

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on February 25, 2010 in Austin, Texas. The meeting was called to order by Commissioner Houghton, as chair at 9:01 a.m. with the following commissioners present:

Texas Transportation Commission:

Ted Houghton	Commissioner
Ned Holmes	Commissioner
Fred Underwood	Commissioner
Bill Meadows	Commissioner

Administrative Staff:

Amadeo Saenz, Executive Director
 Steve Simmons, Deputy 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 4:55 p.m. on February 17, 2010, as required by Chapter 551, of the Government Code, referred to as “The Open Meetings Act.”

ITEM 1. Approval of Minutes of the January 27, and January 28, 2010 meetings of the Texas Transportation Commission

Commissioner Underwood made a motion, seconded by Commissioner Holmes, and the commission approved the minutes of the January 27, and January 28, 2010 meetings of the Texas Transportation Commission by a 4-0 vote.

Note: The commission recognized the City of Pearland.

ITEM 2. AVIATION

Various Counties – Award federal and state grant funding for airport improvement projects at various locations (MO)

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

112144
AVN

The Texas Department of Transportation (department) is authorized under the federal Aviation Development Act and the state Aviation Facilities Development and Financial Assistance Act to award federal and state funding for capital improvement projects and 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. The department recommends the award of federal and state grant funds for the improvements.

On Thursday, January 21, 2010, a public hearing was held. 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 \$8,908,033.

Note: Exhibit A on file with minute order clerk.

Note: The commission received comments from McKinney Chamber of Commerce President Jodi Ann LaFreniere; and Matagorda County Judge Richard Cordes.

ITEM 3. PUBLIC TRANSPORTATION

a. Various Counties – Award federal §5310 funds, Special Needs of Elderly Individuals and Individuals with Disabilities Program, and award transportation development credits for FY 2010 (MO)

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

112145
PTN

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 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.

The United States Congress has passed a Continuing Resolution for a five-month period; the FTA has available funds for this period. As soon as authorizing legislation covering the remainder of the fiscal year or a portion of it has been enacted, the additional funds will be made available.

Awards to transit operators are calculated in accordance with the formula in Title 43, Texas Administrative Code §31.31. The distribution is shown in Exhibit A.

Title 43, Texas Administrative Code, §5.73 establishes the process for which Transportation Development Credits (TDC) may be awarded at the discretion of the commission. The commission passed Minute Order 110771, on December 14, 2006, expressing its intent to award TDC that will promote public transportation capital infrastructure projects: fleet replacement, fleet expansion, maintenance facilities; and capital projects that support regional coordination.

The commission finds that the projects in Exhibit A are eligible for funding and awards a total of \$3,018,224 in federal Formula Grant funds for Special Needs of Elderly Individuals and Individuals with Disabilities and 373,135 in TDC. The projects receiving TDC awards will 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; improve air quality by reducing emissions with technological advances in the bus industry; and increase the value of the transportation assets by investing in the replacement of depreciated rolling stock thus yielding savings and efficiencies which can be reinvested into additional trips.

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 awards as described in Exhibit A, submit the necessary state application to the FTA, and enter into the necessary contracts for the FY 2010 program of projects.

Note: Exhibit A on file with minute order clerk.

b. Various Counties – Award federal §5311 funds, Nonurbanized Area Formula Program for FY 2010 (MO)

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

112146
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 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.

The United States Congress has passed a Continuing Resolution for a five-month period; the FTA has available funds for this period. As soon as authorizing legislation covering the remainder of the fiscal year or a portion of it has been enacted, the additional funding will be made available.

Awards to rural transit systems are calculated in accordance with the formula in 43 Texas Administrative Code §31.36(g)(3). The distribution of the FY 2010 awards is shown in Exhibit A.

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 available FY 2010 §5311 FTA allocation for the program as described in Exhibit A, submit the necessary state application to the FTA, and enter into the necessary contracts for the FY 2010 program of projects.

IT IS FURTHER ORDERED that the executive director or the director's designee is directed to amend contracts once additional funding is made available not to exceed the total award as described in Exhibit A and in accordance with the priorities established in this minute order.

Note: Exhibit A on file with minute order clerk.

c. Harris County – Award transportation development credits to Greater Southeast Management District (MO)

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

112147
PTN

The Texas Transportation Commission (commission) desires to award 319,783 in Transportation Development Credits (TDC) to the Greater Southeast Management District (GSMD) to be used as the local match for transit/pedestrian access infrastructure improvements in the City of Houston.

The commission 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 project will: reduce congestion by improving reliable transit options thereby increasing levels of ridership; expand economic opportunity by increasing the level of service access; enhance safety by reducing single vehicle trips; improve air quality by reducing vehicle emissions, and increase the value of the transportation assets by investing in transit/pedestrian access improvements.

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 award to the GSMD as outlined above, and to enter into any necessary contract.

d. Various Counties – Award transportation development credits to Brazos Transit District, Golden Crescent Regional Planning Commission, and the Rolling Plains Management Corporation (MO)

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

112148
PTN

The Texas Transportation Commission (commission) desires to award 602,620 in Transportation Development Credits (TDC) to various transit agencies, to be used as the local match for federally funded transit capital projects.

The commission 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.

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 Texas Department of Transportation (department), which are: reduce congestion; expand economic opportunity; enhance safety; improve air quality; and increase the value of transportation assets.

On September 28, 2000, the commission passed Minute Order 108314, awarding 726,608 in TDC to Brazos Transit District (BTD) to match federal awards for rural transit capital purchases. BTD now seeks commission approval to use the remaining balance of TDC for use with other projects in their service area. The Golden Crescent Regional Planning Commission has requested 29,374 in TDC to match a federal earmark for fleet replacement for the urbanized area of Victoria; and the Rolling Plains Management Corporation has requested 39,000 in TDC to match a federal award for fleet replacement.

The commission finds that investments in public transportation projects will reduce congestion by improving reliable transit options thereby increasing levels of ridership; expand economic opportunity by increasing the level of service access; enhances safety by reducing mechanical breakdowns; improves air quality by reducing emissions with technological advances in the bus industry; and increases 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 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 awards as described above and enter into the necessary contracts in accordance with the priorities established in this minute order.

e. Various Counties – Award federal §5316 funds, Job Access Reverse Commute Program, and transportation development credits to Golden Crescent Regional Planning Commission (MO)

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

112149
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, Job Access and Reverse Commute Formula Grant Program (JARC) (49 U.S.C. §5316), 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.

The commission recognizes that state and federal law permits the substitution of Transportation Development Credits (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.

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 recognizes the importance of the success of the JARC projects and finds that the \$675,041 of JARC funds and 72,000 of TDC is available for award from a project that will not continue. The commission also recognizes that FTA has informed the department that Texas would lose any remaining balance unless a similar project is selected and therefore desires to award the balances to Golden Crescent Regional Planning Commission to operate an ongoing JARC project.

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 awards as described above and enter into the necessary contract in accordance with the priorities as established in this minute order.

ITEM 4. PROMULGATION OF ADMINISTRATIVE RULES Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

a. Final Adoption

(1) Chapter 25 – Traffic Operations (MO)

Amendments to §25.973, Medical Examiner's Report (Crash Records Information System)

Commissioner Holmes made a motion, seconded by Commissioner Meadows and the commission approved the following minute order presented by Traffic Operations Division Interim Director Carol Rawson:

112150
TRF

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §25.973, Medical Examiner's Report, relating to crash records information system 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 verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §25.973 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. Proposed Adoption

(to be published in the Texas Register for public comment)

(1) Chapter 8 – Motor Vehicle Distribution; Chapter 17 – Vehicle Titles and Registration; Chapter 18 – Motor Carriers (MO)

Repeal of Chapter 8, Motor Vehicle Distribution; Repeal of Chapter 17, Vehicle Titles and Registration; and Repeal of Chapter 18, Motor Carriers

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

112151
OGC

The Texas Transportation Commission (commission) finds it necessary to propose the repeal of Chapter 8, Motor Vehicle Distribution, Chapter 17, Vehicle Titles and Registration, and Chapter 18, Motor Carriers.

The preambles and the proposed repeals, attached to this minute order as Exhibits A - F, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Office of the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the repeal of Chapter 8, Motor Vehicle Distribution, Chapter 17, Vehicle Titles and Registration, and Chapter 18, Motor Carriers are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

(2) Chapter 9 – Contract and Grant Management and Chapter 31 – Public Transportation (MO)

New §9.130, Purpose, §9.131, Definitions, §9.132, Applicability, §9.133, Procedure for Imposing Sanctions, §9.134, Improvement Action Plan, §9.135, Withholding Funds or Disallowing Costs, §9.136, Suspension or Termination for Cause, §9.137, Determination of Ineligibility, §9.138, Appeal of Sanction, and §9.139, Lessening Terms or Removal of Sanction (New Subchapter H, Grant Sanctions); and Amendments to §31.3, Definitions (General) and §31.48, Project Oversight (Program Administration)

Commissioner Underwood made a motion, seconded by Commissioner Meadows and the commission approved the following minute order presented by Deputy Executive Director Steve Simmons:

112152
DED

The Texas Transportation Commission (commission) finds it necessary to propose new §§9.130-9.139, new Subchapter H, relating to grant sanctions and amendments to §31.3 and §31.48 relating to public transportation grant sanctions, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments and new sections, attached to this minute order as Exhibits A - E, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that new §§9.130-9.139 and amendments to §31.3 and §31.48 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

(3) Chapter 25 – Traffic Operations (MO)
Amendments to §25.23, Speed Zone Studies (Procedures for Establishing Speed Zones)

Commissioner Holmes made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Traffic Operations Deputy Director Carol Rawson:

112153
DED

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §25.23 relating to speed zone studies to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §25.23 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

ITEM 5. AMERICAN RECOVERY AND REINVESTMENT ACT

Discussion of the status of American Recovery and Reinvestment Act (ARRA) project delivery; approve additions and changes to the lists of mobility and preventive maintenance and rehabilitation projects previously approved for funding from Texas' portion of the ARRA (MO)

This was a discussion item presented by Assistant Executive Director for Engineering Operations John Barton. There was no minute order presented.

ITEM 6. PROPOSED FEDERAL ECONOMIC STIMULUS LEGISLATION

Approve transportation projects to be funded from Texas' portion of the second federal economic stimulus bill (MO)

This item was deferred.

ITEM 7. PROPOSITION 12 BONDS

Various Counties – Approval of work to be performed in connection with highway improvement projects that will be funded with the proceeds from bonds issued under Transportation Code, Section 222.004 (Proposition 12 Bonds) (MO)

This item was deferred.

ITEM 8. PROPOSITION 14 BONDS

a. Approve the supplemental resolution authorizing the issuance of State Highway Fund revenue bonds issued under Transportation Code, Section 222.003 (Proposition 14 Bonds), any amendments to the master resolution, the preliminary official statement and other documents relating to the issuance of the bonds, and authorize designated department officials to take all action necessary to deliver one or more series of bonds, including refunding bonds (MO)

Commissioner Underwood made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Finance Division Director Brian Ragland.

112154
FIN

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

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

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

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

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

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

Pursuant to Minute Order 110472, dated March 30, 2006, the commission approved a master resolution, as amended (master resolution), establishing a financing program for bonds, other public securities and credit agreements secured by and payable

from revenue deposited to the credit of the State Highway Fund to establish a revenue financing program to provide a financing structure to facilitate the commission's exercise of the powers and authority conferred by the enabling act and pursuant to which the commission is authorized to issue obligations (senior obligations), including bonds, notes and other public securities, and execute credit agreements and qualified hedge agreements, secured by and payable from a pledge of and lien on revenues deposited to the credit of the highway fund, as provided by the master resolution, and further approved a first supplemental resolution to the master resolution which authorized the issuance of "Texas Transportation Commission State Highway Fund First Tier Revenue Bonds, Series 2006" (series 2006 bonds), which were issued in the aggregate principal amount of \$600 million.

Pursuant to Minute Order 110729, dated October 26, 2006, the commission approved a second supplemental resolution to the master resolution which authorized the issuance of "Texas Transportation Commission State Highway Fund First Tier Revenue Bonds, Series 2006-A" (series 2006-A bonds), which were issued in the aggregate principal amount of \$852,550,000, and a third supplemental resolution to the master resolution which authorized the issuance of "Texas Transportation Commission State Highway Fund First Tier Revenue Bonds, Series 2006-B (Variable Rate Bonds)" (series 2006-B bonds), which were issued in the aggregate principal amount of \$100 million.

Pursuant to Minute Order 111050, dated August 23, 2007, the commission approved a fourth supplemental resolution to the master resolution which authorized the issuance of "Texas Transportation Commission State Highway Fund First Tier Revenue Bonds, Series 2007" (series 2007 bonds), which were issued in the aggregate principal amount of \$1,241,845,000, and "Texas Transportation Commission State Highway Fund First Tier Revenue Bonds, Series 2008" (series 2008 bonds and, together with the series 2006 bonds, the series 2006-A bonds, the series 2006-B bonds and the series 2007 bonds, collectively, outstanding senior obligations), which were issued in the aggregate principal amount of \$162,995,000.

The commission has determined that it is in the best interest of the state to approve a fifth supplemental resolution to the master resolution (supplemental resolution) to authorize the issuance of additional senior obligations (additional senior obligations), in one or more series, to fund state highway improvement projects, provided that the aggregate principal amount of such additional senior obligations shall not exceed \$2.9 billion (new money bonds) and not more than \$1.5 billion of new money bonds shall be issued in any fiscal year, and to authorize the issuance of additional senior obligations, in one or more series, to refund certain outstanding senior obligations, provided that the aggregate principal amount of such additional senior obligations (refunding bonds) shall not exceed 110% of the principal amount of the senior obligations refunded thereby, and to prescribe the terms, provisions and covenants related to the additional senior obligations, as set forth in the supplemental resolution.

Under the supplemental resolution, the commission has determined that such additional senior obligations shall be sold through negotiated sale pursuant to the procedures set forth in the supplemental resolution, including entering one or more bond purchase contracts dated as of the date of pricing under which the underwriters for such additional senior obligations agree to purchase from the commission, and to make a bona fide public offering of, such principal amount of additional senior obligations as is determined by the Texas Department of Transportation (department) representative (as defined in the supplemental resolution) in the respective award certificates for such additional senior obligations, and at such price and subject to such terms as are prescribed in the respective award certificates therefor, provided that the department representative is authorized under the supplemental resolution to utilize an alternative method of sale, which may be public or private, for any series of additional senior obligations when, in the judgment of the department representative, such alternative method of sale is determined to be advantageous, as prescribed in the award certificate in accordance with the supplemental resolution.

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

Under the supplemental resolution, the department representative is authorized to price all or a portion of the additional senior obligations as variable rate bonds, which may require the use of liquidity provider(s), remarketing agent(s), tender agent(s) and other entities to perform similar functions in connection with any such variable rate bonds.

Pursuant to Minute Order 111932, dated August 27, 2009, the commission approved a revised derivative management policy which policy established a derivative committee to review and make recommendations regarding the commission's use of derivative financial products. The commission is authorized to enter into credit agreements related to the additional senior obligations with eligible counterparties as determined by the department representative in compliance with the derivative management policy when, in the judgment of the department representative and in accordance with the derivative management policy, Chapter 1371, Texas Government Code, and the supplemental resolution, the transaction is expected to benefit the commission and the State.

The commission has determined that it is in the best interest of the state to authorize the department representative to direct the comptroller to withdraw from the highway fund and forward such amounts as are necessary to permit timely payment of

obligations issued or incurred pursuant to the master resolution and any supplemental resolution thereto, as provided by the enabling act, and to authorize the department representative to enter into any memoranda and agreements (collectively, management agreements) as are deemed necessary or appropriate by the department representative to evidence such direction and to provide for the management and administration of the highway fund and any other funds and accounts established and maintained in connection with or related to such obligations.

IT IS THEREFORE ORDERED by the commission that the Chair and Executive Director are authorized and directed to execute and deliver additional senior obligations, as provided by the supplemental resolution, and the department representative is authorized and directed to execute and deliver the supplemental resolution and any bond purchase contracts and paying agent/registrars agreements (collectively, financing documents), and the financing documents are approved in substantially the form presented to the commission with such changes as the department representative executing each such document may approve, such approval to be conclusively evidenced by execution of such financing document; and, each department representative, acting individually, is authorized and directed to take any and all actions necessary or appropriate to effect the delivery of the additional senior obligations in accordance with the terms and conditions of the financing documents.

IT IS FURTHER ORDERED by the commission that the department representative is authorized and directed to execute and deliver any remarketing agreement, liquidity agreement, tender agent agreement, escrow agreement and similar agreements necessary for any variable rate bonds or refunding bonds (collectively, supporting documents), and the supporting documents are approved in substantially the form previously approved by the commission in connection with its previously issued senior obligations and other financing program debt with such changes as the department representative executing each such document may approve, such approval to be conclusively evidenced by execution of such document.

IT IS FURTHER ORDERED by the commission that the department representative is hereby authorized to enter into credit agreements, including master swap agreements similar to the master swap agreements entered into in connection with the commission's outstanding mobility fund financing program debt, and any appropriate confirmations for any interest rate lock agreements, as defined in the supplemental resolution, relating to the additional senior obligations with any eligible counterparty, as defined in the supplemental resolution, as determined by the department representative in compliance with the commission's derivative management policy, with such changes as the department representative executing such agreement(s) may approve, such approval to be conclusively evidenced by execution of such agreement(s) in accordance with the commission's derivative management policy and the supplemental resolution.

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

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

IT IS FURTHER ORDERED by the commission that an official statement is approved for distribution in connection with the public offering and sale of each series of additional senior obligations in such form as a department representative may approve, such approval to be conclusively evidenced by the execution of the official statement. The department representative is authorized to deem final the preliminary form of the official statement for any senior obligations for purposes of Rule 15c2-12 of the Securities and Exchange Commission (rule) with such omissions as are permitted by the rule.

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

b. Various Counties – Approval of additional projects to be funded with the proceeds of State Highway Fund revenue bonds issued under Transportation Code, Section 222.003 (Proposition 14 Bonds) (MO)

Commissioner Holmes made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Assistant Executive Director for Engineering Operations John Barton.

112155
AEO

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

Pursuant to the constitutional provision, the Texas Legislature enacted Section 222.003, Texas Transportation Code (Enabling Act), which authorizes the commission to issue bonds and other public securities secured by a pledge of and payable from revenue deposited to the credit of the highway fund. Bonds and other public securities issued under the constitutional provision and Enabling Act are commonly known as “Proposition 14” bonds.

The Enabling Act, as amended, provides that (i) the aggregate principal amount of such bonds and other public securities may not exceed \$6 billion, (ii) the commission may issue bonds or other public securities in an aggregate principal amount of not more than \$1.5 billion each year, (iii) \$1.2 billion of the aggregate principal amount of such bonds or other public securities must be issued to fund safety projects that reduce accidents or correct or improve hazardous locations on the state highway system, and (iv) bonds and other public securities and credit agreements may not have a principal amount or terms that are expected to cause annual expenditures with respect thereto to exceed 10 percent of the amount deposited to the credit of the highway fund in the preceding year. The commission has issued approximately \$3.1 billion of Proposition 14 bonds pursuant to the terms of the Enabling Act.

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

On October 30, 2008, January 29, 2009, February 26, 2009, March 26, 2009, July 30, 2009, September 24, 2009, November 19, 2009, and December 17, 2009, the commission adopted Minute Orders 111550, 111680, 111709, 111751, 111890, 111976, 112037, and 112075, respectively, which approved the use of proceeds of Proposition 14 bonds for state highway improvement projects and work associated with state highway improvement activities, as contained in exhibits to the Orders.

Due to continuing national economic conditions and the accompanying effects on construction and material supplies, the projects that have gone to letting continue to experience underruns of the originally obligated bond funds. These underruns allow additional projects to be brought forward for funding under the bond program.

This minute order revises funding allocations for previously approved projects and activities and approves additional projects to be funded with the proceeds of Proposition 14 bonds, as set forth in Exhibit A.

IT IS THEREFORE ORDERED by the commission that the state highway improvement projects and work to be performed in connection with state highway improvement activities, as contained in Exhibit A, is approved for funding with the proceeds of Proposition 14 bonds.

Note: Exhibit A on file with minute order clerk.

ITEM 9. PASS-THROUGH TOLL PROGRAM

Authorize the designation of a period of time in 2010 for public and private entities to submit proposals under the pass-through toll program to develop highway projects on the state highway system and prescribe the conditions that will be applicable to the proposals under Title 43, Texas Administrative Code, Section 5.54 (MO)

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

112156
AEO

Section 222.104(b), Transportation Code authorizes the Texas Department of Transportation (department) to enter into an agreement with a public or private entity that provides for the payment of pass-through tolls to the entity as reimbursement for the design, development, construction, maintenance, or operations of a tolled or non-tolled facility on the state highway system by the public or private entity. A pass-through toll is a per-vehicle fee or a per-vehicle-mile fee that is determined by the number of vehicles using the facility.

On January 29, 2009 by Minute Order 111669 the Texas Transportation Commission (commission) adopted revised rules, codified as Title 43 Texas Administrative Code §§5.51-5.60 (rules), that prescribe the policies and procedures governing the department's implementation of the pass-through toll program (program) under Section 222.104(b), Transportation Code.

Section 5.54 of the rules provides that if the commission determines that funds available for use in the program are limited, it may periodically limit the periods of time during which the department will accept proposals for pass-through toll projects to be developed and, for each specific period, prescribe conditions for submission and the costs that may be reimbursed under a pass-through agreement (agreement).

The commission finds that monies available under the program for allocation to new pass-through toll projects are limited to an estimated \$300 million in funds from Category 12, Strategic Priority, of the 2007 Statewide Mobility Program, as amended (Category 12 funds). In order to extend use of the funds to the greatest number of highway improvement projects and to allow both public and private entities to have an

equal chance to participate in the program, the commission determines that from the date of this minute order until the expiration of the 2010 fiscal year, or such additional time as needed for negotiation and execution of the individual agreements, proposals for projects to be developed under the program will only be accepted in accordance with the terms of this minute order.

Pursuant to §5.54 of the rules, the department will publish in the Texas Register notice of the designated period for acceptance of proposals for projects to be developed under the program. The notice will specify the deadline for submitting proposals, the estimated amount of funds available in the program that can be allocated to the proposals submitted, whether submissions will be accepted from only public entities, or from both public and private entities, whether submissions will be accepted for highway projects, railroad projects, or both, the categories of project costs that will be eligible for reimbursement, and any other condition deemed appropriate by the commission.

After evaluation of properly submitted proposals, the department will present its analyses to the commission which may, after consideration of the criteria set forth in §5.55 of the rules and the conditions established in this minute order, select the entities whose proposals provide the best value to the state. The department will attempt to negotiate the financial terms of a potential pass-through toll agreement with the selected public entity proposers, and will solicit competitive proposals under §5.56 of the rules for the selected private entity proposers.

IT IS THEREFORE ORDERED that during the period of time beginning on February 25, 2010 and continuing until August 31, 2010, or such additional time as needed for negotiation and execution of the individual agreements, proposals for pass-through toll projects to be developed under the program will only be accepted if the proposals are in compliance with the following conditions:

- (1) proposals may be submitted by both public and private entities;
- (2) submissions will be for highway projects only;
- (3) only the following category of project costs described in §5.53(a)(11) of the rules will be considered as eligible for reimbursement under the program: construction cost, exclusive of construction engineering cost, and in the case of a pass-through toll project submitted as a design-build project, the construction cost, exclusive of construction engineering costs must be broken out separately as one component of the total project cost;
- (4) the estimated total amount of funds available to be allocated among the selected proposals will be \$300 million in Category 12 funds for the entire reimbursement period of all selected proposals;
- (5) the deadline for submitting proposals will be 60 days after publication of notice in the Texas Register soliciting proposals in accordance with this minute order;
- (6) in the event that an alternative funding source or a significant increase in Category 12 funding becomes available for use in the program prior to

August 31, 2010 or any extended date, the commission may authorize an additional deadline period for submitting proposals to be in compliance with conditions specific to the new period, in accordance with the requirements of §5.54 of the rules; and

- (7) in the event that a critical transportation need arises which can be addressed with a pass-through toll agreement, or an alternative funding source becomes available for a specific transportation project, the commission may, at any time and irrespective of the limitations above, authorize acceptance of an individual proposal for development of a pass-through toll project to meet that need or utilize those funds, provided that the proposal otherwise complies with the rules.

IT IS FURTHER ORDERED that the executive director or his designee is directed to take the necessary steps to implement the actions as ordered in this minute order.

Note: The commission received comments from City of Pearland Council Member Kevin Cole.

ITEM 10. TOLL PROJECTS

a. **Harris County** – Designate the tolled mainlanes on SH 99 (Grand Parkway), from SH 249 to I-45 in Harris County, as a toll project on the state highway system(MO)

Chair Deirdre Delisi resumed the chair. Commissioner Holmes made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Assistant Executive Director for Engineering Operations John Barton by a vote of 5-0:

112157
AEO

In HARRIS COUNTY, on NEW LOCATION, STATE HIGHWAY 99 (Grand Parkway) from SH 249 to I-45, a distance of approximately 12 miles, is currently planned as a four-lane divided highway to be on the state highway system. The proposed construction consists of a four-lane, controlled-access toll road with intermittent 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.

The Texas Department of Transportation received final environmental clearance from the Federal Highway Administration on SH 99 from SH 249 to I-45 as a toll facility on December 31, 2009.

IT IS THEREFORE ORDERED by the commission that the tolled mainlanes to be constructed on SH 99, from SH 249 to I-45 in Harris County, are designated as a toll project on the state highway system.

IT IS FURTHER ORDERED by the commission that SH 99, from SH 249 to I-45, is designated as a controlled-access facility for the purpose of development, maintenance and operation.

b. Cameron County – Consider a request from the Cameron County Regional Mobility Authority to extend the limits of the SH 550 project previously approved under Minute Order 112013, dated October 29, 2009, and authorize the executive director to enter into a project development agreement for the SH 550 project, a new 9.6 mile limited access toll facility extending southeast from US 77/83 to SH 48 (at the new Port of Brownsville entrance) (MO)

Commissioner Underwood made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Assistant Executive Director for Engineering Operations John Barton:

112158
AEO

In Minute Order 109788, dated September 30, 2004, the Texas Transportation Commission (commission) authorized the creation of the Cameron County Regional Mobility Authority (CCRMA) at the request of Cameron County.

The Texas Department of Transportation (department) and the CCRMA have been cooperatively developing the SH 550 project (project). The project is currently defined as a new limited-access toll facility from approximately 1.1 miles west of FM 1847 to approximately 0.7 miles east of FM 1847, and from approximately 0.7 miles north of FM 3248 to SH 48 at the new Port of Brownsville entrance. The portion of the project in the vicinity of FM 1847 is currently under construction, and the other portion along a new location is scheduled to receive bids in early 2010 as an American Recovery and Reinvestment Act funded project as authorized by the commission on March 5, 2009 by Minute Order 111734.

On September 9, 2009, the department and the CCRMA executed a Market Valuation Agreement for the project. On September 23, 2009, the Brownsville Metropolitan Planning Organization approved development of the project using the business terms and conditions set forth in the Market Valuation Agreement, and then the CCRMA Board exercised its primacy option to develop the SH 550 project in a special meeting.

In Minute Order 112013, dated October 29, 2009, the commission authorized the executive director to negotiate and enter into a project development agreement with the CCRMA for the project.

On November 10, 2009, the Federal Highway Administration (FHWA) issued a Finding of No Significant Impact (FONSI) pursuant to an Environmental Assessment (EA) prepared for the project. The EA and FONSI covered project limits that extended beyond those covered by the original terms and conditions of the Market Valuation Agreement and Minute Order 112013.

On December 11, 2009, the CCRMA submitted a written request to the department to extend the project limits under the Market Valuation Agreement and Minute Order 112013 to extend southeast along SH 550 from US 77/83 to SH 48 (at the new Port of Brownsville entrance), to include direct connections providing southbound to eastbound and westbound to northbound movements at US 77/83.

On February 4, 2010, the department and the CCRMA agreed that there would be no changes to the terms and conditions of the Market Valuation Agreement other than to describe the potential extension of project limits.

The commission finds that the project will provide an important north-south corridor, serve as a reliever route for traffic in the area, and provide a direct connection to the Port of Brownsville. The commission also finds that the CCRMA is legally authorized to develop, operate and maintain this improvement of the state highway system and can do so in a cost-effective manner, consistent with applicable federal and state laws and regulations, and that the project may be effectively integrated into the state's transportation system.

IT IS THEREFORE ORDERED by the commission that pursuant to Transportation Code, §370.033(f), the executive director is authorized to negotiate and enter into a project development agreement with the Cameron County Regional Mobility Authority that provides for such improvements to the state highway system, more specifically a new limited-access toll facility along SH 550 from US 77/83 to SH 48 (at the new Port of Brownsville entrance)), to include direct connections providing southbound to eastbound and westbound to northbound movements at US 77/83.

Note: The commission received comments from Cameron County Regional Mobility Authority Chairman David Alex.

ITEM 11. PRIVATE ACTIVITY BOND SURFACE TRANSPORTATION CORPORATION

a. Appoint director to the Texas Private Activity Bond Surface Transportation Corporation (MO)

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

112159
CFO

By Minute Order 111551 adopted on October 30, 2008, the Texas Transportation Commission (commission) authorized the creation of the Texas Private Activity Bond Surface Transportation Corporation (corporation) under the authority of Transportation Code, Chapter 431, Subchapters A through C and as further authorized by Title 43, Texas Administrative Code, Section 15.94. The corporation was created to assist and act on behalf of the commission to promote and develop new and expanded public transportation facilities and systems including the issuance of bonds for comprehensive development agreement proposers approved by the commission.

The powers of the corporation are exercised through its board of directors consisting of three persons appointed by the commission. Under the articles of incorporation of the corporation, as approved by the commission, the directors of the corporation must be employees of the Texas Department of Transportation (department), and the commission duly appointed three members in Minute Order 111551.

There is now a vacancy on the corporation's board of directors due to one director, Edward Serna, no longer being an employee of the department, as of February 1, 2010.

IT IS THEREFORE ORDERED that Scott Burford, an employee of the department, is hereby appointed to the board of directors of the corporation to serve Mr. Serna's remaining term expiring on August 31, 2010.

b. Request the Texas Private Activity Bond Surface Transportation Corporation (corporation) perform the functions authorized by Transportation Code, Chapter 431, Texas Transportation Corporation Act (Act) and any other functions not specified by the Act necessary to promote and develop the transportation facilities and systems being developed under the concession agreement for the I-635 Managed Lanes Project with private developers through the issuance of tax-exempt private activity bonds by the corporation and transfer of inducement and volume cap allocation as necessary (MO)

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

112160
CFO

On February 26, 2009, by Minute Order 111703, the Texas Transportation Commission (commission) awarded the IH 635 Managed Lanes project comprehensive development agreement to the LBJ Infrastructure Group LLC.

All approvals necessary in connection with the execution of the comprehensive development agreements for the IH 635 Managed Lanes project have been received and the comprehensive development agreement was executed achieving commercial close as of September 4, 2009.

LBJ Infrastructure Group LLC has proposed the issuance of private activity bonds through the Texas Private Activity Bond Surface Transportation Corporation (corporation) for a portion of the financing for the IH 635 Managed Lanes project.

Pursuant to Chapter 431, Texas Transportation Code (Act), the corporation, at the request of the commission, can perform the functions of the Act and any other functions not specified by the Act necessary to promote and develop the transportation facilities and systems being developed by concession agreements with private developers.

Additionally, the commission has taken certain actions prior to creation of the corporation that must to be transferred to the corporation in connection with any private activity bond financing.

IT IS THEREFORE ORDERED by the commission that the corporation perform the functions authorized by the Act and any other functions not specified by the Act as necessary to promote and develop the IH 635 Managed Lanes project through the concession development agreement with the LBJ Infrastructure Group LLC and their related finance plan including the loaning of any private activity proceeds from private activity bonds issued by the corporation for the IH 635 Managed Lanes project.

IT IS FURTHER ORDERED by the commission that the inducement for the IH 635 Managed Lanes project (i.e., the application to the U.S. Department of Transportation for allocation for private activity bonds) and the provisional bond allocation approval letter from U.S. Department of Transportation for the IH 635 Managed Lanes project both be transferred and assigned to the corporation, to the extent necessary, in order to facilitate the issuance of private activity bonds by the corporation.

ITEM 12. RAIL

Various Counties – Authorize the expenditure of a \$2 million federal appropriation from the 2010 Omnibus Act for the rehabilitation of the South Orient Railroad from Fort Stockton to Coleman (MO)

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Rail Division Director Bill Glavin:

112161
RD

Within the 2010 Federal Omnibus Bill, the U.S. Congress appropriated a total of \$2 million to be used on the rehabilitation of the state-owned South Orient Railroad. These funds will be combined with other federal, state and local funds that have been designated for the rehabilitation of the South Orient Railroad.

The rehabilitation of this line is necessary for continued rail service and to provide adequate rail infrastructure for economic development efforts in the region. The improvement of rail service along this line is expected to provide economic stimulus benefits to the west Texas communities located along the line.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director is authorized to proceed in the most feasible and economic manner with project development along the South Orient Railroad utilizing the \$2 million of federal discretionary funds.

IT IS THEREFORE UNDERSTOOD that these funds will be used for the continuing rehabilitation of the South Orient Railroad.

ITEM 13. FINANCE

a. Accept the annual continuing disclosure report for the Texas Mobility Fund (MO)

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Finance Division Director Brian Ragland:

112162
FIN

Article III, Section 49-k of the Texas Constitution created the Texas Mobility Fund (Mobility Fund) within the treasury of the State of Texas (state) to be administered by the Texas Transportation Commission (commission) as a revolving fund to (i) provide a method of financing the construction, reconstruction, acquisition, and expansion of state highways, including costs of any necessary design and costs of acquisition of rights of way, as determined by the commission in accordance with standards and procedures established by law and (ii) provide participation by the state in the payment of a portion of the costs of constructing and providing publicly-owned toll roads and other public transportation projects in accordance with the procedures, standards, and limitations established by law.

Pursuant to a Master Resolution, a First Supplemental Resolution, and a Second Supplemental Resolution each adopted on May 4, 2005; a Third Supplemental Resolution adopted on May 25, 2006; a Fourth Supplemental Resolution and Fifth Supplemental Resolution each adopted on September 28, 2006; a Sixth Supplemental Resolution adopted on May 24, 2007; a Seventh Supplemental Resolution adopted on September 27, 2007; and an Eighth Supplemental Resolution adopted on December 18, 2008 and amended, restated and adopted on April 30, 2009, the commission issued eight series of bonds under Transportation Code, Chapter 201 and other applicable law, which bonds are secured by and payable from a pledge of and lien on all or part of the moneys in the Mobility Fund, and a full faith and credit pledge of the state, and which bonds were issued in the name and on behalf of the state to (i) pay all or part of the costs of constructing, reconstructing, acquiring, and expanding State highways, including any necessary design and acquisition of rights of way, in the manner and locations determined by the commission that, according to conclusive findings of the commission, have an expected useful life, without material repair, of not less than 10 years; (ii) 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 that are determined by the commission to be in the best interests of the state in its major goal of improving the mobility of the residents of the state; and (iii) pay the costs of issuance.

Under provisions of the First, Third, Fourth, Sixth, Seventh and Eighth Supplemental Resolutions, the commission has covenanted to provide annually, within six months after the end of each fiscal year, financial information and operating data with respect to the Mobility Fund of the general type in the attached Exhibit A.

IT IS THEREFORE ORDERED by the commission that the annual report of financial information and operating data, attached as Exhibit B, is accepted.

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

b. Accept the annual continuing disclosure report for the State Highway Fund revenue bonds (MO)

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Finance Division Director Brian Ragland:

112163
FIN

Article III, Section 49-n of the Texas Constitution authorized the Legislature to authorize the Texas Transportation Commission (commission) to issue bonds and other public securities to (i) finance state highway improvement projects that are eligible for funding with revenues dedicated under Section 7-a and (ii) pay the costs of issuing the bonds. The bonds are payable from certain revenues deposited to the credit of the State Highway Fund held in the treasury of the State of Texas.

Pursuant to a Master Resolution and a First Supplemental Resolution, each adopted on March 30, 2006, and Second and Fourth Supplemental Resolutions adopted on October 26, 2006, and August 23, 2007, respectively, the commission issued five series of bonds under Transportation Code, Section 222.003 and other applicable law.

Under provisions of the First, Second and Fourth Supplemental Resolutions, the commission has covenanted to provide annually, within 180 days after the end of each fiscal year, financial information and operating data with respect to the State Highway Fund of the general type in the attached Exhibit A.

IT IS THEREFORE ORDERED by the commission that the annual report of financial information and operating data, attached as Exhibit B, is accepted.

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

c. Travis and Williamson Counties – Accept the annual continuing disclosure report for the Central Texas Turnpike System (MO)

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Finance Division Director Brian Ragland:

112164
FIN

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

The commission issued turnpike revenue bonds and other obligations to finance a portion of the costs of the Central Texas Turnpike System (System), a turnpike project composed initially of the SH 130 (Segments 1 through 4), SH 45 North, and Loop 1 project elements (2002 Project). The commission also authorized the execution of an indenture of trust and five supplemental indentures to secure revenue bonds and other obligations issued for the 2002 Project. The Indenture of Trust dated July 15, 2002 (indenture) prescribes the terms, provisions and covenants related to the issuance of turnpike revenue bonds and obligations to finance a portion of the costs of the 2002 Project.

Section 716 of the indenture requires the commission to provide annually, within 6 months after the end of each fiscal year, updated financial information and operating data with respect to the commission and the System of the general type included in specified sections of the final official statements relating to the Series 2002 and Series 2009 First Tier Obligations issued for the 2002 Project (annual report).

IT IS THEREFORE ORDERED by the commission that the annual report of financial information and operating data with respect to the commission and the System, Attachment 1, is accepted.

Note: Attachment 1 on file with minute order clerk.

ITEM 14. STATE INFRASTRUCTURE BANK

a. Final Approval – Amendment

El Paso County – Camino Real Regional Mobility Authority – Consider amending Minute Order 112082, passed December 17, 2009, to authorize a change in the security and repayment terms for the \$35 million State Infrastructure Bank loan to Camino Real Regional Mobility Authority (CRRMA) (MO)

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Finance Division Director Brian Ragland:

112165
FIN

The Texas Transportation Commission (commission) by Minute Order 112082, dated December 17, 2009, granted final approval of an application request from the Camino Real Regional Mobility Authority (CRRMA) to borrow \$35 million from the State Infrastructure Bank (SIB) and authorized the executive director to enter into a financial assistance agreement as negotiated with the CRRMA. The Minute Order also provided that the loan would be repaid over a period of 30 years at 6.0 percent interest per annum.

During negotiation of terms for the authorized financial assistance agreement, the CRRMA proposed that: 1) the SIB loan be restructured as a direct subsidy Build America Bond; 2) the loan security be increased by adding the City of El Paso's (city) written agreement to pay from the city's general fund the CRRMA's debt obligation if other monies are not available or sufficient; and 3) the percent interest per annum be reduced to reflect the additional security (revised proposal). The executive director recommends that the commission amend its final approval of the CRRMA application request to incorporate the revised proposal.

The commission confirms its findings in Minute Order 111965, dated September 24, 2009 and Minute Order 112082, dated December 17, 2009 and determines that providing financial assistance in accordance with the revised proposal will protect the public safety and prudently provide for the protection of public funds, while furthering the purposes of the SIB; and that the projects 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 request submitted by Camino Real Regional Mobility Authority to borrow \$35 million from the SIB is granted final approval. The executive director is directed and authorized to enter into the financial assistance agreement as negotiated with CRRMA. The loan will be repaid over a period of 30 years at 4.95 percent interest per annum and secured by revenues from the City of El Paso transportation reinvestment zone and the city's written agreement to pay the CRRMA's SIB loan obligation from the city's general fund if other monies are not available or sufficient.

IT IS FURTHER ORDERED that this commission approval is contingent upon further actions, specifically: 1) the execution of an Amended and Restated Agreement By and Between the City of El Paso, Texas and the Camino Real Regional Mobility Authority, as approved by the Texas Department of Transportation, for the transfer and pledge of transportation reinvestment zone revenues and the city's commitment to pay the CRRMA's SIB loan obligation from its general fund if other monies are not available or sufficient; and 2) creation by the city of a valid transportation reinvestment zone in accordance with state law, to provide security for the \$35 million SIB loan.

b. Final Approval

Williamson County – City of Florence – Consider granting final approval of an application from the City of Florence to borrow \$138,190 from the State Infrastructure Bank to pay for utility relocation costs along SH 195 (MO)

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Finance Division Director Brian Ragland:

112166
FIN

The City of Florence (city) submitted an application for limited financial assistance from the State Infrastructure Bank (SIB) in the amount of \$138,190 under Title 43 Texas Administrative Code, Chapter 6 (rules). The application satisfied all requirements of the rules, including passage by the city of a resolution authorizing submission of the application to the Texas Department of Transportation (department). The city intends to use the limited financial assistance to pay for utility relocation of a water line along SH 195 from 0.805 miles south of the Bell County line to 3.4 miles south of SH 138.

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

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

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 limited 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. Section 6.32(b) of the rules authorizes applications for financial assistance in the amount of \$250,000 or less to be approved by the commission using a one step approval process.

NOW, THEREFORE, IT IS DETERMINED that the application for SIB limited financial assistance submitted by the City of Florence meets the requirements of commission rules, and in accordance with those rules and applicable law, the commission grants final approval of the application to borrow \$138,190 plus a 20 percent contingency from the State Infrastructure Bank. The loan will be paid over a period of no more than 25 years with interest at 3.0 percent per annum. The executive director is directed and authorized to commence negotiations and other actions authorized and required by the rules, and to enter into a financial assistance agreement as negotiated with the city.

ITEM 15. TRANSPORTATION PLANNING

a. Appoint three members to the Port Authority Advisory Committee (MO)

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

112167
TPP

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

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

The commission has determined that the individuals listed below fulfill the statutory requirements to serve as members of the committee for a three-year term expiring on February 28, 2013.

John P. LaRue	Port of Corpus Christi – Lower Coast
John R. Roby	Port of Beaumont –Upper Coast
Alec G. Dreyer	Port of Houston Authority – Dedicated Seat

IT IS THEREFORE ORDERED by the commission that the individuals identified above are appointed as members of the Port Authority Advisory Committee until February 28, 2013.

b. Hidalgo County – Correct typographical error in Minute Order 111442, dated July 31, 2008, which approved projects for funding under the Border Colonia Access Program (MO)

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

112168
TPP

Government Code, §1403.002, requires the Texas Public Finance Authority (TPFA), as authorized by the Office of the Governor, to issue general obligation bonds and notes in an aggregate amount not to exceed \$175 million. The TPFA shall, as directed by the Texas Department of Transportation (department), distribute the proceeds to counties to provide financial assistance for colonia access roadway projects to serve border colonias. Government Code, §1403.002, further requires the Texas Transportation Commission (commission) to establish a program to administer the use of the proceeds of the bonds and notes.

The commission approved projects for funding under the third call of the Border Colonias Access Program by Minute Order 111442, dated July 31, 2008. Hidalgo County was awarded \$104,724 for a population allocation project identified in the minute order as Colonia Esperanza #1, TWDB ID# M1080844. The department has determined that the documentation submitted by the county in response to the program call contained a typographical error and the project described in the application is actually Colonia Esperanza #2, TWDB ID# M1080863. The county wants to proceed with work on Colonia Esperanza #2.

IT IS THEREFORE ORDERED by the commission that Minute Order 111442, dated July 31, 2008, is corrected to reflect an award of \$104,724 to Colonia Esperanza #2, TWDB ID# M1080863, instead of Colonia Esperanza #1, TWDB ID# M1080844.

c. Various Counties – Approve revisions to the Capital Area Metropolitan Planning Organization (CAMPO) Metropolitan Area Boundary (MO)

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

112169
TPP

Pursuant to Title 43, Texas Administrative Code, §15.3, revisions to metropolitan planning area boundaries must be approved by the governor or the governor's designee. The governor and the Texas Department of Transportation must be provided documentation and the rationale supporting any recommended boundary change.

In accordance with Title 23, CFR §450.312, a metropolitan planning area boundary shall, at a minimum, encompass the entire existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the metropolitan transportation plan. The metropolitan planning area boundaries may be further expanded to encompass the entire metropolitan statistical area or combined statistical area, as defined by the Office of Management and Budget.

On October 4, 2005, Governor Perry delegated authority to the Texas Transportation Commission (commission) to approve metropolitan planning area boundary changes.

On January 11, 2010, the Capital Area Metropolitan Planning Organization (CAMPO) Policy Board approved the expanded metropolitan area boundary to include the entire metropolitan statistical area. Bastrop and Caldwell counties are part of the Austin-Round Rock Metropolitan Statistical Area.

The commission has reviewed and accepted the documentation and rationale supporting the metropolitan planning area boundary changes provided by CAMPO.

IT IS THEREFORE ORDERED by the commission that the proposed CAMPO metropolitan area boundary changes, as shown in Exhibit A, are hereby approved in accordance with Title 23, CFR §450.312.

Note: Exhibit A on file with minute order clerk.

Note: The commission received comments from Bastrop County Judge Ronnie McDonald.

d. Various Counties – Approve the Relief from Local Matching Funds (Economically Disadvantaged Counties Program) Report (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:

112170
TPP

Section 222.053(a), Transportation Code defines an “economically disadvantaged county” as a county that has, in comparison to other counties in the state: (1) below average per capita taxable property value; (2) below average per capita income; and (3) above average unemployment.

Section 222.053(c) directs the Texas Transportation Commission (commission), when evaluating a proposal for a highway project in a political subdivision that consists of all or a portion of an economically disadvantaged county, to adjust the minimum local matching funds requirement after evaluating the political subdivision's effort and ability to meet the requirement.

Section 222.053(e) further directs the commission to report annually to the governor, the lieutenant governor, and the speaker of the house of representatives on the use of matching funds and local incentives and the ability of the commission to ensure that political subdivisions located in economically disadvantaged counties have equal ability to compete for highway funding with political subdivisions in counties that are not economically disadvantaged.

The Texas Department of Transportation has completed the Fiscal Year 2009 Annual Report on the Economically Disadvantaged Counties Program, which is attached as Exhibit A.

IT IS THEREFORE ORDERED that the Fiscal Year 2009 Annual Report on the Economically Disadvantaged Counties Program, as shown in Exhibit A, is approved by the commission and shall be presented to the governor, the lieutenant governor, and the speaker of the house of representatives as required by Section 222.053(e), Transportation Code.

Note: Exhibit A on file with minute order clerk.

e. Cameron County – Approve revising the conditions of Minute Orders 110690 dated September 28, 2006 and 111982 dated September 24, 2009 regarding authorization of the Brownsville West Railroad Relocation project and use of \$13 million in Category 6, Railroad Grade Separation funds committed to the project (MO)

Commissioner Underwood made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Finance Division Director Brian Ragland:

112171
FIN

CAMERON COUNTY (county) has proposed the Brownsville West Rail Relocation Project to relocate a rail line that runs through downtown Brownsville, moving the line to a less densely populated location. The rail relocation project would eliminate the need for three previously approved projects for rail grade separations at FM 3248, FM 802, and US 281, which were authorized in Minute Order 110479.

The commission by Minute Order 110690 authorized the executive director to approve the expenditure of up to \$13 million for the rail relocation project, and to cancel existing approvals for three rail grade separation projects on the existing rail line in downtown Brownsville. The order was contingent on the county accepting the terms of the order, and then the county completing three matters described in the order. One of the three matters involved the County notifying the department that the international bridge and connecting facilities to the rail line in Mexico is under construction. The county accepted the terms of the order on February 13, 2007, and so according to the terms of the order the county is required to complete the three matters by February 13, 2010.

The commission by Minute Order 111982 changed the deadline in Minute Order 110690 to correspond to the deadline of Minute Order 111982; the county must deliver the agreements and provide the notification required under Minute Order 110690 by March 1, 2010, or Minute Orders 110690 and 111982 will be automatically cancelled. The order also directed the amendment of the 2007 UTP to authorize the additional project selection of the Brownsville West Railroad Relocation, for up to \$13 million in Category 6, Federal Railroad Grade Separation Program, and conditioned the authorization for letting the project to the County providing the department with the agreements and notifications required by Minute Order 110690.

The county has satisfied the requirements of Minute Order 110690 except the county cannot yet give notice concerning the beginning of construction in Mexico because such work has not yet begun.

IT IS THEREFORE ORDERED by the commission that the notification required under MO 11690 regarding the construction of the international bridge and connecting facilities to the rail line in Mexico is revised to instead require the County to notify the department that the diplomatic notes between the United States Department of State and Secretaria de Relaciones Exteriores have been exchanged, they include commitment dates for beginning of construction for the international bridge, and Mexico has selected a concessionaire for the construction of their portion of the rail relocation project and international rail bridge.

IT IS FURTHER ORDERED by the commission that the deadlines in MO's 110690 and 111982 for the county delivering agreements and providing notification be removed, and instead the county not be authorized to award the construction contract for the Brownsville West Rail Relocation project until the county does deliver the agreements and provide the notification required.

IT IS FURTHER ORDERED by the commission that the requirement in MO 111982 for the county to deliver the agreements and provide the notification required by MO 110690 before the project is authorized for letting, be removed and instead the county not be authorized to award the construction contract for the Brownsville West Rail Relocation, which utilizes up to \$13 million in Category 6, Federal Railroad Grade Separation Program funds, until the county delivers the agreements and provides the notification required.

ITEM 16. OBLIGATION LIMIT REPORT

Status report on the FY 2010 Obligation Limit and report on the actual obligations utilized through February 2010 and proposed remaining highway maintenance and construction contract letting for the fiscal year.

This item was presented by Finance Division Director Brian Ragland.

ITEM 17. CONTRACTS

a. Award or Reject Highway Improvement Contracts

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

Commissioner Underwood made a motion, seconded by Commissioner Holmes and the commission approved the following minute as recommended by staff and presented by Construction Section Director for Construction Section Ken Barnett:

112172
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 February 9 and 10, 2010.

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 or an exhibit to this order.

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 or an exhibit to this order, 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 Underwood made a motion, seconded by Commissioner Holmes and the commission approved the following minute order as recommended by staff and presented by Construction Section Director for Construction Section Ken Barnett:

112173
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 February 9 and 10, 2010.

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 or an exhibit to this order.

The department recommends that the Texas Transportation Commission (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 or an exhibit to this order, the respective award is voided and the department will return the bid guaranty.

Note: Exhibit A on file with minute order clerk.

b. Gregg County – Project RMC 6202-41-001. Award of right of way mowing and litter removal contract to second lowest bidder (MO)

Commissioner Underwood made a motion, seconded by Commissioner Holmes and the commission approved the following minute order as recommended by staff and presented by

112174
MNT

Project RMC 6202-41-001 (ROW mowing and litter removal) was let on December 15, 2009 in the Tyler District. Royal Finish was the low bidder but has failed to execute the contract. The second lowest bidder, Texas Tree & Landscape, LTD, has indicated in writing that they are willing to perform the work at the unit bid prices set forth in the lowest bid.

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

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

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

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

IT IS THEREFORE ORDERED by the commission that Royal Finish, be allowed to withdraw its bid for the contract for Project RMC 6202-41-001.

IT IS FURTHER ORDERED that the contract for Project RMC 6202-41-001 be awarded to Texas Tree & Landscape, LTD in the low bid amount of \$ 96,140.74.

Note: Exhibit A on file with minute order clerk.

ITEM 18. ROUTINE MINUTE ORDERS

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute orders presented by Executive Director Amadeo Saenz:

a. Donations to the Department

(1) Bridge Division – Acknowledge a donation from the Portland Cement Association (PCA) for two department employees' travel expenses to attend the 2010 Concrete Bridge Conference and AASHTO Committee on Concrete Design (T-10) Meeting in Phoenix, Arizona on February 24 – 25, 2010 (MO)

112175
GSD

This minute order acknowledges a donation of approximately \$1,731.90 from the Portland Cement Association (PCA) for two Texas Department of Transportation (department) employees' travel expenses to attend the 2010 Concrete Bridge Conference and AASHTO Committee on Concrete Design (T-10) Meeting in Phoenix, Arizona on February 24 - 25, 2010.

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 furthers 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.

The commission also finds that the donor 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 approximately \$1,731.90 from PCA 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) **Bryan District** – Consider a donation from St. Joseph Catholic School for half the cost to install a flashing beacon at the intersection of Rye School Road and Old San Antonio Road (OSR) in Brazos County (MO)

112176
GSD

This minute order considers a donation to the Texas Department of Transportation (department) from St. Joseph Catholic School of approximately \$17,500 in construction funds for half the cost to install a flashing beacon at the intersection of Rye School Road and Old San Antonio Road (OSR) in Brazos County.

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 furthers 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.

The commission also finds that the donor 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 approximately \$17,500 from St. Joseph Catholic School 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 acknowledgement of the donation.

(3) Houston District – Consider a donation from Newland Communities for landscape improvements within the right of way on the north side of US 59 at the intersection with University Boulevard in Sugar Land (MO)

112177
GSD

This minute order considers a donation to the Texas Department of Transportation (department) from Newland Communities, a land development company, of approximately \$408,600 in construction funds for the cost of landscape improvements within the right of way on the north side of US 59 at the intersection with University Boulevard in Sugar Land.

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 furthers 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.

The commission also finds that the donor 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 approximately \$408,600 from Newland Communities 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 acknowledgement of the donation.

(4) Houston District – Consider a donation from Taylor Morrison for landscape improvements and decorative wall within the right of way on the south side and medians of SH 96 at the intersection of MarBella Parkway in League City (MO)

112178
GSD

This minute order considers a donation to the Texas Department of Transportation (department) from Taylor Morrison, a land development company, of approximately \$70,000 in construction funds for the cost of landscape improvements and decorative wall within the right of way on the south side and medians of SH 96 at the intersection of MarBella Parkway in League City.

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 furthers 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.

The commission also finds that the donor 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 approximately \$70,000 from Taylor Morrison 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 acknowledgement of the donation.

(5) Travel Information Division – Consider a donation from the Corpus Christi Convention and Visitors Bureau to provide food, beverages, and admission and transportation to area attractions, by various sponsors, to the department for distribution to attendees of the 55th Annual Texas Travel Counselors Conference in Corpus Christi on April 26-29, 2010, which the department is hosting (MO)

112179
GSD

This minute order considers a donation of food, beverage, and admission and transportation to area attractions from the Corpus Christi Convention & Visitors Bureau (CCCVB) to the Texas Department of Transportation (department). The estimated \$45,000 donation is by various sponsors and is part of CCCVB hosting the 55th Annual Texas Travel Counselors Conference in Corpus Christi, Texas on April 26-29, 2010.

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 some of the sponsors may be interested in or likely to become interested in a contract, purchase, payment, or claim with or against the department. 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 worth an estimated \$45,000 by CCCVB is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

b. Eminent Domain Proceedings

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

112180
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>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Dallas	SL 12	1	0353-02-115	83
Denton	FM 423	2	1567-02-030	58
Denton	FM 423	3	1567-02-030	49

CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Caldwell	SH 130	E	3583-01-002	1514B-AC
Denton	SH 114	B	0353-02-066	14
McLennan	IH 35	D	0014-09-096	33
McLennan	IH 35	A	0014-09-096	36
McLennan	IH 35	C	0015-01-219	6AC
Rockwall	IH 30	H	0009-12-076	18B & 18B(E)
Rockwall	IH 30	F	0009-12-076	11 & 11TE
Rockwall	IH 30	G	0009-12-076	18A

Note: Exhibits 1 through 3 and A through H on file with minute order clerk.

c. Highway Designation

Dimmit and Frio Counties – Extend the designation of FM 65 along SH85 between Brundage and Dilley (MO)

112181
TPP

In DIMMIT and FRIO COUNTIES, local officials have requested that the designation of FARM TO MARKET ROAD 65 be extended along State Highway 85 between Brundage and Dilley, a distance of approximately 31.5 miles, as shown on Exhibit A.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended extending the designation of Farm to Market Road 65 along State Highway 85.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that Farm to Market Road 65 be extended along State Highway 85 between Brundage eastward to I-35 in Dilley, a distance of approximately 31.5 miles.

d. Load Zones & Postings

Various Counties – Revise load restrictions on various bridges on the state highway system (MO)

112182
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 bridges 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) Limestone County – SH 164 at FM 937 in Groesbeck – Consider the sale of surplus right of way to the abutting landowner (MO)

112183
ROW

In LIMESTONE COUNTY, on STATE HIGHWAY 164, the State of Texas acquired certain land needed for state highway purposes by instrument recorded in Volume 258, Page 619, Deed Records of Limestone 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.

Rand Oil Company, L.P., is the abutting landowner and has requested that the surplus land be sold to the company for \$7,623.

The commission finds \$7,623 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 Rand Oil Company, L.P., for \$7,623; 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) Lubbock County – Business US 87-G and FM 835 in Lubbock – Consider the removal from the system of BU 87-G and a segment of FM 835, transfer of control, jurisdiction and maintenance and transfer of right of way to the city and designation of 50th Street as FM 835 from I-27 to State Spur 331 (MO)

112184
ROW

In the city of Lubbock, LUBBOCK COUNTY, on BUSINESS US 87-G and FARM TO MARKET ROAD 835, the State of Texas acquired certain land by various instruments.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that BU 87-G from US 82 south to US 84 and that FM 835 from BU 87-G to SS 331, shown in Exhibit A, be removed from the state highway system and that control, jurisdiction and maintenance be transferred to the city. The executive director has also recommended the designation of 50th Street from I-27 to SS 331 as FM 835.

The surplus land, described in Exhibits B and C, 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 waive payment for real property transferred to a governmental entity if the estimated cost of future maintenance on the property equals or exceeds the fair value of the property.

The fair value of the surplus land has been determined to be \$2.053 million, and the state's costs for maintenance over the next 25 years is estimated to be \$45.917 million.

The city has requested that the surplus land be transferred to the city and that control, jurisdiction and maintenance be transferred to the city.

The commission finds \$2.053 million to be a fair and reasonable value of the state's rights, title and interest in the surplus land.

IT IS THEREFORE ORDERED by the commission that BU 87-G from US 82 south to US 84 and that FM 835 from BU 87-G to SS 331 are removed from the state highway system and transferred to the city for control, jurisdiction and maintenance and that 50th Street is designated from I-27 to SS 331 as FM 835.

FURTHER, 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 the state's rights, title and interest in the surplus land to the City of Lubbock, Texas, in consideration of the 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 state land.

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

(3) Rockwall County – FM 552 northeast of Red Valley Run – Consider the sale of surplus right of way to the abutting landowners (MO)

112185
ROW

In ROCKWALL COUNTY, on FARM TO MARKET ROAD 552, the State of Texas acquired certain land needed for state highway purposes by instruments recorded in Volume 42, Page 311, and Volume 42, Page 266, Deed Records of Rockwall 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.

James B. Morrison and Susan Kaye Morrison are the abutting landowners and have requested that the surplus land be sold to them for \$4,605.

The commission finds \$4,605 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 James B. Morrison and Susan Kaye Morrison for \$4,605; 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) Upshur County – US 259 at Shamrock Road south of Ore City – Consider the sale of surplus right of way to the abutting landowner (MO)

112186
ROW

In UPSHUR COUNTY, on US 259, the State of Texas acquired certain land needed for state highway purposes by instruments recorded in Volume 326, Page 581, and Volume 321, Page 819, Official Records of Upshur 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.

New Hope Independent Baptist Church of Ore City is the abutting landowner and has requested that the surplus land be sold to the church for \$2,358.

The commission finds \$2,358 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 New Hope Independent Baptist Church of Ore City for \$2,358; 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.

(5) Wichita County – US 287, north of Third Street in Wichita Falls – Consider the sale of surplus right of way to the city (MO)

112187
ROW

In the city of Wichita Falls, WICHITA COUNTY, on US 287, the State of Texas acquired certain land needed for highway purposes by instrument recorded in Volume 675, Page 351, Deed Records of Wichita 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.

The City of Wichita Falls is a governmental entity with the authority to condemn the property and has requested that the surplus land be sold to the city for \$4,574.

The commission finds \$4,574 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 the City of Wichita Falls for \$4,574; **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.

g. Speed Zones

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

112188
ROW

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 speed limits on various segments of the state highway system, previously established by the commission by minute order and listed in Exhibit C, are no longer necessary or have been incorporated by cities which have the authority to set speed limits on these sections of highways.

The department, in consultation with the Texas Commission on Environmental Quality, has also determined that the environmental speed limits on the segments of State Highway 146 and established by Minute Order 109064, dated October 31, 2002, and listed in Exhibit D, is no longer necessary.

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 portions of minute orders establishing speed zones shown on the attached Exhibits C and D are canceled.

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

OPEN COMMENT PERIOD – At the conclusion of all other agenda items, the commission will allow an open comment period, not to exceed one hour, to receive public comment on any other matter that is under the jurisdiction of the commission. No action will be taken. Each speaker will be allowed a maximum of three minutes. Speakers must be signed up prior to the beginning of the open comment period.

19. Executive Session Pursuant to Government Code, Chapter 551, Section 551

a. Section 551.071 – Consultation with and advice from legal counsel regarding any item on this agenda

Note: The commission did not meet in executive session.

The regular meeting of the Texas Transportation Commission adjourned at 10:17 a.m.

APPROVED:

Ted Houghton, Commissioner
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 February 25, 2010, in Austin, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation