/Jim Wells County line, as a controlled-access facility for the purpose of development, maintenance and operation

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:

110938  
TTA

In BROOKS COUNTY, US 281, from 0.9 miles south of FM 3066, north to the Brooks/Jim Wells county line, is currently planned as a four-lane divided highway to be on the state highway system. The proposed section will consist of a controlled-access facility with two tolled mainlanes and two-lane, non-tolled, one-way frontage roads in each direction.

Transportation Code, §228.051 provides that the Texas Transportation Commission (commission) by order may designate one or more lanes of a segment of the state highway system as a toll project or system.

Transportation Code, §203.003 authorizes the commission to lay out, construct, maintain, and operate a designated state highway, with control of access as necessary to facilitate the flow of traffic and promote the public safety and welfare.

IT IS THEREFORE ORDERED by the commission that the tolled mainlanes on US 281 from 0.9 miles south of FM 3066, north to the Brooks/Jim Wells county line, are designated as a toll project on the state highway system.

IT IS FURTHER ORDERED that US 281 from 0.9 miles south of FM 3066, north to the Brooks/Jim Wells County Line is designated as a controlled-access facility for the purpose of development, maintenance and operation.

#### **ITEM 7. RIGHT OF WAY**

**Create a Rules Advisory Committee for prepayment funding program to reimburse utility relocations and appoint members to the committee (MO)**

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

110939  
AEO

Senate Bill 1209, 80<sup>th</sup> Legislative Regular Session adds Section 203.0922 to the Transportation Code authorizing the Texas Transportation Commission (commission) to establish a new funding arrangement with utility companies that are required to relocate their utility facilities by the improvement of a segment of the state highway system. This funding arrangement will cover the costs of relocation that are not eligible for reimbursement under Section 203.092, Transportation Code.

Under Section 203.0922, the Texas Department of Transportation (department) and a utility company may execute an agreement in which the utility agrees to annually prepay, to the department, 75 percent of estimated utility relocation costs for all state highway improvements that would not be reimbursed under Section 203.092. The annual prepayment amounts will be based on the average of actual costs paid during the preceding three years. In return, the department agrees to reimburse the utility company for all of its eligible relocation costs on those improvement projects. The program will be voluntary and open to all utility companies that choose to participate.

To implement this new program, the commission will be adopting rules to establish the conditions for eligibility, procedures for calculating the annual prepayment amounts, methodologies for submission and timely payment of reimbursable costs, and required terms for the prepayment funding agreements.

Pursuant to §203.0922, Transportation Code, the commission is required to appoint a rules advisory committee to advise the department and the commission on development of administrative rules for establishing the prepayment funding agreement program.

IT IS THEREFORE ORDERED by the commission that the Utility Prepayment Funding Program Rules Advisory Committee is created and that it shall be composed of six members, report its advice and recommendations to the commission, and continue indefinitely for consideration of future rule changes or additions.

IT IS FURTHER ORDERED that the executive director or designee is directed to designate an office of the department to be responsible for providing any necessary administrative support essential to the functions of the committee.

IT IS FURTHER ORDERED that the individuals identified in the attached Exhibit A are appointed as members of the Utility Prepayment Funding Program Rules Advisory Committee.

#### **ITEM 8. FINANCE**

##### **Approval of the financing documents for and issuance of Texas Mobility Fund Series 2007 bonds (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:

110940  
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.

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.

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 2005-A Bonds, the Series 2005-B Bonds, the Series 2006 Bonds, the Series 2006-A Bonds, and the Series 2006-B 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 it to be in the best interest of the state to 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.

The Master Resolution, together with the "Sixth Supplemental Resolution to the Master Resolution Establishing the Texas Transportation Commission Mobility Fund Revenue Financing Program" (Sixth Supplement), prescribes the terms, provisions and covenants related to the issuance of bonds in one or more series entitled "Texas Transportation Commission State of Texas General Obligation Mobility Fund Bonds" (Series 2007 Bonds) with such series designation as set forth in the Sixth Supplement, in the aggregate principal amount not to exceed \$1,059,725,000.

Under the Sixth Supplement, the commission has determined it to be in the best interest of the state for the Series 2007 Bonds to be sold through a negotiated sale pursuant to the procedures set forth in the Sixth Supplement, including entering into a bond purchase contract with the underwriters set forth therein (Series 2007 Bond Purchase Contract) under which the underwriters agree to purchase from the commission, and to make a bona fide public offering of, such principal amount of the Series 2007 Bonds as identified by the department representative, as defined in the Sixth Supplement, in the award certificate for said obligations, and at such price and subject to such terms as prescribed in the award certificate.

The commission understands that the underwriters intend to distribute a preliminary official statement (POS) and final official statement (Official Statement) in substantially the form of the POS in connection with the public offering and sale of the Series 2007 Bonds, which POS does, and which Official Statement will, include a description of the general obligation pledge of the state's full faith and credit in the event the revenue and money dedicated to and on deposit in the fund are insufficient for payments due on the Series 2007 Bonds and any related credit agreements.

IT IS THEREFORE ORDERED by the commission that the chair and executive director are authorized and directed to execute and deliver the Series 2007 Bonds and the department representative, as defined in the Sixth Supplement, is authorized and directed to execute and deliver the Sixth Supplement, the Series 2007 Bond Purchase Contract, the Paying Agent Agreement and other related documents, (collectively, Program Documents), and such documents are approved in substantially the form attached hereto



with such changes as the department representative executing the same may approve, such approval to be conclusively evidenced by execution of the program documents.

IT IS FURTHER ORDERED by the commission that any necessary ancillary documents in connection with the issuance of the Series 2007 Bonds and the program documents are hereby approved, and the department representative is authorized and directed to execute and deliver such documents.

IT IS FURTHER ORDERED by the commission that the POS and the Official Statement are approved for distribution by the underwriters with such changes as the department representative executing the same may approve, such approval to be conclusively evidenced by execution of the POS and the Official Statement, and the POS and Official Statement are deemed final for purposes of Rule 15c2-12 of the Securities and Exchange Commission (rule) with such omissions as permitted by the rule.

IT IS FURTHER ORDERED by the commission that a pledge of the full faith and credit of the state be utilized in connection with the Series 2007 Bonds.

IT IS FURTHER ORDERED by the commission that each member of the commission and each department representative 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 of Public Accounts and other parties, as may be necessary to carry out the intent of this order and other orders of the commission relating to the Mobility Fund Revenue Financing Program and the program documents.

#### **ITEM 9. STATE INFRASTRUCTURE BANK**

##### **Final Approval**

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

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

110941  
FIN

On April 26, 2007, by Minute Order Number 110915, the Texas Transportation Commission (commission) granted preliminary approval of an application for financial assistance from the Round Rock Transportation System Development Corporation to borrow \$16 million from the State Infrastructure Bank (SIB) to pay for construction projects in the Hester’s Crossing area including a collector-distributor, modifications to the eastern intersection at Dell Way, reconstruction of the existing bridge and other ancillary items in the city of Round Rock (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 Texas Department of Transportation (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 Round Rock Transportation System Development Corporation to borrow \$16 million 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 Round Rock Transportation System Development Corporation. The loan will be repaid over a period of no more than 15 years at 4.2 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 as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

110942  
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 May 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 Nos. STP 2002(214)TE in Bexar County and BOR 922-00-25 in Webb County as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

110943  
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 May 8 and 9, 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.

## **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 the University of Sherbrooke for a department employee’s travel expenses related to participation at the Third International Conference on Durability and Field Applications of Fiber Reinforced Polymer Composites for Construction being held from May 22-24, 2007 in Quebec City, Quebec, Canada (MO)**

110944  
OGC

This minute order acknowledges a donation of \$1,352.61 from the University of Sherbrooke (University) for a Texas Department of Transportation (department) employee’s travel expenses. The employee made a presentation at the Third International Conference on Durability and Field Applications of Fiber Reinforced Polymer Composites for Construction being held in Quebec City, Quebec, Canada from May 22-24, 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 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 \$1,352.61 by the University 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) Office of General Counsel and Texas Turnpike Authority Division - Consider a donation from the Mississippi Department of Transportation for two department employees' travel expenses related to participation at the 2007 Southern Transportation Finance Conference to be held in Biloxi, Mississippi on June 15, 2007 (MO)**

110945  
OGC

This minute order considers a donation to the Texas Department of Transportation (department) from the Mississippi Department of Transportation (MDOT) for an estimated \$1,876.96 in travel expenses related to two department employees that will speak on a panel at the Southern Transportation Finance Conference to be held in Biloxi, Mississippi on June 15, 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 approximately \$1,876.96 by MDOT 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) Texas Turnpike Authority Division – Acknowledge a donation from Georgians for Better Transportation for a department employee's travel expenses related to participation in a public-private partnership Focus Georgia Conference that was held in Atlanta, Georgia on April 25, 2007 (MO)**

110946  
OGC

This minute order acknowledges a donation to the Texas Department of Transportation (department) from Georgians for Better Transportation (GBT) for \$632.80 in travel expenses related to a department employee that participated in a public-partnership conference in Atlanta, Georgia on April 25, 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 \$632.80 by GBT 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.

**b. Eminent Domain Proceedings**

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

110947  
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	Wise	US 380	0134-08-038	3A & 3AE
2	Harris	SH 35	0178-09-001	271
3	Harris	SH 35	0178-09-001	272
4	Austin	SH 36	0187-03-058	19
5	Austin	SH 36	0187-03-059	25
6	Austin	SH 36	0187-03-059	26
7	Tyler	US 69	0200-05-039	29 & 29E
8	Anderson	US 79	0205-07-066	57
9	Anderson	US 79	0205-07-066	62
10	Anderson	US 79	0205-07-066	66
11	Anderson	US 79	0205-07-066	67
12	Anderson	US 79	0205-07-066	71
13	Anderson	US 79	0205-07-066	82
14	Anderson	US 79	0205-07-066	83
15	Anderson	US 79	0205-07-066	84
16	Anderson	US 79	0205-07-066	86
17	Tarrant	SH 26	0363-01-123	24
18	Tarrant	SH 26	0363-01-123	26
19	Tarrant	SH 26	0363-01-123	48
20	Tarrant	SH 26	0363-01-123	61
21	Tarrant	SH 26	0363-01-123	66
22	Collin	FM 982	0387-05-017	51
23	Collin	FM 982	0387-05-017	80
24	Williamson	RM 2338	2211-01-021	57
25	Williamson	RM 2338	2211-01-022	21A



## NON-CONTROLLED ACCESS

<u>EXHIBIT</u>	<u>COUNTY</u>	<u>HIGHWAY</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
26	Williamson	RM 2338	2211-01-022	76A
27	Harris	Gulf Bank Road	8003-12-008	250
28	Harris	Mykawa Road	8144-12-007	18
29	Harris	Mykawa Road	8144-12-007	24E

## CONTROLLED ACCESS

<u>EXHIBIT</u>	<u>COUNTY</u>	<u>HIGHWAY</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
A	McLennan	IH 35	0015-01-194	30
B	Bell	IH 35	0015-07-076	41AC
C	Harris	US 90	0028-02-045	16AC
D	Hill	SH 31	0162-02-035	32 & 32E
E	Hill	SH 31	0162-02-035	34
F	Dallas	IH 35E	0196-03-231	59
G	Angelina	US 69	0200-03-027	16
H	Anderson	US 79	0205-07-065	34
I	Anderson	US 79	0205-07-065	36
J	Harris	IH 45	0500-03-548	1
K	Harris	IH 45	0500-03-548	2
L	Harris	IH 45	0500-03-548	4
M	Harris	IH 45	0500-03-548	6
N	Harris	IH 45	0500-03-548	7
O	Tarrant	SH 121	0504-02-018	28
P	Cameron	FM 511	0684-01-060	28
Q	Cameron	FM 511	0684-01-060	32
R	Cameron	FM 511	0684-01-060	49
S	Cameron	FM 511	0684-01-060	62AC
T	Harris	SH 249	0720-03-076	509C
U	Harris	SH 249	0720-03-076	509D
V	Tarrant	IH 30	1068-02-123	1AAQ
W	Travis	SH 45 SE	1200-05-012	704
X	Travis	SH 45 SE	1200-05-012	706
Y	Brazoria	SH 332	1524-01-072	6
Z	Brazoria	SH 332	1524-01-072	11
AA	Dallas	IH 635	2374-01-151	12
BB	Dallas	IH 635	2374-01-151	18
CC	Dallas	IH 635	2374-01-151	28
DD	Dallas	IH 635	2374-01-151	30
EE	Dallas	IH 635	2374-01-151	37
FF	Dallas	IH 635	2374-01-151	63
GG	Dallas	IH 635	2374-02-115	37
HH	Smith	SH Loop 49	3487-01-010	86

CONTROLLED ACCESS

<u>EXHIBIT</u>	<u>COUNTY</u>	<u>HIGHWAY</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
II	Smith	SH Loop 49	3487-01-010	93
JJ	Smith	SH Loop 49	3487-01-010	108
KK	Smith	SH Loop 49	3487-01-010	109
LL	Smith	SH Loop 49	3487-01-010	116
MM	Smith	SH Loop 49	3487-01-010	121
NN	Smith	SH Loop 49	3487-01-010	122
OO	Smith	SH Loop 49	3487-01-010	151
PP	Bexar	Wurzbach Parkway	8000-15-007	14

Note: Exhibits 1 through 29 and A through PP on file with minute order clerk.

**c. Highway Designations**

**(1) Hays County – Designate a new location as the extension of FM 1626 on the state highway system (MO)**

110948  
TPP

In HAYS COUNTY (county), county officials have requested that a new location be designated on the state highway system as an extension of FARM TO MARKET ROAD 1626.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that the new location be designated on the state highway system as an extension of FM 1626.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that FM 1626 is designated on the state highway system along a new location from the intersection of FM 2770 to the intersection of I-35, a distance of approximately 2.9 miles.

**(2) Travis County – Remove a segment of Loop 111 from the state highway system and return control, jurisdiction, and maintenance to the city of Austin (MO)**

110949  
TPP

In TRAVIS COUNTY, in the city of Austin (city), city officials have requested the removal of a segment of STATE HIGHWAY LOOP 111 from the state highway system. The city would like to incorporate the highway 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 a segment of State Highway Loop 111 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 Highway Loop 111 is removed from the state highway system from the intersection of I-35 southeastward to the intersection of FM 969, a distance of approximately 1.7 miles, and returned to the city for control, jurisdiction, and maintenance.

**d. Load Zones & Postings****Briscoe and Washington Counties – Revise load restrictions on various bridges on the state highway system (MO)**110950  
BRG

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

**e. Right of Way Dispositions and Donations****(1) Bexar County – Loop 13 at Quintana Road in San Antonio – Consider the sale of surplus right of way (MO)**110951  
ROW

In the city of San Antonio, **BEXAR COUNTY**, on **STATE HIGHWAY LOOP 13**, the State of Texas acquired certain land for highway purposes by instrument recorded in Document No. 20060260638, Deed Records of Bexar County, Texas.

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 Department of Transportation advertised the surplus land for sale.

Gibson Family Limited Partnership submitted a bid of \$136,000, which was the only bid received.

The Texas Transportation Commission (commission) finds \$136,000 to be a fair and reasonable value of the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval 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 Gibson Family Limited Partnership for a cash consideration of \$136,000; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

**(2) Bexar County – I-10 at South Flores Street in San Antonio – Consider the sale of surplus right of way (MO)**

110952  
ROW

In the city of San Antonio, BEXAR COUNTY, on INTERSTATE 10, the State of Texas acquired certain land needed for state highway purposes by instruments recorded in Volume 5073, Page 496, and Volume 5141, Page 791, Deed Records of Bexar County, Texas.

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

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

Industrial Chrome Plate, Inc., a Texas corporation, is the abutting landowner and has requested that the surplus land be sold for \$14,700.

The commission finds \$14,700 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Industrial Chrome Plate, Inc., a Texas corporation, for \$14,700; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

**(3) Dallas County – SH Loop 12 at US 80 in Mesquite – Consider the sale of surplus right of way (MO)**

110953  
ROW

In the city of Mesquite, DALLAS COUNTY, on STATE HIGHWAY LOOP 12, the State of Texas (state) acquired certain land needed for state highway purposes by instrument recorded in Volume 5110, Page 319, Deed Records of Dallas County, Texas.

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

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

Prologis First US Properties, LP, is the abutting landowner and has requested that the surplus land be sold for \$7,050.

The commission finds \$7,050 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value of the surplus land is less than \$10,000. The executive director is authorized to execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Prologis First US Properties, LP, for \$7,050; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(4) Dallas County – Redesignation of access control along the I-20 westbound frontage road in Dallas (MO)

110954  
ROW

In the city of Dallas, in DALLAS COUNTY, on INTERSTATE 20 (I-20), a designated controlled access highway, access onto the westbound frontage road was permitted to the abutting property owner for a 275-foot distance at a specific location (original access point) as described by metes and bounds pursuant to the terms of an agreed judgment dated November 11, 1971, and recorded in Volume 71240, page 1021, Real Property Records of Dallas County, Texas.

Inland Western/Weber JV Dallas Wheatland Limited Partnership, the current owners of the abutting property, have agreed to a redesignation of the control of access along their property line. Access onto the westbound frontage road of I-20 will be permitted at the two 50-foot wide access points as described in Exhibit A and attached hereto. The 275-foot distance along the original access point, as also described in Exhibit B, will become controlled whereby access is denied.

Transportation Code, §201.103 empowers 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 authorizes the commission to lay out, construct, maintain, and operate a modern state highway system, with an emphasis on the construction of controlled access highways.

Transportation Code, §203.031 authorizes the commission to designate locations on a controlled access highway at which access to or from the highway is permitted and determine the type and extent of access permitted at each location.

NOW, THEREFORE, the commission finds that the new access points will not negatively impact the mobility, safety and operation of the state highway facility; and authorizes redesignation of permitted access along two 50 linear-foot segments of the I-20 westbound frontage road from its original access point to the locations described in Exhibit A.

IT IS FURTHER ORDERED by the commission that the executive director or his designee is hereby authorized to enter into any necessary agreements with Inland Western/Weber JV Dallas Wheatland Limited Partnership containing terms consistent with the provisions of this order.

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

(5) Eastland County – SH Loop 254 in Ranger – Consider the quitclaim of surplus right of way to comply with a reversionary clause (MO)

110955  
ROW

In the city of Ranger, EASTLAND COUNTY, on STATE HIGHWAY LOOP 254, the State of Texas (state) acquired certain land needed for a state highway purpose by instrument recorded in Volume 332, Page 28, Deed Records of Eastland County, Texas.

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

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

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

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval 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 the City of Ranger to comply with the reversionary clause contained in the instrument of conveyance to the state.

Note: Exhibit A on file with minute order clerk.

(6) Gregg County – SH 300 at Mobil Road northwest of Longview – Consider the exchange of drainage easements (MO)

110956  
ROW

In GREGG COUNTY, on STATE HIGHWAY 300, the State of Texas (state) acquired an easement interest in certain land for highway drainage purposes by instrument recorded in Volume 2309, Page 541, Deed Records of Gregg County, Texas.

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

Homes Built of Steel, Inc., a Texas corporation, the underlying fee owner, has executed an instrument conveying to the state an easement interest in land needed for the realignment and construction of a new drainage facility (new easement), described in Exhibit B, and desires to make a partial donation to the state of the value of the new easement.

V.T.C.A., Transportation Code, Chapter 201, Subchapter D, authorizes the Texas Department of Transportation to accept donations of real property for the purpose of carrying out its functions and duties.

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

It is the opinion of the commission that it is proper and correct that the state convey its rights and interest in the surplus easement described in Exhibit A to owner in exchange and as partial consideration for the conveyance of the new easement to the state.

IT IS THEREFORE ORDERED by the commission that the executive director is hereby authorized to accept the donation of the new easement and that 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, Texas Administrative Code, Chapter 1, Subchapter G.

NOW, THEREFORE, in consideration of the foregoing premises and in accordance with Transportation Code, Chapter 202, Subchapter B, the commission hereby finds that the surplus easement is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights and interest in the surplus easement described in Exhibit A to Homes Built of Steel, Inc., a Texas corporation, in exchange and as partial consideration for the conveyance of the new easement to the state.

Note: Exhibit A on file with minute order clerk.

**(7) Hidalgo County – US 83 at Westgate Drive in Weslaco – Consider the sale of surplus right of way (MO)**

110957  
ROW

In the city of Weslaco, HIDALGO COUNTY, on US 83, the State of Texas (state) acquired certain land for state highway purposes by instruments recorded in Document No. 791753, Official Records of Hidalgo County, Texas, and Volume 1053, Page 376, Deed Records of Hidalgo 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, Section 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus land to the abutting landowner.

Clearview Weslaco, L.P., a Texas limited partnership, is the abutting landowner and has requested that the surplus land be sold for \$52,869.

The commission finds \$52,869 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Clearview Weslaco, L.P., a Texas limited partnership, for \$52,869; 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.

**(8) Johnson and Tarrant Counties – FM 917 at Business US 287P in Mansfield – Consider the transfer of title to the City of Mansfield (MO)**

110958  
ROW

In the city of Mansfield, JOHNSON AND TARRANT COUNTIES, on FARM TO MARKET ROAD 917, the State of Texas (state) acquired certain land for a state highway purpose by various instruments recorded in the Deed Records of Johnson and Tarrant Counties, Texas.

A portion of the land (surplus land), described in Exhibit A, Parts 1 and 2, is no longer needed for a state highway purpose.

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

The appraised value of the surplus land is \$379,606. The Fort Worth district has advised that maintenance of the surplus land for ten years is estimated to cost the state \$412,672, which exceeds the value of the surplus land. The City of Mansfield has requested that the surplus land be transferred to the city in consideration of the estimated savings to the state of future maintenance costs.

The commission finds \$379,606 to be a fair and reasonable value for the state's rights, title and interest in the surplus land, and it is the opinion of the commission that it is proper and correct that the state convey to the city all of its rights, title and interest in the surplus land in consideration of the estimated savings to the state of future maintenance costs, which exceed the value of the surplus land.

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

Note: Exhibit A on file with minute order clerk.



**(9) Lubbock County – US 62/US 82/SH 114 at Walnut Street in Idalou – Consider the sale of surplus right of way (MO)**

110959  
ROW

In the city of Idalou, LUBBOCK COUNTY, on US 62/US 82/STATE HIGHWAY 114, the State of Texas (state) acquired certain land needed for state highway purposes by instrument recorded in Volume 706, Page 656, Deed Records of Lubbock County, Texas.

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

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

Roof Patch Masters of Lubbock, Inc., a Texas corporation, is the abutting landowner and has requested that the surplus land be sold for \$6,700.

The commission finds \$6,700 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value of the surplus land is less than \$10,000. The executive director is authorized to execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Roof Patch Masters of Lubbock, Inc., a Texas corporation, for \$6,700; 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.

**(10) Pecos County – Business I-10 at FM 1053 in Fort Stockton – Consider the sale of surplus right of way (MO)**

110960  
ROW

In the city of Fort Stockton, PECOS COUNTY, on BUSINESS INTERSTATE HIGHWAY 10, the State of Texas (state) acquired certain land for right of way purposes by instrument recorded in Volume 628, Page 511, Deed Records of Pecos County, Texas.

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

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

Fort Stockton Economic Development Corporation is the abutting landowner and has requested that the surplus land be sold to the corporation for \$5,109.

The commission finds \$5,109 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land is no longer

needed for a state highway purpose and that the value of the surplus land is less than \$10,000 and authorizes the executive director to execute a proper instrument conveying all of the state’s rights, title and interest in the surplus land to Fort Stockton Economic Development Corporation for \$5,109; 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.

(11) Travis County – US 290 at South Congress Avenue – Consider the sale of surplus access rights (MO)

110961  
ROW

In the city of Austin, TRAVIS COUNTY, on US 290, a designated controlled access highway, the State of Texas (state) owns and controls certain access rights to the highway facility to and from the abutting lands.

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

Capital Metropolitan Transportation Authority (Capital Metro), owner of a 5.683 acre tract of land conveyed by deed recorded under County Clerk’s Document Number 2005124624 of the Official Public Records of Travis County, Texas (Capital Metro Tract), is the landowner abutting the property line along which access is proposed to be released and has requested that the state sell the surplus access rights to Capital Metro for \$1,000.

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

The Texas Department of Transportation has determined that the sale of the surplus access rights is not expected to compromise the safety or add traffic volume in an amount to exceed the capacity of the existing highway.

It is the opinion of the commission that it is proper and correct that the state sell the surplus access rights to Capital Metro for a cash consideration of \$1,000.

NOW, THEREFORE, the commission finds that the surplus access rights are no longer needed for a state highway purpose and that the value of the surplus access rights is less than \$10,000 and authorizes the executive director to execute a proper instrument conveying the surplus access rights to Capital Metro for \$1,000.

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

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)

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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 zone shown on the attached Exhibit C is canceled.

Note: Exhibits A through 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 no open comments.**

The regular meeting of the Texas Transportation Commission adjourned at 10:51 a.m.

APPROVED:

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Ric Williamson, Chair  
Texas Transportation Commission

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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 May 24, 2007, in Austin, Texas.

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Dee Hernandez, Chief Minute Clerk  
Texas Department of Transportation