

TEXAS TRANSPORTATION COMMISSION

CALDWELL, GUADALUPE, AND TRAVIS Counties **MINUTE ORDER**

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AUSTIN AND SAN ANTONIO Districts

On March 22, 2007, the Texas Department of Transportation (department) and SH 130 Concession Company, LLC (Developer) entered into a Facility Concession Agreement for the development, design, construction, financing, operation and maintenance of the SH 130, Segments 5&6 facility (FCA), extending from the southern terminus of Segment 4 of SH 130 at US 183 to I-10 near Seguin.

Exhibit 7 to the FCA provides for the Developer to pay an additional concession payment to the department if: (1) a maximum posted speed limit of 80 mph or 85 mph is authorized on the SH 130, Segments 5&6 facility within 180 days after the service commencement date for the facility, and (2) the department elects to waive increased revenue sharing that otherwise would be required under Exhibit 7.

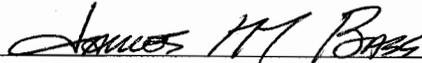
Exhibit 7 to the FCA provides that if the 80 mph or 85 mph speed limit is authorized and the written election is delivered not later than 30 days prior to the service commencement date, then payment is due from the Developer not later than the service commencement date. If a speed limit of 80 mph is authorized, the amount of the additional concession payment due is \$67 million. If a speed limit of 85 mph is authorized, the amount of the additional concession payment due is \$100 million. The Developer has requested an extension of time in which to pay the additional concession payment should that amount become due under Exhibit 7.

Under the department's rules for establishing speed zones, the department is required to conduct an engineering and traffic investigation to determine the opening speed limit to be posted for the SH 130, Segments 5&6 facility. If the engineering and traffic investigation demonstrates that a speed of 80 mph or 85 mph is reasonable and safe for that part of the highway, and the Texas Transportation Commission (commission) authorizes the 80 mph or 85 mph speed limit, that speed limit will be posted as the maximum speed for the SH 130, Segments 5&6 facility.

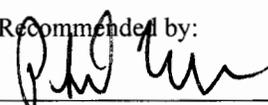
IT IS THEREFORE ORDERED by the commission that the executive director of the department is authorized and directed to send to the Developer an election to waive increased revenue sharing if a regulatory speed zone of 80 mph or 85 mph is established on the SH 130, Segments 5&6 facility in accordance with the requirements of Exhibit 7 to the FCA, thereby requiring the payment of an additional lump sum concession payment to the department.

IT IS FURTHER ORDERED that the executive director is authorized to require the additional lump sum concession payment to be paid not later than January 15, 2013, and is authorized and directed to take whatever actions are deemed necessary in connection with the payment of the additional lump sum concession payment to protect the financial interests of the department and the State of Texas.

Submitted and reviewed by:

  
Chief Financial Officer

Recommended by:

  
Executive Director

**113245 AUG 30 12**

Minute  
Number

Date  
Passed