

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on September 30, 2010 in Austin, Texas. The meeting was called to order by Chair Delisi. The meeting opened at 9:04 a.m. with the following commissioners and administrative staff present:

Texas Transportation Commission:

Deirdre Delisi	Chair
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

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 4:46 p.m. on September 22, 2010, as required by Chapter 551, of the Government Code, referred to as “The Open Meetings Act.”

ITEM 1. Approval of Minutes of the August 25, 2010 workshop, and the August 26, 2010 regular meeting of the Texas Transportation Commission.

Commissioner Underwood made a motion, which was seconded, and the commission approved the minutes of the August 25, 2010 workshop, and the August 26, 2010 regular meeting of the Texas Transportation Commission by a 4-0 vote (Commissioner Houghton absent).

ITEM 2. Aviation

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

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by the Director of the Aviation Division Dave Fulton.

112424
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, August 19, 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 \$5,031,646.

Note: Exhibit A is on file with the minute order clerk.

b. Various Counties – Approve appointment of two members to the Aviation Advisory Committee (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by the Director of the Aviation Division Dave Fulton. The commission received comments from Pete Huff, vice chairman of the TxDOT Aviation Advisory Committee.

112425
AVN

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

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

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

The terms of two members expired on August 31, 2010; therefore, it is necessary for the commission to reappoint two members for terms to expire on August 31, 2013.

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

Peter C. Huff, Vice Chairman

Robert H. Bruce

McKinney, Texas Expires 8/31/2013

Boerne, Texas Expires 8/31/2013

IT IS THEREFORE ORDERED by the commission that the individuals identified above are hereby appointed for three-year terms as members of the Aviation Advisory Committee, with terms effective September 1, 2010, expiring on August 31, 2013.

ITEM 3. Public Transportation

a. Various Counties – Award Transportation Development Credits (TDC) to Heart of Texas Workforce Board, Kaufman Area Rural Transportation, Texoma Area Paratransit System, and West Texas Opportunities (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by the Public Transportation Division Director Eric Gleason.

112426
PTN

The Texas Transportation Commission (commission) desires to award 143,860 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 laws permit 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.

Heart of Texas Workforce Board has requested 12,240 in TDC, Kaufman Area Rural Transportation as requested 43,620 in TDC, Texoma Area Paratransit System has requested 26,000 in TDC, and West Texas Opportunities requested 62,000 in TDC. All TDC requests will serve to provide match for various previously awarded federal funds.

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; 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 into the replacement of depreciated rolling stock thus yielding savings or efficiencies which can be reinvested into additional trips.

The commission further finds that these specific transit capital projects will reduce congestion, improve air quality, and expand economic opportunity by funding procurement of vehicles for new employment related services; enhance safety and improve reliability and increase the value of public transportation assets by funding replacement vehicles for older fleet currently operating well beyond their useful life; and increase the value of public transportation assets by funding construction of security and other vehicle storage enhancements to operating facilities and land acquisition for a new transportation center.

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 distribute TDC to the systems as outlined above and enter into the necessary contracts in accordance with the priorities established in this minute order.

b. Various Counties – Award Federal §5310 Funds, Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities Program (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by the Public Transportation Division Director Eric Gleason.

112427
PTN

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

On February 25, 2010 and May 27, 2010, the commission passed Minute Orders 112145 and 112259, respectively, awarding FY 2010 federal §5310 program funds. Recently, Duval County requested to transfer its funding award to REAL to provide transportation services through a coordinated effort through an agreement between the two entities. The funds originally awarded to Duval County need to be awarded to REAL to ensure continued mobility is provided for elderly individuals and individuals with disabilities throughout Duval County.

The commission finds that the projects in Exhibit A are eligible for funding and award revision.

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 that this minute order supersedes the awards for Duval County and Rural Economic Assistance League, Inc., in Minute Orders 112145 and 112259. All other projects previously awarded under these minute orders remain unchanged.

IT IS FURTHER 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.

Note: Exhibit A is on file with the minute order clerk.

ITEM 4. Rail Projects

Cooke, Denton, and Tarrant Counties – Authorize an agreement with the National Railroad Passenger Corporation for the provision of passenger rail service on the Amtrak Heartland Flyer route and the department's financial support for the operation of the service (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by Rail Division Director Bill Glavin

112428
RRD

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

In May 2006, citing funding shortfalls, the National Railroad Passenger Corporation (Amtrak) announced its intent to eliminate the Heartland Flyer route which extends from Fort Worth, Texas to Oklahoma City, Oklahoma. Since federal fiscal year 2007, the Texas Transportation Commission (commission) has authorized the Texas Department of Transportation (department) to provide funding for the continuance of service. The state of Oklahoma has also provided funding for each year.

Amtrak's operating loss on the Heartland Flyer for the federal fiscal year beginning October 1, 2010 is projected to be \$1,072,768 without fuel and host railroad costs. Amtrak has requested that the state of Texas provide \$2.1 million, including projected fuel and host railroad costs, for the continuation of service for the federal fiscal year beginning October 1, 2010. The state of Oklahoma plans to provide \$2.1 million for the continuance of the service. Amtrak and the department will review expenditures on a quarterly basis to determine if remaining funding is sufficient to continue service. If additional funding is needed, the department will provide additional funding or work with Amtrak to implement necessary service modifications to comply with the limitations of the remaining funding.

Amtrak will cease providing passenger rail service on October 1, 2010, if the state of Texas does not provide \$2.1 million to offset the operating loss on the Heartland Flyer.

IT IS THEREFORE ORDERED by the commission that the executive director is authorized to enter into any necessary agreements to fund the Heartland Flyer passenger rail service for an amount not to exceed \$2.1 million for the federal fiscal year 2011.

ITEM 5. PROMULGATION OF ADMINISTRATIVE RULES Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

a. Final Adoption

(1) Chapter 6 – State Infrastructure Bank (MO)

Amendments to §6.1, Purpose, §6.2, Definitions, and §6.3, General Policies, the Repeal of §6.4, Applicability, New §6.4, Separate Subaccounts, and the Repeal of §6.5, Separate Subaccounts (General Provisions); Amendments to §6.11, Eligible Entities, and §6.12, Eligible Projects, and New §6.13, Eligibility for Financial Assistance from General Obligation Bond Proceeds (Eligibility); Amendments to §6.21, Department Contact, §6.22, Requested Financial Assistance, and §6.23, Application Procedure, the Repeal of §6.24, Suspension of Applications, New §6.24, Limitation on Applications - Loans from General Obligation Bond Proceeds, and New §6.25, Suspension of Applications (Procedures); Amendments to §6.31, Department Action, and §6.32, Commission Action, and New §6.33, Commission Action - Loans from General Obligation Bond Proceeds (Department and

Commission Action); Amendments to §6.41, Executive Director, §6.42, Performance of Work, and §6.43, Design, Construction, and Procurement Standards, the Repeal of §6.44, Maintenance and Operations, and New §6.44, Design and Construction - Loans from General Obligation Bond Proceeds, the Repeal of §6.45, Financial and Credit Requirements, and New §6.45, Maintenance, the Repeal of §6.46, Other Requirements, and New §6.46, Financial and Credit Requirements (Financial Assistance Agreements)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by the Chief Financial Officer James Bass

112429
CFO

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §§6.1 - 6.3, §6.11, §6.12, §§6.21 - 6.23, §6.31, §6.32, and §§6.41 - 6.43, the repeal of §6.4, §6.5, §6.24, and §§6.44 - 6.46, and new §6.4, §6.13, §6.24, §6.25, §6.33, and §§6.44 - 6.46, all relating to the state infrastructure bank, 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 - 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 Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §§6.1 - 6.3, §6.11, §6.12, §§6.21 - 6.23, §6.31, §6.32, and §§6.41 - 6.43, the repeal of §6.4, §6.5, §6.24, and §§6.44 - 6.46, and new §6.4, §6.13, §6.24, §6.25, §6.33, and §§6.44 - 6.46 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.

Exhibits A through F are on file with the minute order clerk.

(2) Chapter 31 – Public Transportation (MO)

Amendments to §31.36, Section 5311 Grant Program (Federal Programs)

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by Public Transportation Division Director Eric Gleason.

112430
PTN

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §31.36, Section 5311 Grant Program, relating to federal programs 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 §31.36 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 & B are on file with the minute order clerk.

b. Proposed Adoption

(1) Chapter 21 - Right of Way (MO)

New §21.301, Purpose, §21.302, Definitions, §21.303, Request for Proposals, §21.304, Proposals, §21.305, Selection of Entity, §21.306, Negotiation with Selected Entity, §21.307, Agreement, §21.308, Termination of Agreement, §21.309, Payment, §21.310, Sublease, and §21.311, General Requirements (New Subchapter J, Leasing of Highway Assets for Transportation Facility)

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by Texas Turnpike Authority Division Director Mark Tomlinson.

112431
TTA

The Texas Transportation Commission (commission) finds it necessary to propose new §§21.301-21.311 relating to Leasing of Highway Assets for Transportation Facility to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed new sections, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth 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 §§21.301-21.311 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 & B are on file with the minute order clerk.

(2) Chapter 23 – Travel Information (MO)

Amendments to §23.1, and Purpose, §23.2, Definitions (General Provisions); and Amendments to §23.10, Travel Literature, §23.12, Texas Official Travel Map, and §23.14, Display of Literature in Travel Information Centers (Travel Information)

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was presented by the Travel Information Division Director Doris Howdeshell.

112432
TRV

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §23.1, Purpose, §23.2, Definitions, §23.10, Travel Literature, §23.12, Texas Official Travel Map, and §23.14, Display of Travel Literature in the Texas Travel Information Centers, be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments, attached to this minute order as Exhibits A - C, 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 §23.1, §23.2, §23.10, §23.12, and §23.14 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 – C are on file with the minute order clerk.

ITEM 6. Transportation Planning

a. Various Counties – Adopt the Fiscal Year 2011-2014 Statewide Transportation Improvement Program (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by Transportation Planning and Programming Division Director Jim Randall.

112433
TPP

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

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

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

By letter dated October 4, 2005, the governor delegated the power and responsibility for approving the STIP to the Texas Transportation Commission (commission) or its designees. The commission has adopted rules governing the development of transportation plans and programs, codified as 43 TAC Chapter 15, Subchapter A.

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

The various TIPs developed by the designated MPOs have been presented for public comment by means of various public meetings conducted by relevant authorities throughout the state. Rural TIPs were made available to citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, and other interested parties for review and comment in each of the Texas Department of Transportation's (department's) 25 district offices and at the department's headquarters in Austin. A public hearing on the STIP was held on August 24, 2010. No oral or written comments were received.

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

The commission also finds that the STIP:

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

IT IS THEREFORE ORDERED that the Fiscal Year 2011-2014 STIP, which incorporates the respective TIPs of each designated MPO, as well as rural TIPs and is attached as Exhibit A to this order, is hereby adopted.

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

NOTE: Exhibit A is on file with the minute order clerk.

b. Kinney County – Approve the transfer of Border Colonias Access Program funds from a previously selected colonia project to another eligible colonia project (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by Transportation Planning and Programming Division Director Jim Randall.

112434
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, 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.

Title 43, Texas Administrative Code, §15.105(10), provides that a county may use unexpended funds from a project on any other commission-selected county colonia project. Kinney County (county) has requested approval to transfer \$107,192.51 of the non-competitive funds awarded to the county by Minute Order 111442 from the Spofford Colonia project to the Brackettville Colonia project.

IT IS THEREFORE ORDERED by the commission that the county's request to transfer \$107,192.51 of the non-competitive funds awarded to the county by Minute Order 111442 from the Spofford Colonia project to the Brackettville Colonia project is approved.

IT IS FURTHER ORDERED that the authorized balance amount for the Spofford Colonia project is reduced to \$747,807.49 after the transfer to the Brackettville Colonia project.

ITEM 7. TOLL ROADS PROJECTS

a. Accept the report of actual traffic and revenue for the Central Texas Turnpike System (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by the Texas Turnpike Authority Division Director Mark Tomlinson.

112435
TTA

Transportation Code, Chapter 228 and other applicable law authorizes the Texas Transportation Commission (commission) to issue toll 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 has previously issued \$2,199,993,781.80 in obligations to finance a portion of the costs of the Central Texas Turnpike System (System), a turnpike project composed initially of the SH 130, SH 45, and Loop 1 project elements (2002 Project), pursuant to an Indenture of Trust and four supplemental indentures. The Indenture of Trust dated July 15, 2002 (Indenture), prescribes the terms, provisions and covenants related to the issuance of turnpike revenue bonds and obligations to finance a portion of the costs of the 2002 Project.

Section 501(c) of the Indenture covenants that for the first five full years of operation of the 2002 Project, the commission will provide to the Trustee a report showing the traffic and revenue of the system for the previous quarter.

Pursuant to Minute Order 111081, dated September 27, 2007, the 2002 Project was declared Substantially Complete as defined within the Indenture.

A report of actual traffic and revenue for the required period, attached as Exhibit A, has been prepared in accordance with Section 501(c) of the Indenture of Trust.

IT IS THEREFORE ORDERED by the commission that the report of actual traffic and revenue attached as Exhibit A is accepted.

NOTE: Exhibit A is on file with the minute order clerk.

b. Dallas County – Authorization to enter into a direct agreement with the NTTA and the Trustee under the Trust Agreement for the SH 161 Project and to enter into other necessary agreements in connection with the financing of the SH 161 Project (MO)

Commissioner Homes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by Deputy Finance Division Director John Muñoz.

112436
FIN

The Texas Department of Transportation (department) and the North Texas Tollway Authority (NTTA) have been proceeding with the development of a toll project that will extend SH 161 from SH 183 south to I-20 through the cities of Irving and Grand Prairie (SH 161 Project). The SH 161 Project is located within the boundaries of the NTTA, and is subject to the market valuation provisions set forth in Transportation Code, §228.0111.

The department and the NTTA have been working together to identify an approach to provide for the funding and development of the SH 161 Project and other transportation improvements within the boundaries of the NTTA and adjacent counties.

The department and the NTTA entered into an Agreement Regarding a Negotiated Value for SH 161 dated April 19, 2008 (Negotiated Value Agreement), pursuant to which the NTTA and the department waived the requirement under Transportation Code, §228.0111 to develop a market valuation for the SH 161 Project and agreed to a negotiated value of \$1.068 billion for the SH 161 Project, with a \$458 million upfront payment (acquisition payment).

Transportation Code, §228.0111(g) grants the NTTA the first option to develop, finance, construct and operate the SH 161 Project, and gives the NTTA six months after the date the negotiated value for the SH 161 Project was mutually approved to decide whether to exercise that option.

The department and the NTTA have negotiated a term sheet for providing financial assistance to the NTTA for the SH 161 Project, for the NTTA delivery of the SH 161 Project, and for the disposition of the Southwest Parkway/Chisholm Trail Project (Term Sheet) by which the department and the NTTA outlined a transaction to, among other things, strengthen the ability of the NTTA to undertake additional projects if the NTTA elects to undertake the SH 161 Project.

Under the Term Sheet, the NTTA would be obligated to design, construct, operate, maintain and finance development of the SH 161 Project in accordance with the Negotiated Value Agreement, except as modified by the Term Sheet (and, pursuant to the Term Sheet, as modified by the project agreement).

On October 15, 2008, the NTTA's Board of Directors (1) accepted the Term Sheet without qualification or condition, (2) elected to exercise the NTTA's option to develop, finance, construct, and operate the SH 161 Project pursuant to the Negotiated Value Agreement, as modified by the Term Sheet, and (3) authorized the executive director of the NTTA to negotiate with the department the project agreement for the SH 161 Project. The department and the NTTA have entered into the project agreement for the SH 161 Project, effective July 30, 2009.

Transportation Code, §366.301 authorizes the department to provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, construction, operation, or maintenance of a turnpike project or system by the NTTA on terms agreed to by the department and the NTTA. Transportation Code, §222.103 authorizes the department to participate, by spending money from any available source, in the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the Texas Transportation Commission (commission).

In Minute Order 112141, dated February 24, 2010, the commission, pursuant to the Term Sheet and the requirements of Transportation Code, §222.103 and Title 43, Texas Administrative Code, §27.50-27.58, granted final approval of a toll equity loan in an aggregate amount in nominal dollars not to exceed \$4,093,677,822, not to exceed the facility costs associated with the SH 161 Project over 52 years, and including a commercially reasonable contingency for design and construction cost overruns, eligible to be paid from the state highway fund under applicable law. Minute Order 112141 also authorized the executive director of the department to enter into a Toll Equity Loan Agreement relating to the SH 161 Project with the NTTA. The Toll Equity Loan Agreement provides for the establishment of a toll equity loan commitment to provide support for the NTTA's efforts to develop, construct, operate and maintain the SH 161 Project upon fulfillment of the applicable conditions precedent set forth in the agreement.

The NTTA intends to enter into a Trust Agreement pursuant to which the NTTA will issue debt obligations in order to raise financing for a portion of the development and construction of the SH 161 Project. Pursuant to the Trust Agreement, among other things, the NTTA has assigned to the Trustee for the benefit and security of all owners of the debt obligations, all of the NTTA's right, title and interest in, to and under the Trust Estate, including but not limited to the Toll Equity Loan Agreement.

Pursuant to Transportation Code, §222.103 and Transportation Code, §366.301, the department is only authorized to loan money to the NTTA for the acquisition, construction, maintenance, or operation of an NTTA toll facility. Under Minute Order 112141, the toll equity loan is being made to pay or reimburse costs eligible to be paid from the state highway fund under applicable law, and which may only include costs for (1) design and construction, (2) operations and maintenance, (3) major maintenance, (4) capital expenditures, and (5) the acquisition payment.

Through the assignment by the NTTA of its right, title and interest in, to and under the Toll Equity Loan Agreement, and pursuant to and under the conditions set out in the Toll Equity Loan Agreement and the Trust Agreement, including limiting the total amount of advances to the aggregate amount of eligible costs, the Trustee may submit a request for an advance under the toll equity loan commitment to be made to the NTTA, in amounts sufficient to make payments to bondholders and TIFIA (as well as to cover pre-defined project costs), in the event that revenue of the SH 161 Project and money in certain reserve and other funds established under the Trust Agreement is insufficient for that purpose.

In reliance on the support for the SH 161 Project provided by the department pursuant to the Toll Equity Loan Agreement and upon the assignment by the NTTA of the Toll Equity Loan Agreement pursuant to the Trust Agreement, the U.S. Department of Transportation (US DOT) may desire to make available to the NTTA a loan pursuant to the Transportation Infrastructure Finance and Innovation Act (TIFIA Loan) for the purpose of financing certain costs in connection with the construction and development of the SH 161 Project.

It is a condition to the consummation of the TIFIA Loan that that the department and the NTTA enter into an agreement with the Trustee to provide certain assurances and agreements in connection with the Toll Equity Loan Agreement, including the department's consent to the pledge and assignment to the Trustee of all of the NTTA's right, title and interest in, to and under the Toll Equity Loan Agreement, and that as a result of the pledge and assignment, the Trustee shall have the right to enforce directly against the department the obligations of the department under the Toll Equity Loan Agreement (Direct Agreement). The department may also be required, as a condition to the consummation of the TIFIA Loan, to be a party to the grant agreement under which the NTTA has obtained a grant under the TIGER Discretionary Grant Program to pay the subsidy and administrative costs associated with the TIFIA Loan (TIGER Grant Agreement).

As additional security for the payment by the NTTA of the toll equity loan and the observance and performance by the NTTA of the terms, covenants and conditions of the Toll Equity Loan Agreement, the department may enter into an agreement with the NTTA and its design-build contractor for the SH 161 Project for the assignment to the department of all of NTTA's right, title and interest, in, to and under the design-build contract, including any and all rights that NTTA has to enforce the obligations of the design-build contractor under the design-build contract and to receive payments, disbursements, distributions or proceeds owing, payable or required to be delivered to the NTTA (Assignment Agreement).

The department may also be required to enter into other necessary agreements in connection with the NTTA's financing of the SH 161 Project, including a continuing disclosure agreement under which the department would be obligated to provide certain updated financial information and operating data annually (Continuing Disclosure Agreement).

Development of the SH 161 Project is a crucial element in responding to considerable population increases and associated development that has resulted in traffic increases that have created significant congestion in the SH 161 area and across the region. The SH 161 Project is designed to improve the transportation network and level of service in the SH 161 area and region, particularly by serving as a reliever route to SH 360.

The successful funding of the SH 161 Project will benefit the state and the traveling public and improve the efficiency of the state's transportation system by providing for the timely completion of the SH 161 Project, which will enhance mobility and operational efficiency, decrease congestion, increase safety, increase economic development opportunities, decrease travel time, decrease air pollution, and enhance quality of life in the SH 161 corridor. Without the department's assistance, the timeline to complete the SH 161 Project and realize those benefits could be delayed.

The financial assistance for the SH 161 Project should lower the NTTA's capital costs, which will reduce the amount of equity from the NTTA System that will be necessary to complete the SH 161 Project. This will allow the NTTA to use that equity for other toll projects within its region, such as the Southwest Parkway/Chisholm Trail Project.

IT IS THEREFORE ORDERED by the commission that the executive director of the department is authorized to enter into the Direct Agreement with the NTTA and the Trustee under the Trust Agreement entered into by the NTTA in connection with the SH 161 Project, the form of which is attached as Exhibit A to this order, with such changes as the executive director may approve.

IT IS FURTHER ORDERED that the executive director of the department is authorized to enter into any other necessary agreements in connection with the NTTA's financing of the SH 161 Project, including the TIGER Grant Agreement, the Assignment Agreement, and the Continuing Disclosure Agreement.

NOTE: Exhibit A is on file with the minute order clerk.

ITEM 8. PASS-THROUGH TOLL PROJECTS

Authorize the executive director or designee to negotiate and execute a final pass-through toll agreement with certain of those entities whose proposals under the February 25, 2010 pass-through toll program call were conditionally selected by the commission in Minute Order 112305 on June 24, 2010, as providing the best value to the state and which were successful in negotiating the financial terms of a pass-through toll agreement. (MO)

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by Assistant Executive Director for Engineering Operations John Barton. The commission received comments from Temple Mayor Bill Jones.

112437
AEO

On February 25, 2010, by Minute Order 112156, the Texas Transportation Commission (commission) approved a program call for highway projects to be developed on the state highway system under a pass-through toll agreement (program call). The commission further determined that (i) monies available that could be allocated among all proposals selected under the program call would be limited to an estimated total of \$300 million in Category 12 funds, and (ii) only the category of construction costs would be considered as eligible for reimbursement under the program call.

Pursuant to Minute Order 112156 and Title 43 Texas Administrative Code §§5.51-5.60 (rules), the Texas Department of Transportation (department) published in the Texas Register a notice designating a 60-day period commencing on March 12, 2010 for acceptance of proposals from both public and private entities for projects to be developed under the program call. The deadline for submitting proposals was May 11, 2010. Department staff evaluated the proposals that were timely submitted under the program call using the items of consideration set forth in §5.55 of the rules and provided its analyses of the pass-through toll proposals to the commission.

In accordance with §222.104(b), Transportation Code, and §§5.54-5.55 of the rules, the commission granted preliminary approval on June 24, 2010 in Minute Order 112305 authorizing the department to negotiate the financial terms of a pass-through toll agreement (agreement) with each of those public entities whose proposals were selected by the commission in that minute order as providing the best value to the state. The agreements will provide for the payment of pass-through tolls to the selected public entities as reimbursement for the construction of facilities on the state highway system. 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.

In accordance with §5.58(b)(3)(A) of the rules, the commission finds that it is in the public interest to require all agreements negotiated with the selected public entities to contain a provision that limits reimbursement to the actual costs incurred by the public entity (actual cost provision). The actual cost provision will be based on the following concepts:

(1) The total reimbursement amount for each of the projects as set forth in Exhibit A represents all or a portion of the estimated cost of construction (department's proportional share). Payment of pass-through tolls will be limited to reimbursement of the department's proportional share of the actual cost of labor and materials required for construction of the project as determined by the low bid award of the construction contract (actual cost of construction), subject to the following two exceptions:

(A) The department will reimburse its proportional share of the amount by which the actual cost of construction exceeds the estimated cost of construction that was approved by the department for the same project (cost overrun). The department's total payment obligation for the project: however, will not exceed 110 percent of the estimated total reimbursement amount as set forth in Exhibit A.

(B) The department will reimburse to the public entity the amount by which the actual cost of construction is less than the estimated cost of construction that was approved by the department for the same project (cost underrun), up to a maximum of 10 percent of the estimated cost of construction, if the following conditions are met:

(i) the total of actual cost and underrun reimbursements by the department may not exceed the department's estimated total reimbursement amount as set forth in Exhibit A;

(ii) the amount of cost underrun received by the public entity will be expended on the same project as set forth in Exhibit A, or on other mutually acceptable state highway projects located in the public entity's jurisdiction;

(iii) the amount of cost underrun received by the public entity may be expended on the actual costs of an eligible project's environmental clearance and mitigation, right of way acquisition, land surveys, engineering, utility relocation, construction, construction engineering and inspection, and financing, but not on overhead or contingent profits; and

(iv) the public entity receives the department's prior consent for the expenditures.

(2) The reimbursement rate, the minimum reimbursement amount per year, and the maximum reimbursement amount per year as set forth in Exhibit A will be applicable regardless of the actual total reimbursement amount. The number of annual payments will be adjusted to reflect the total reimbursement amount as determined in accordance with paragraph (1).

(3) No change order to the construction plans or contract may be issued by the public entity without the department's prior written approval, if it would affect prior environmental approvals or significantly revise the scope of the project or the geometric design.

(4) Construction costs shall have the same meaning as described in the program call.

The department was unable to negotiate financial terms of a pass-through toll agreement with certain of those public entities whose proposals were selected in Minute Order 112305. Negotiations then commenced with other public entities whose proposals were conditionally selected in that same minute order. The department and each of the public entities identified in Exhibit A have agreed to a total reimbursement through pass-through tolls for construction of the projects, a reimbursement rate per vehicle mile, the minimum amount to be reimbursed in any year with all projects open to traffic, and the maximum amount per year as set forth in the exhibit. Each agreement will expire once the total amount of that agreement has been reimbursed. The projects will be authorized and reimbursed from Category 12, Strategic Priority funds.

In accordance with §5.57 of the rules, the commission finds that: (1) the projects serve the public interest and not merely a private interest; (2) the proposed pass-through agreements are in the best interest of the state; (3) the projects are compatible with existing and planned transportation facilities; and (4) the projects further state, regional, and local transportation plans, programs, policies, and goals.

Before the projects in the selected proposals are designed, developed, or constructed using funds administered by the department, the projects: (1) must be included in the department's UTP, thereby identifying committed funding for the project; (2) must be included in the department's Statewide Transportation Improvement Program; and (3) will

be subject to any and all applicable planning and environmental processes and approvals as mandated by state and federal regulations regarding such matters.

IT IS THEREFORE ORDERED that the executive director or his designee is authorized to negotiate and execute a pass-through toll agreement with each of the public entities set forth in Exhibit A for the construction of their respective projects as identified in the exhibit, in accordance with the negotiated terms, the actual cost provision described in this minute order, and such other terms the department determines to be necessary, and to amend Category 12, Strategic Priority, of the 2010 Unified Transportation Program (UTP), approved by Minute Order 112237, dated April 29, 2010, to authorize the projects included in each executed agreement.

NOTE: Exhibit A on file with the minute order clerk.

ITEM 9. AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

Approve changes to the lists of mobility, preventive maintenance and rehabilitation, and transportation enhancement projects previously approved for funding from Texas' portion of the ARRA (MO).

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by Assistant Executive Director for Engineering Operations John Barton.

112438
AEO

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act (ARRA). The ARRA created an economic stimulus package that provides \$64.1 billion nationwide for infrastructure projects, including \$27.5 billion for highway and bridge construction, and \$1.5 billion for surface transportation grants to be administered by the Secretary of Transportation. Texas' share of the funding for highway and bridge construction is approximately \$2.25 billion.

The Texas Department of Transportation (department) was required to obligate all ARRA funds by September 24, 2010. Shortly before that deadline, the department became aware of circumstances which may prevent the US 281 project at Loop 1604 in San Antonio from moving forward on its planned construction schedule. In order to ensure the utilization of all available funding within the specified timeframe, the department de-obligated \$60 million in ARRA funds from the US 281/Loop 1604 project and transferred the funding to one mobility project, numerous preventive maintenance and rehabilitation projects, and one transportation enhancement project. This minute order ratifies the department's de-obligation of funds from the US 281/1604 project and the selection of various projects to be funded with those ARRA funds.

A revised list of mobility projects has been developed and is set forth in Exhibit A. A project in the Abilene District has been added to the list (CSJ 005-07-049, etc.). The US 281/Loop 1604 project has been deleted from the list of mobility projects and is shown in Exhibit D. No other mobility projects have been changed or removed.

The list of preventive maintenance and rehabilitation projects is set forth in Exhibit B. No previously approved preventive maintenance and rehabilitation projects are affected by the selection of these projects.

The transportation enhancement project is set forth in Exhibit C. No previously approved transportation enhancement projects are affected by the selection of this project.

All projects are subject to federal and state laws, including the provisions of the ARRA. No matching funds are required for mobility or preventive maintenance and rehabilitation projects.

IT IS THEREFORE ORDERED by the commission that the projects set forth in Exhibits A, B, and C are hereby approved for funding under the provisions of the ARRA.

IT IS FURTHER ORDERED that Exhibit A in Minute Order 112341 is rescinded and replaced with Exhibit A to this minute order.

IT IS FURTHER ORDERED that the executive director or the director's designee is authorized to proceed with project development and contract awards for the projects described in Exhibits A, B, and C to enter into any necessary agreements associated with these projects and activities.

IT IS FURTHER ORDERED that the department shall track the progress of the projects set forth in Exhibits A, B, and C separately from other ongoing projects and place information regarding the status of these projects on the department's website.

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

ITEM 10. GREEN RIBBON PROGRAM

Approve the allocation of funds for the Green Ribbon Program, an initiative to enhance the appearance of public highways (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by the Assistant Executive Director for Engineering Operations John Barton. The commission received comments from the City of Forney Director of Public Works Michael Shook.

112439
DES

Rider 20 in the Texas Department of Transportation's (department) bill pattern in Article VII of the General Appropriations Act for the 2010-2011 biennium directs the department to expand the Green Ribbon Program, a public-private partnership initiative to enhance the appearance of public highways, to other areas of the state.

The rider mandates that each time a highway improvement contract is let in air-quality nonattainment or near-nonattainment areas, the department shall allocate to the district or districts in which the project is located an amount equal to not less than one-half-of-one percent and not to exceed one percent of the amount to be spent under the contract for construction, maintenance, or improvement of the highway. The district shall spend not less than one half of the allocation for landscaping and other enhancements included in the Green Ribbon program as improvements associated with the project that was the subject of the contract. The district may spend the allocated money that is not used for landscaping improvements associated with the project that was the subject of the contract for

landscaping improvements associated with another highway or highway segment located in the district.

For purposes of this rider, landscape improvements means planting of indigenous or adapted trees and other plants that are suitable for the climate in which they will be located, and preparing the soil and installing irrigation systems to promote the growth of the trees and plants. To the extent possible, trees and plants will be used that tend to help mitigate the effects of air pollution.

The proposed allocation of funds to the department's affected districts is shown in Exhibit A.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the allocation of funds set forth in Exhibit A is hereby approved and the executive director is authorized to proceed in the most feasible and economical manner with the implementation of FY 2011 Green Ribbon Landscape Improvement Program.

NOTE: Exhibit A is on file with the minute order clerk.

ITEM 11. FINANCE

Grant approval to submit a request to the Governor and the Legislative Budget Board to transfer capital budget appropriation to the Enterprise Resource Planning System capital budget project. (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by Chief Financial Officer James Bass.

112440
FIN

In Rider 2 (Capital Budget) of the Texas Department of Transportation's (department) appropriation in the General Appropriations Act for the biennium ending August 31, 2011 (Senate Bill No. 1, 81st Legislature, Regular Session), the legislature appropriated \$26 million for FY 2010 for the development of the Enterprise Resource Planning System (ERP) (Subsection d(12), Rider 2). The ERP project, which is also known as ProjectONE, managed by the Comptroller of Public Accounts, is a statewide effort to create a unified system that will reduce conflicting data and standardize financial data. The project will result in updated financial and human relations systems for the department, the Department of Information Resources (DIR) and the five Health and Human Services (HHS) agencies with other agencies to be added in the future. Additional funding is needed in FY 2011 for the continued development and enhancement of the project.

Rider 52 (Limitation on Capital Budget - Acquisition of Information Resource Technologies) of the department's appropriation in the General Appropriations Act requires the approval of the Governor and the Legislative Budget Board for the transfer of appropriations into or between any capital budget items listed under "Acquisition of Information Resource Technologies" in Rider 2 (Subsection d, Rider 2). Article IX, Section 14.03(b) of the General Appropriations Act requires that capital budget transfer requests above a certain amount be approved by an agency's governing board. The department has

identified funds available for transfer from other capital budget items of the department to fund the ERP project.

The Texas Transportation Commission (commission) desires to authorize the transfer of a total amount not to exceed \$34 million from the FY 2011 appropriation items for Management Information System (Subsection d(11), Rider 2) and Acquisition of Capital Equipment and Items (Subsection f, Rider 2) to the FY 2011 appropriation for the ERP project. Of the total amount, an estimated amount of \$26 million is available from the Management Information System item and an estimated amount of \$8 million is available from the item for Acquisition of Capital Equipment and Items.

IT IS THEREFORE ORDERED by the commission that the executive director of the department is authorized to submit to the Governor and the Legislative Budget Board, on behalf of the commission and in accordance with the prescribed guidelines, a request for the transfer for FY 2011 of amounts not to exceed \$34 million in total from the department's capital budget items of appropriation for Management Information System (Subsection d(11), Rider 2) and for Acquisition of Capital Equipment and Items (Subsection f, Rider 2) to the department's capital budget item of appropriation for Enterprise Resource Planning System (Subsection d(12), Rider 2) for the continued development and enhancement of the Enterprise Resource Planning System.

ITEM 12. STATE INFRASTRUCTURE BANK (SIB)

a. Various Counties - Authorize the designation of a period of time in 2010 during which the department will accept applications from public entities for loans from the State Infrastructure Bank from the proceeds of general obligation bonds issued under Transportation Code, §222.004 (Proposition 12 Bonds) to fund highway improvement projects, prescribe the conditions for the submission of the applications, and authorize the solicitation of applications for loans to be funded from Proposition 12 Bond proceeds (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by Finance Division Director Brian Ragland.

112441
FIN

Transportation Code, Chapter 222, Subchapter D establishes the state infrastructure bank (SIB) and authorizes the Texas Transportation Commission (commission) to provide financial assistance from money in the SIB for qualified projects.

The Texas Constitution, Article 3, Section 49-p and Transportation Code, §222.004 authorize the commission to issue general obligation bonds for the purpose of paying all or part of the cost of highway improvement projects, and the General Appropriations Act, as amended by House Bill 1, 81st Legislature, First Called Session, 2009, appropriated \$1 billion of proceeds of the general obligation bonds to be used to capitalize the SIB for the purpose of making loans to public entities.

On September 30, 2010, the commission adopted revised rules, codified as Title 43 Texas Administrative Code, Chapter 6 (rules), that prescribe the procedures and conditions by which an eligible entity may apply for and obtain financial assistance from the SIB,

including loans to public entities of the proceeds of general obligation bonds issued under Texas Constitution, Article 3, Section 49-p and Transportation Code, §222.004.

The capitalization of the bank with general obligation bond proceeds required revisions to the rules governing financial assistance from the SIB because the purposes for which the proceeds of the general obligation bonds can be used is limited, the size of loans from the proceeds is contemplated to be substantially larger than those made from existing sources, and proceeds from the repayment of loans are expected to be used to secure revenue bonds, the proceeds of which can be used to make additional loans.

Section 6.24 of the rules provides that the commission will specify the periods during which the Texas Department of Transportation (department) will accept applications for loans to be funded from general obligation bond proceeds and, for each specific period, prescribe conditions for submission of the applications. The use of a program call for applications is needed to ensure that qualified applicants have an equal opportunity to have their application considered by the commission in an orderly fashion, rather than on a first-come, first-served basis that is appropriate for the smaller loans made from sources other than general obligation bond proceeds.

Pursuant to §6.24 of the rules, the department will publish a notice in the Texas Register soliciting applications for loans to be funded from general obligation bond proceeds, and specifying that the notice shall contain: the period for accepting applications, the estimated available amount of funds in the bank that can be allocated to applications submitted under the notice, the conditions for the submission of applications, and any other information the commission or the department considers appropriate.

After evaluation of properly submitted applications, the department will submit the applications, together with its findings and recommendations, to the commission which may, after consideration of the criteria set forth in §6.33 of the rules and the conditions established in this minute order, grant approval of an eligible project for financing.

IT IS THEREFORE ORDERED that the department, subject to satisfaction of all applicable conditions and approvals, is authorized to solicit applications for loans to be funded from general obligation bond proceeds, and that such applications will only be accepted if the applications are in compliance with the following conditions:

- (1) applications may only be submitted by public entities;
- (2) applications may only be submitted for highway improvement projects;
- (3) the estimated total amount of funds available to be allocated among applications submitted under the notice will be \$1 billion; and
- (4) the deadline for submitting applications will be 60 days after publication of notice in the Texas Register soliciting applications in accordance with this minute order.

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.

b. Preliminary Approval

Smith County – North East Texas Regional Mobility Authority (NETRMA)- Consider granting preliminary approval of an application from the NETRMA to borrow \$39.2 million from the SIB to pay for construction of Segment 3B of Toll 49 (MO)

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by Finance Division Director Brian Ragland. The commission heard comments from NETRMA Vice Chair Linda Thomas.

112442
FIN

The North East Texas Regional Mobility Authority (RMA) submitted an application for financial assistance from the State Infrastructure Bank (SIB) under Title 43 Texas Administrative Code, Chapter 6 (rules). The application satisfied all requirements of the rules, including passage by the RMA of a resolution authorizing submission of the application to the Texas Department of Transportation (department). The RMA intends to use the financial assistance to pay for construction of Segment 3B of Toll 49 (project).

The intended use of the financial assistance conforms to the purposes of the SIB. The present and projected financial condition of the SIB is sufficient to cover the requested 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 RMA has offered a subordinate pledge of toll revenues as security to assure likely repayment of the financial assistance; 2) the project is consistent with the Statewide Transportation Plan; 3) the project is listed 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 state transportation systems; and 5) the repayment of the financial assistance under negotiated terms will expand the availability of funding for other transportation projects and reduce direct state costs.

NOW, THEREFORE, IT IS DETERMINED that the application for SIB financial assistance submitted by the North East Texas Regional Mobility Authority meets the requirements of commission rules, and in accordance with those rules and applicable law, the commission grants preliminary approval of the application to borrow up to \$39.2 million from the State Infrastructure Bank, and directs the executive director to commence negotiations and other actions authorized and required by its rules.

ITEM 13. Regional Mobility Authorities

a. **Travis County** – Consider granting final approval of a request for financing from the Central Texas Regional Mobility Authority to pay for certain costs relating to the development of the following projects: Loop 1 Managed Lanes Project (from north of Parmer Lane to south of Lady Bird Lake), Manor Expressway (290 East) - Segments 1A, 2 & 3 (from east of US 183 to east of State Highway 130), 183 South Toll Project (from Springdale Road to Patton Avenue), 290 West/71 West Toll Project, a project to improve 290 West (from Joe Tanner Lane to Circle Drive) and 71 West (from US 290 West to Silvermine Drive), and 45 Southwest Toll Project (from Loop 1 South to FM 1626) (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by Finance Division Director Brian Ragland.

112443
FIN

The Texas Department of Transportation (department) and the Central Texas Regional Mobility Authority (CTRMA) developed a “CTRMA/TxDOT Regional Implementation Program” that provides for the funding and development of certain transportation system improvements within the jurisdictional limits of the CTRMA.

On October 8, 2007, the Capital Area Metropolitan Planning Organization (CAMPO) Transportation Policy Board approved amendments to CAMPO’s 2030 Transportation Plan (Plan) and the FY 2008-FY 2011 Transportation Improvement Program (TIP), amending previous authorizations for the development of certain highway projects of the department that are located within the boundaries of CAMPO as toll projects.

These projects are included in Travis and Hays counties: (1) Loop 1 Managed Lanes Project, from north of Parmer Lane to south of Lady Bird Lake (Loop 1 Project), (2) the Manor Expressway (290 East) - Segments 1A, 2 & 3, from east of US 183 to east of State Highway 130, (3) the 183 South Toll Project, from Springdale Road to Patton Avenue (183 South Project), (4) the 290 West/71 West Toll Project, a project to improve 290 West from Joe Tanner Lane to Circle Drive and 71 West from US 290 West to Silvermine Drive (290 West/71 West Project), and (5) the 45 Southwest Toll Project, from Loop 1 South to FM 1626 (45 Southwest Project). The projects are located within the boundaries of the CTRMA, and are subject to the market valuation and primacy requirements of Transportation Code, §228.0111.

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

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

In accordance with Sections 27.53 and 27.54(a) of the toll equity rules, the commission, in Minute Order 112347, dated July 29, 2010, granted preliminary approval of financial assistance in the amount of \$27 million to pay for certain costs relating to the development of the Loop 1 Project (approximately \$5.4 million), Manor Expressway (approximately \$2.2 million), 183 South Project (approximately \$4.4 million), 290 West/71 West Project (approximately \$7.6 million), and 45 Southwest Project (approximately \$7.4 million). The financial assistance consists of \$13.6 million in funding, and in-kind services associated with the environmental clearance of the projects with an estimated cost of \$13.4 million that will be performed and funded by the department.

The CTRMA has indicated the financial assistance will be used for development costs associated with the proposed projects. Specific uses will include, but are not limited to, preparation of environmental documents, traffic and revenue estimates, preliminary engineering studies, general engineering support, procurement support, legal support, railroad coordination, and department coordination. None of the requested funds will be used for construction.

In accordance with Section 27.54 of the toll equity rules, negotiations have been conducted and a financial assistance agreement that complies with Section 27.55 of those rules has been developed.

The CTRMA has committed that the projects will comply with all applicable environmental laws, and has committed that the CTRMA will assume all liability and responsibility for identifying and securing all federal and state environmental permits, issues, and approvals necessary for the development of the projects.

The completion of the projects will benefit the state and the traveling public and improve the efficiency of the state's transportation system by enhancing local and regional mobility, decreasing congestion, increasing safety, increasing economic development opportunities, decreasing travel time, decreasing air pollution, providing reliable travel speeds for users and improved access for emergency response, and enhancing operational efficiency and quality of life in the project corridors and the regional transportation system. The projects are consistent with the approved Texas Transportation Plan and the Metropolitan Transportation Plan of the Capital Area Metropolitan Planning Organization.

The CTRMA has indicated that they will fund a portion of the costs of developing the projects through revenue bond sales and loans. Along with the requested financial assistance, the projects have the potential to expand the availability of funding for transportation projects or reduce direct state costs. The financial assistance will enhance the ability of the projects to go forward as toll facilities, improving the efficiency of the state transportation system. Without the financial assistance, the timeline to complete the projects and realize the benefits described above could be indefinitely delayed.

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

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the Central Texas Regional Mobility Authority meets the applicable requirements of 43 TAC §27.53 and §27.54 and, in accordance with those provisions, the commission grants final approval of the request for financing in the amount of \$27 million, in the form of equity, consisting of \$13.6 million in funding, and in-kind services associated with the environmental clearance of the projects with an estimated cost of \$13.4 million that will be performed and funded by the department, to be used for the purposes described herein, and authorizes the executive director to enter into a financial assistance agreement with the Central Texas Regional Mobility Authority.

b. Travis County – Consider granting final approval of a request for financing from the Central Texas Regional Mobility Authority to pay for certain costs relating to the construction of Segments 1A, 2, and 3 of the Manor Expressway (290 East), a 6.2-mile toll project located in Travis County along the existing US 290 facility from east of US 183 to east of State Highway 130, to include the costs of utility relocation and right-of-way acquisition (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by Finance Division Director Brian Ragland.

112444
FIN

The Texas Department of Transportation (department) and the Central Texas Regional Mobility Authority (CTRMA) developed a CTRMA/TxDOT Regional Implementation Program that provides for the funding and development of certain transportation system improvements within the jurisdictional limits of the CTRMA.

On October 8, 2007, the Capital Area Metropolitan Planning Organization (CAMPO) Transportation Policy Board approved amendments to CAMPO's 2030 Transportation Plan (Plan) and the FY 2008-FY 2011 Transportation Improvement Program (TIP), amending previous authorizations for the development of certain highway projects of the department that are located within the boundaries of CAMPO as toll projects, including the Manor Expressway, a 6.2-mile toll project to improve US 290 from US 183 to east of SH 130 (Manor Expressway). On May 24, 2010, CAMPO approved the 2035 Transportation Plan. The Manor Expressway is included in this plan.

Pursuant to Transportation Code, §228.0111, the CTRMA has exercised its option to develop, construct, and operate the Manor Expressway, including the cost of utility relocations and ROW acquisition. The existing US 290 would be reconstructed and expanded to provide, on the highway and adjacent facilities, an equivalent or greater number of nontolled lanes than currently exist. The nontolled portion of the project would remain on the state highway system as US 290.

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

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

In accordance with Sections 27.53 and 27.54(a) of the toll equity rules, the commission, in Minute Order 112348, dated July 29, 2010, granted preliminary approval of financing in the amount of \$126.7 million to pay for the costs of constructing Segments 1A, 2, and 3 of the Manor Expressway, from east of US 183 to east of SH 130, including the costs of right-of-way acquisition and utility relocation.

In accordance with Section 27.54 of the toll equity rules, negotiations have been conducted and a financial assistance agreement that complies with Section 27.55 of those rules has been developed.

Environmental clearance was obtained for the project on March 9, 2009. The CTRMA has committed that the project will comply with all applicable environmental laws, and has committed that the CTRMA will assume responsibility for identifying and securing

all federal and state environmental permits, issues, and approvals necessary for the development of the project.

The completion of the project will benefit the state and the traveling public and improve the efficiency of the state's transportation system by enhancing local and regional mobility, decreasing congestion, increasing safety, increasing economic development opportunities, decreasing travel time, decreasing air pollution, and enhancing operational efficiency and quality of life in the project corridor and the regional transportation system.

The project is consistent with the approved Texas Transportation Plan and the Metropolitan Transportation Plan of the Capital Area Metropolitan Planning Organization.

The CTRMA has indicated that they will fund a portion of the costs of developing the proposed project through revenue bond sales and loans, based on an investment grade traffic and revenue report for the project obtained by the CTRMA. Along with the requested financial assistance, the project has the potential to expand the availability of funding for transportation projects or reduce direct state costs. The financial assistance will enhance the ability of the project to go forward as a toll facility, improving the efficiency of the state transportation system. Without the financial assistance, the timeline to complete the project and realize the benefits described above could be indefinitely delayed.

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

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the Central Texas Regional Mobility Authority meets the applicable requirements of 43 TAC §27.53 and §27.54 and, in accordance with those provisions, the commission grants final approval of the request for financing in the amount of \$126.7 million, in the form of equity, to be used for the purposes described herein, and authorizes the executive director to enter into a financial assistance agreement with the Central Texas Regional Mobility Authority.

ITEM 14. Unified Transportation Program (UTP)

Approve adjustments to the FY 2011 Obligation Limit funding levels in the UTP (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). The item was recommended by staff and presented by Finance Division Director Brian Ragland.

112445
FIN

The 2010 UNIFIED TRANSPORTATION PROGRAM (UTP) of the Texas Department of Transportation (department) is an 11-year plan that authorizes project planning and development, and is submitted to the Texas Transportation Commission (commission) for approval.

The 2010 UTP was approved by the commission on April 29, 2010 in Minute Order 112237.

Previous Minute Orders 112306, 112350, 112351, 112352 and 112400 modified funding levels in the 2010 UTP.

To account for FY 2010 April through August change orders, final project close outs, and the actual July and August 2010 lettings, it is necessary to adjust the FY 2011 obligation limit funding levels as shown in Exhibit A.

To more effectively manage funds within the specific funding categories and districts while maintaining financial constraint, it is necessary for the executive director or his designee to approve and manage transfers between funding categories and districts in FY 2011 as necessary to optimize lettings. These transfers will be reconciled and a summary report provided to the commission at a later date.

IT IS THEREFORE ORDERED by the commission that the adjusted funding levels set forth in Exhibit A are approved.

IT IS FURTHER ORDERED that the executive director, or his designee, is authorized to

approve and manage transfers between districts and funding categories in FY 2011 as necessary and within the financial constraints of the cash forecast and the UTP. The transfers will be reconciled and a summary report provided to the commission at a later date.

IT IS FURTHER ORDERED that all applicable transfers between funding categories and districts be reversed or paid back at the earliest opportunity as agreed upon by both the lending and borrowing districts.

NOTE: Exhibit A is on file with the Minute Order Clerk.

ITEM 15. OBLIGATION LIMIT REPORT

Status report on the FY 2011 Obligation Limit, the actual obligations utilized through the current month, proposed remaining highway maintenance and construction contract letting for the fiscal year; an update on motor fuel tax receipts.

This item was presented by Finance Division Director Brian Ragland.

ITEM 16. CONTRACTS

a. Award or Reject Highway Improvement Contracts

(1) Highway Maintenance and Department Building Construction (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). This item was recommended by staff and presented by Construction Division Director Russel Lenz.

112446
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 September 8 and 9, 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 is on file with the minute order clerk.

(2) Highway and Transportation Enhancement Building Construction (MO)

Commissioner Meadows made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). This item was recommended by staff and presented by Construction Division Director Russel Lenz. The commission heard comments from Vice President of Satterfield and Pontikes Construction Company Brad Shearer.

112447
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 September 8 and 9, 2010 as well as the La Salle County, Job Number 3106, Laredo District deferred contract from the August 26, 2010 Commission meeting.

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 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 is on file with the minute order clerk.

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

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). This item was recommended by staff and presented by the General Service Division's Glenn Hagler.

112448
GSD

The Historically Underutilized Business (HUB) Program was developed by the Texas Department of Transportation (department), under authority of Transportation Code, §201.702, and intended to be consistent where practicable with both Government Code, Chapter 2161, and the department's Disadvantaged Business Enterprise and Small Business Enterprise programs.

Title 43, Texas Administrative Code, §9.54, requires the Texas Transportation Commission to establish annual goals for HUB participation in state- and locally-funded contracts (other than highway construction and maintenance contracts). The goals are set based on a percentage of the total costs of these contracts, the most current state disparity study described in Government Code §2162.002(c), and availability of HUBs. Accordingly, the current annual goals are as follows: 26.1 percent for building construction contracts;

57.2 percent for special trade contracts; 20 percent for professional services contracts; 33 percent for other service contracts and 12.6 percent for commodity purchases.

IT IS THEREFORE ORDERED that the HUB goals stated in this order are effective for Fiscal Year 2011.

c. Establish statewide annual participation goals for the Small Business Enterprise (SBE) Program (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Commissioner Houghton absent). This item was recommended by staff and presented by Interim Director of the Civil Rights Office George Ebert.

112449
OCR

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

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

To determine the availability of SBEs, the department compared the relative availability of small businesses certified as SBEs against the availability of all contractors. This comparison indicated that SBEs comprise 7.0 percent of all contractors. An assessment of last year's prime and sub contracts indicates that SBEs attained 3.5 percent participation. To further encourage the development of small businesses, the department adjusted the attainability of SBEs for an SBE goal of 4.5 percent which is an average of these two numbers. The methodology is attached as Exhibit A.

IT IS THEREFORE ORDERED that the SBE goal of 4.5 percent is effective for FY 2011.

ITEM 17. SUNSET COMMISSION REPORT

Staff will deliver a report on the implementation of the 2008 Sunset Commission staff recommendations.

This report was presented by Deputy Executive Director Steve Simmons.

ITEM 18. ROUTINE MINUTE ORDERS

Commissioner Holmes made a motion, which was seconded, and the commission approved the following routine minute orders by a 4-0 vote (Commissioner Houghton absent). These items were recommended by staff and presented by Executive Director Amadeo Saenz.

a. Donations to the Department

(1) **Bridge Division** – Acknowledge a donation from the Precast/Prestressed Concrete Institute (PCI) for a department employee’s travel expenses to attend PCI’s 2010 Committee Days and Membership Conference in Chicago, Illinois, September 22 – 26, 2010. (MO)

112450
GSD

This minute order acknowledges a donation of approximately \$1,040.90 from the Precast/Pre-stressed Concrete Institute (PCI) to the Texas Department of Transportation (department) for a department employee’s travel expenses to attend PCI’s 2010 Committee Days and Membership Conference in Chicago, Illinois, September 22 – 26, 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 \$1,040.90 from PCI 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) Travel Information Division – Consider a donation from the Texas Travel Industry Association to provide food, beverage, lodging, admission and transportation to area attractions, solicited from various sponsors, to the department during a study tour to educate the department's travel counselors on the East Texas region from October 17 – 22, 2010 (MO)

112451
GSD

This minute order considers a donation of an estimated \$25,000 from the Texas Travel Industry Association (TTIA) to the Texas Department of Transportation (department) to provide food, beverage, lodging, and admission and transportation to area attractions, from various sponsors, for department employee travel counselors to attend the TTIA Study Tour of the East Texas Region from October 17 – 22, 2010.

The department has determined that acceptance of the donation is in the best interest and welfare of the traveling public and provides 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.

IT IS THEREFORE ORDERED by the commission that the donation of an estimated \$25,000 by the Texas Travel Industry Association 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.

b. Eminent Domain Proceedings

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

112452
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:

NONCONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Dallas	SH 78	10	0009-02-056	1
Denton	FM 2181	11	2054-02-018	143
Denton	FM 2181	9	2054-02-018	10
Denton	FM 2181	12	2054-02-018	144
Denton	FM 2181	6	2054-02-018	147
Denton	FM 2181	5	2054-02-018	145
Denton	FM 2181	4	2054-02-018	142
Denton	FM 2181	3	2054-02-018	137
Denton	FM 2181	2	2054-02-018	136
Denton	FM 2181	8	2054-02-018	68
Ellis	US 287	7	0172-08-054	27
Rockwall	FM 740	1	1014-03-047	57E

CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Angelina	SL 287	C	2553-01-102	7, 7AC
Bell	IH 35	Q	0015-06-082	83
Bell	IH 35	B	0015-06-082	26, 26E
Bell	IH 35	R	0015-06-082	10
Bell	IH 35	O	0015-07-078	1AAQ
Comal	SH 46	L	0215-02-050	10, 10TE
Ellis	US 287	H	0172-08-054	11
Ellis	US 287	G	0172-08-054	8AC
Ellis	US 287	F	0172-08-054	6AC
Ellis	US 287	E	0172-08-054	3, 3AC
Ellis	US 287	D	0172-08-054	1, 1AC
McLennan	IH 35	M	0014-08-082	10
McLennan	IH 35	U	0014-08-082	22
McLennan	IH 35	A	0014-08-082	33AC
McLennan	IH 35	P	0014-08-082	3

McLennan	IH 35	T	0014-08-082	32
McLennan	IH 35	S	0015-01-219	54
Tarrant	IH 820	N	0008-14-093	178
Tarrant	SH 114	K	0353-03-088	2A
Tarrant	SH 114	W	0353-03-088	2B
Tarrant	SH 114	V	0353-03-088	2C
Tarrant	SH 121	J	0364-01-132	48
Tarrant	SH 121	I	0364-01-132	42

c. Highway Designations

Deaf Smith and Oldham Counties – Correct the designation of Business I-40A by adding Oldham County to the description of the roadway (MO)

112453
TPP

Business Interstate 40-A (BI-40A) begins at the Texas/New Mexico state line near Glenrio and runs through Deaf Smith County into OLDHAM COUNTY, as shown in Exhibit A. Minute Order 90522, dated June, 21, 1990, describes BI-40A as being located in Deaf Smith County only. This minute order corrects the designation of BI-40A by adding Oldham County to the description of the roadway.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended correcting the designation of BI-40A to include both Deaf Smith and Oldham Counties.

The Texas Transportation Commission (commission) finds that it is necessary to correct the designation of BI-40A.

IT IS THEREFORE ORDERED by the commission that the designation of BI-40A be corrected to include both Deaf Smith and Oldham Counties.

Note Exhibit A is on file with the Minute Order Clerk.

d. Load Zones & Postings

Nolan, Ochiltree and Denton Counties – Revise load restrictions on various bridges on the state highway system (MO)

112454
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 Exhibits A and B 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: exhibits A & B are on file with the minute order clerk.

e. Right of Way Dispositions and Donations

(1) Bell County – FM 436 in Belton – Consider the sale of a surplus area office site to the city of Belton (MO)

112455
ROW

In the city of Belton, BELL COUNTY, on FARM TO MARKET ROAD 436, the State of Texas acquired certain land for a maintenance and area engineer office site by instruments recorded in Volume 752, Page 624, and Volume 2448, Page 704, Deed Records of Bell County, Texas.

The land and the improvements (surplus land), described in Exhibit A, are 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 real property which is no longer needed for a state highway purpose.

The city of Belton has requested that the state sell the surplus land for \$294,000.

The commission finds \$294,000 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to the City of Belton, Texas, for \$294,000; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A is on file with the minute order clerk.

(2) El Paso County – SS 601 from US 54 (Patriot Freeway) to State Loop 375 (Purple Heart Freeway) – Consider the acceptance of a donation of land for a highway improvement project (MO)

112456
ROW

In EL PASO COUNTY, on STATE SPUR 601 from US 54 (Patriot Freeway) to SL 375 (Purple Heart Freeway), the Texas Department of Transportation (department) is acquiring the right of way for a highway improvement project.

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

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

The City of El Paso, Texas (owner) is the owner of the property described in Exhibit A. The owner wants to donate this property, estimated at \$2,998,770, to the department for construction of a highway improvement project.

The owner may be subject to department regulations or oversight, but is not currently party to a contested case before the department. The owner may also be interested in or likely to become interested in a contract, purchase, payment, or claim with or against the department.

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

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

Note: Exhibit A is on file with the minute order clerk.

(3) Hidalgo County – US 83 at Bridge Avenue in Weslaco – Consider the sale of surplus drainage easements (MO)

112457
ROW

In the city of Weslaco, HIDALGO COUNTY, on US 83, the State of Texas acquired an easement interest in certain land needed for highway purposes by instrument recorded in Volume 1055, Page 45, Deed Records of Hidalgo County, Texas.

The easements (surplus easements), described in Exhibit A, are 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 easements.

SDI Weslaco Holdings, LLC, a Texas limited liability company, is the underlying fee owner and has requested that the surplus easements be sold to the company for \$50,965.

The commission finds \$50,965 to be a fair and reasonable value for the state's rights and interest in the surplus easements.

NOW, THEREFORE, the commission finds that the surplus easements are no longer needed for a state highway purpose and recommends, subject to approval of the attorney general, that the Governor of Texas execute a proper instrument releasing the state's rights and interest in the surplus easements to SDI Weslaco Holdings, LLC, a Texas limited liability company, for \$50,965.

Note: Exhibit A is on file with the minute order clerk.

(4) Hunt County – SH 66 east of Rockwall County line – Consider the sale of a surplus right of way to the abutting landowners (MO)

112458
ROW

In HUNT COUNTY, on STATE HIGHWAY 66, the State of Texas acquired certain land for highway purposes by instruments recorded in Volume 415, Page 258, and Volume 415, Page 261, Deed Records of Hunt 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 to the abutting landowners.

Bobby J. Crowell and Henry M. Crowell are the abutting landowners and have requested that the surplus land be sold to them for \$2,200.

The commission finds \$2,200 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value of the surplus land is less than \$10,000 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 Bobby J. Crowell and Henry M. Crowell, for \$2,200; **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 is on file with the minute order clerk.

(5) Lubbock County – State Spur 313 at Milwaukee Avenue in Lubbock – Consider the sale of surplus right of way to the city of Lubbock (MO)

112459
ROW

In the city of Lubbock, LUBBOCK COUNTY, on STATE SPUR 313, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 6125, Page 168, Real Property Records of Lubbock County, Texas.

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

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

The city of Lubbock has requested that the surplus land be sold to the city for \$66,385.

The commission finds \$66,385 to be a fair and reasonable value of the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a department purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to the City of Lubbock, Texas, for \$66,385;

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 is on file with the Minute Order Clerk.

(6) Nolan County – Business Interstate 20, old alignment, west side of Sweetwater – Consider the quitclaim of surplus right of way to which there is no record title (MO)

112460
ROW

In the city of Sweetwater, NOLAN COUNTY, on BUSINESS INTERSTATE 20, the State of Texas used certain land to which there is no record title in the name of the state, county or city.

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 quitclaim of property to which there is no record title to abutting property owners at the request of the county or municipality.

Snyder Iron & Metal, LLC, is the abutting landowner and has requested that the surplus land be quitclaimed to the company.

The city has requested that the surplus land be quitclaimed to the abutting landowner.

It is the opinion of the commission that it is proper and correct that the state quitclaim its rights and interest in the surplus land to the abutting landowner.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument quitclaiming all of the state's rights and interest in the surplus land to Snyder Iron & Metal, LLC.

Note: Exhibit A is on file with the minute order clerk.

(7) Nueces County – SH 361 east of Aransas Pass – Consider the transfer of surplus right of way to Nueces County (MO)

112461
ROW

In NUECES COUNTY, on STATE HIGHWAY 361, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 804, Page 569, Deed Records of Nueces 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 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 \$77,300, and the cost of future maintenance over the next 20 years is estimated to be \$140,000.

Nueces County has requested that the surplus land be transferred to the county in consideration of the savings to the state of future maintenance costs, since the future maintenance costs exceed the value of the surplus land.

The commission finds \$77,300 to be a fair and reasonable value of the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument transferring the state's rights, title and interest in the surplus state land to Nueces County, 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: Exhibit A is on file with the minute order clerk.

(8) Victoria County – US 77 at Brady Road – Consider the sale of surplus right of way to the abutting landowners (MO)

112462
ROW

In VICTORIA COUNTY, on US 77, the State of Texas acquired certain land needed for highway purposes by instruments recorded as Instrument Nos. 200109729 and 200813666, Official Records of Victoria 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 to the abutting landowner.

Lydia R. Ybarra and husband, Jose Luis Ybarra, are the abutting landowners and have requested that the surplus land be sold to them for \$600.

The commission finds \$600 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 Lydia R. Ybarra and husband, Jose Luis Ybarra, for \$600; 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 is on file with the minute order clerk.

f. Release of Access Rights

Baylor County – US 277 in Seymour- Consider designating permitted access along the US 277 southbound frontage road for an intersecting City of Seymour public street. (MO)

112463
ROW

In BAYLOR COUNTY, on US 277, a designated controlled-access highway, the State of Texas controls the access to or from such facility. The City of Seymour (city) proposes extending Kenning Street, an existing public street, to intersect the US 277 frontage road. The proposed access point is planned at approximately 1,965 feet north of the intersection of FM 422 and the US 277 frontage road.

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

Transportation Code, §203.002 authorizes the commission to layout, construct, maintain, and operate a modern state highway system, with an emphasis on the construction of controlled-access highways. Transportation Code, §203.031 authorizes the commission to designate locations on a controlled-access highway at which access to or from the highway is permitted and determine the type and extent of access permitted at each location.

It is the opinion of the commission that the designation of this access point as a location where access is permitted for a local public street will enhance mobility, safety and operation of the state highway facility along this segment of US 277, as well as improve traffic circulation on the local street network.

IT IS THEREFORE ORDERED by the commission that the proposed location of the new access point for the city street is necessary for the mobility, safety and operation of the US 277 highway facility and that it is designated as a public roadway access point where ingress and egress is permitted to and from the US 277 frontage road.

g. Speed Zones

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

112464
TRF

Transportation Code, §545.352 establishes prima facie reasonable and prudent speed limits for various categories of public roads, streets and highways.

Transportation Code, §545.353 empowers the Texas Transportation Commission (commission) to alter those prima facie limits on any part of the state highway system as determined from the results of an engineering and traffic investigation conducted according to the procedures adopted by the commission.

The Texas Department of Transportation (department) has conducted the prescribed engineering and traffic investigations to determine reasonable and safe prima facie maximum speed limits for those segments of the state highway system shown in Exhibits A and B.

Exhibit A lists construction speed zones in effect when signs are displayed within construction projects. The completion and/or acceptance of each project shall cancel the

provision of this minute order applying to said project and any remaining construction speed zone signs shall be removed.

Exhibit B lists speed zones for sections of highways where engineering and traffic investigations justify the need to alter the speeds.

It has also been determined that the speed limit on various segments of the state highway system, previously established by the commission by minute order and listed in Exhibit C, is no longer necessary or has been incorporated by the city which has the authority to set the speed limit on this section of the highway.

IT IS THEREFORE ORDERED by the commission that the reasonable and safe prima facie maximum speed limits determined in accordance with the department's "Procedures for Establishing Speed Zones" and shown on the attached Exhibits A and B are declared as tabulated in those exhibits. The executive director is directed to implement this order for control and enforcement purposes by the erection of appropriate signs showing the prima facie maximum speed limits.

IT IS FURTHER ORDERED that a provision of any prior order by the commission which is in conflict with a provision of this order is superseded to the extent of that conflict, and that the portion of the minute order establishing the speed zones shown on the attached Exhibit C are canceled.

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

ITEM 24. Executive Session Pursuant to Government Code, Chapter 551, Section 551.071 – Consultation with and advice from legal counsel regarding any item on this agenda

There was no Executive Session.

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.

The commission heard comments from Steven Highlander, Commissioner of the Texas Historical Commission; and, H.F. Van Der Grinten with the Houston Coalition Against Red Light Cameras.

The public meeting adjourned at 11:01 a.m.

APPROVED:

Deirdre Delisi, Chair
Texas Transportation Commission

xxx

I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on September 30, 2010, in Austin, Texas.

Roger Polson,
Interim Chief Minute Order Clerk
Texas Department of Transportation