

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on June 30, 2011, in Austin, Texas. The meeting was called to order by Chair Delisi. The meeting opened at 9:07 a.m. with the following commissioners present:

Texas Transportation Commission:

Deirdre Delisi	Chair
Ted Houghton	Commissioner
Ned Holmes	Commissioner
Fred Underwood	Commissioner
Bill Meadows	Commissioner

Administrative Staff:

Amadeo Saenz, Executive Director
 Bob Jackson, General Counsel
 Roger Polson, Executive Assistant to the Deputy Executive Director
 JoLynne Williams, Chief Minute Order Clerk

Registration sheets listing others in attendance are on file with the Texas Department of Transportation Chief Minute Order 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 2:26 p.m. on June 22, 2011, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

ITEM 1. Approval of Minutes of the May 26 meeting of the Texas Transportation Commission

Commissioner Underwood made a motion, which was seconded, and the commission approved the minutes of the May 26, 2011, regular meeting, by a 5-0 vote.

ITEM 2. Reports/Discussion Items

a. Update on TxDOT's modernization project

This item was presented by Assistant Executive Director for Engineering Operations John Barton. Comments were also received from Scott Kaepfel, president of Kaepfel Consulting.

b. Update on recently enacted legislation that affects the operation of the department

This item was presented by Government and Public Affairs Division Director Coby Chase.

c. Discussion of options for the establishment of eligibility, prioritization, and selection criteria for highway improvement projects to be funded using the proceeds from bonds, notes, and other public securities issued under Transportation Code, Section 222.004, known as Proposition 12 bonds, as well as undistributed funds from the State Highway Fund (Fund 6)

This item was presented by Assistant Executive Director for Engineering Operations John Barton.

d. Discuss the department's approach in responding to a rescission of unobligated federal-aid highway funds apportioned to Texas

This item was presented by Chief Financial Officer James Bass.

ITEM 3. Aviation

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

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Aviation Flight Services Section Director Jay Joseph. Comments were also received from McKinney Airport Development Corporation Executive Director and Manager of the Collin County Regional Airport Ken Wiegand.

112706
AVN

The Texas Department of Transportation (department) is authorized under the Federal Aviation Development Act to award federal 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 grant funds for the improvements.

On Thursday, May 19, 2011, 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 the projects described in Exhibit A at an estimated cost of \$18.7 million.

Note: Exhibit A on file with minute order clerk.

b. Appoint a member to the Aviation Advisory Committee (MO)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Aviation Flight Services Section Director Jay Joseph.

112707
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, aircraft facilities manager or 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 term of one member was to expire on August 31, 2012; however, that member has resigned from the committee as of April 23, 2011, making it necessary for the commission to appoint a new member for a term to expire on August 31, 2012.

The commission has determined that the individual listed below fulfills the statutory requirements to serve as a member of the committee:

John White San Antonio, Texas

IT IS THEREFORE ORDERED by the commission that the individual identified above is hereby appointed as a member of the Aviation Advisory Committee, with a term beginning July 1, 2011, and expiring on August 31, 2012.

4. Public Transportation

a. Award state funds to public transportation providers for FY 2012 as appropriated by the 82nd Texas Legislature (MO)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute orders by a vote of 5 – 0. These items were presented by Public Transportation Division Director Eric Gleason. Comments were also received from Texas Transportation Association Executive Director Vastene Olier.

112708
PTN

The General Appropriations Act enacted by the 82nd Texas Legislature, Regular Session, appropriated \$60,682,735 for public transportation grants for small urban and nonurbanized areas of the state.

The Texas Transportation Commission (commission) desires to award \$28,741,068 for FY 2012.

Title 43, Texas Administrative Code, §31.11 establishes a formula by which public transportation funds shall be distributed to the small urban and nonurbanized areas of the

state. The FY 2012 awards are shown in Exhibit A and have been calculated in accordance with the provisions of §31.11.

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

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

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the awards as described in Exhibit A, and to enter into the necessary contracts for the FY 2012 program of projects upon completion of all application requirements by the local public transportation operators.

Note: Exhibit A on file with minute order clerk.

b. Various Counties – Award federal §5304, §5311, §5311(f), §5316, §5317, Rural Transit Assistance Program funds for the FY 2011 coordinated call for projects, and award transportation development credits (MO)

112709
PTN

The Texas Transportation Commission (commission) takes special note of its designation by the governor in a letter dated October 4, 2005, as the administering agency for the Federal Transit Administration (FTA) grant programs and further acknowledges that federal program regulations require the Texas Department of Transportation (department) to ensure that these grant funds are distributed fairly and equitably within the state.

Title 43, Texas Administrative Code, Sections §31.17, §31.18, §31.22, §31.36, and §31.37 establishes the process by which program proposals shall be evaluated and funds distributed. On August 6, 2010, the department published a Notice of Request for Proposal for projects in the *Texas Register*. Project criteria included project planning and coordination; demonstration of need; benefits of the project; and project management.

Title 43, Texas Administrative Code, §5.73 establishes the process for which Transportation Development Credits (TDC) may be awarded at the discretion of the commission. The commission finds that TDC investments in:

- Transit vehicles will improve air quality by replacing older vehicles with newer models which meet current emission standards; and increase the value of the transportation assets by investing into the replacement of depreciated rolling stock;
- Facilities increase the value of the transportation assets by improving or adding system infrastructure and capacity designed to provide transit services to the citizens of Texas;
- Information technology increases the value of the transportation assets by investing in new technology which complies with federal standards and provides better record keeping for reporting to various state and federal agencies; and
- Preventive maintenance improves air quality by regularly maintaining vehicles at manufacturer-scheduled intervals and increasing the value of the transportation assets by preserving the condition of existing fleet.

The commission finds that the projects in Exhibit A are eligible for funding and awards a total of \$14,929,327 in federal program funds and 1,079,517 in TDC.

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

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the awards as described in Exhibit A, submit the necessary state application to the FTA and enter into the necessary contracts.

Note: Exhibit A on file with minute order clerk.

c. Various Counties – Award federal §5310 funds, Special Needs of Elderly Individuals and Individuals with Disabilities Program, and award transportation development credits for FY 2011 (MO)

112710
PTN

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

The commission passed Minute Order 112594, on February 24, 2011, awarding the available portion of the FY 2011 federal §5310 program funds in accordance with the five-month continuing resolution of SAFETEA-LU passed by the United States Congress.

The United States Congress has now passed a continuing resolution of SAFETEA-LU through September 30, 2011, and the FTA has announced the total available funds for FY 2011 §5310 federal apportionment for Texas. The balance of the FY 2011 §5310 federal apportionment for Texas, including deobligated funds from previous awards, is awarded under this minute order.

Awards to transit operators are calculated in accordance with the formula in Title 43, Texas Administrative Code, §31.31. Projects are selected at the district office level following a consultation process with all local parties, including any existing Metropolitan Planning Organizations, and a local planning, and development process. Projects also meet the requirements of inclusion in a coordinated transportation plan as required (49 U.S.C. §5310) and administered through the provisions of Transportation Code, Chapter 461. Project recipients recommended for award are described in Exhibit A which includes funding for transit vehicles, information technology, preventive maintenance, purchase of service and equipment.

Title 43, Texas Administrative Code, §5.73 establishes the process for which Transportation Development Credits (TDC) may be awarded at the discretion of the commission. The commission finds that TDC investments in:

- Transit vehicles will improve air quality by replacing older vehicles with newer models which meet current emission standards; and increase the value of the transportation assets by investing into the replacement of depreciated rolling stock;
- Information technology increase the value of the transportation assets by investing in new technology which complies with federal standards and provides better record keeping for reporting to various state and federal agencies;
- Preventive maintenance improves air quality by regularly maintaining vehicles at manufacturer scheduled intervals and increasing the value of the transportation assets by preserving the condition of existing fleet;
- Purchase of service will provide mobility options for elderly and disabled individuals seeking employment, training, and other essential services thus expanding economic opportunities; and
- Purchase of equipment will increase the value of the transportation assets by replacing worn equipment or purchasing new equipment which will supplement existing rolling stock or other capital inventory.

The commission finds that the projects in Exhibit A are eligible for funding and awards a total of \$4,799,662 in federal Formula Grant funds for Special Needs of Elderly Individuals and Individuals with Disabilities and 434,258 in TDC.

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

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

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the awards as described in Exhibit A, submit the necessary state application to FTA, and enter into the necessary contracts for the FY 2011 program of projects.

Note: Exhibit A on file with minute order clerk.

d. Various Counties – Award federal §5311, Nonurbanized Area Formula Program, funds to rural transit districts for FY 2011 (MO)

112711
PTN

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

Title 43, Texas Administrative Code (TAC), §31.36(g)(4), establishes a formula for calculating awards to rural transit systems based on vehicle revenue miles. The distribution of the awards is shown in Exhibit A.

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

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

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the awards as described in Exhibit A, submit the necessary state application to the FTA and enter into the necessary contracts.

Note: Exhibit A on file with minute order clerk.

e. Galveston County – Award federal §5316, Job Access Reverse Commute, grant program funds to Houston Kiddie Express Transit Service (MO)

112712
PTN

The Texas Transportation Commission (commission) takes special note of its designation by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, Job Access and Reverse Commute Formula Grant Program (JARC) (49 U.S.C. §5316), in a letter dated October 4, 2005; and further acknowledges that federal program regulations require the Texas Department of Transportation (department) to ensure that these grant funds are distributed fairly and equitably within the state.

The commission recognizes the importance of the success of JARC projects and finds that \$100,000 in JARC funds is available for award from another project that was unable to secure adequate local matching funds.

The commission finds that Houston Kiddie Express Transit Service has an eligible project and desires to award \$100,000 in federal funds to provide additional public transportation services.

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

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

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the award as described above, submit the necessary state application to the FTA and enter into the necessary contracts.

f. Various Counties – Award federal §5303 Metropolitan Transportation Planning funds, and award transportation development credits for FY 2012 (MO)

112713
PTN

The Texas Transportation Commission (commission) was designated by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, Metropolitan Planning Program (49 U.S.C. §5303) in a letter dated October 4, 2005, and is required to ensure that these grant funds are distributed and utilized in accordance with guidance from FTA.

Title 43, Texas Administrative Code (TAC), §31.21(c) establishes a formula through which §5303 program funds shall be distributed to the Metropolitan Planning Organizations (MPO) of the state by the Texas Department of Transportation (department). The distribution is shown in Exhibit A and has been calculated in accordance with the provisions of §31.21(c).

Title 43, Texas Administrative Code, §5.73, establishes the process for which Transportation Development Credits (TDC) may be awarded at the discretion of the commission. The commission finds that TDC investments in metropolitan planning will:

- Expand the availability of funding for transportation projects by leveraging the federal funding awards in this minute order thus allowing use of scarce local and state dollars for other prioritized projects; and
- Reduce congestion and improve air quality by coordinated planning of multimodal transportation projects that reduce the need for single occupant vehicle travel.

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

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

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the award of \$6,858,559 in federal §5303 FTA awards and 1,371,712 in TDCs as described in Exhibit A, submit the necessary state application to FTA, and enter into any necessary contracts in accordance with the priorities established in this minute order.

Note: Exhibit A on file with minute order clerk.

g. Various Counties – Approve changes to public transit projects previously approved for funding from Texas' portion of the American Recovery and Reinvestment Act (ARRA) (MO)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Public Transportation Division Director Eric Gleason.

112714
PTN

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 \$1.5 billion for surface transportation grants to be administered by the Secretary of Transportation. Texas' share of the funding for transit is approximately \$372 million.

The Texas Transportation Commission (commission) has been designated by the governor as the administering agency for the Federal Transit Administration (FTA) program under 49 USC §5311, and has the authority to award approximately \$50 million in ARRA nonurbanized (rural) transit funds.

In Minute Order 111716, dated February 26, 2009, the commission approved the funding of approximately \$33 million in public transit projects. In Minute Orders 111778, dated April 30, 2009, and 111920 dated August 27, 2009, the commission approved the funding of additional public transit projects. In Minute Orders 112115, 112341, 112392, 112512, and 112597 dated January 28, 2010, July 29, 2010, August 26, 2010, December 16, 2010, and February 24, 2011 respectively, the commission approved a list of public transit projects with revised funding.

The department has continued to monitor the progress of these projects to ensure that they comply with the criteria identified in the minute orders, the ARRA, and the project selection requirements established by FTA. As a result of these efforts, a proposed list of transit projects has been developed with revised funding, which is set forth in Exhibit A. There is no net change in the total transit funding program. No other previously approved public transit projects are affected. All projects are subject to federal and state laws, including the provisions of the ARRA. No matching funds are required.

IT IS THEREFORE ORDERED by the commission that the projects set forth in Exhibit A are hereby approved for funding under the provision of the ARRA.

IT IS FURTHER ORDERED that the executive director or the director's designee is authorized to proceed with the sub-grant award for the transit agreements for the activities described in Exhibit A, and to enter into any other necessary agreements associated with those projects and activities.

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

Note: Exhibit A on file with minute order clerk.

5. Rail Project

Authorize acceptance of a grant from the federal High-Speed Intercity Passenger Rail Program and use of the Grant for preliminary engineering and NEPA studies concerning high speed rail service between Dallas/Fort Worth and Houston (MO)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Rail Division Director Bill Glavin. Comments were also received from Jack Drake, representing Houston's Greenspoint District and the Transportation Advocacy Group Houston Region.

112715
RRD

On April 4, 2011, the Texas Department of Transportation (department) submitted two applications for passenger rail funding under the Federal Railroad Administration's (FRA) High-Speed Intercity Passenger Rail (HSIPR) grant program. On May 9, 2011, the FRA announced that one of these projects was selected to fund Preliminary Engineering/National Environmental Policy Act (PE/NEPA) studies.

The FRA awarded \$15 million to be used for PE/NEPA studies for high-speed passenger rail service between Dallas-Fort Worth and Houston.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the executive director's designee, is hereby authorized to enter into any necessary agreements to proceed in the most feasible and economic manner to complete the development of PE/NEPA studies for the Dallas-Fort Worth to Houston rail corridor.

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

a. Final Adoption

(1) Chapter 9 - Contract and Grant Management (MO)

Amendments to §9.42, Administrative Qualification (Contracting for Architectural, Engineering, and Surveying Services)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Assistant Executive Director for Engineering Operations John Barton.

112716
DES

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §9.42, Administrative Qualifications, 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 §9.42 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

(2) Chapter 10 - Ethical Conduct by Entities Doing Business with the Department (MO) Amendments to §10.51, Internal Ethics and Compliance Program (Other Entities' Internal Ethics and Compliance Procedures)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by the Office of General Counsel attorney Suzanne Mann.

112717
DED

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §10.51 relating to Internal Ethics and Compliance Program 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 §10.51 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

b. Proposed Adoption

(1) Chapter 1 - Management (MO)

Amendments to §1.1, Texas Transportation Commission and §1.2, Texas Department of Transportation (Organization and Responsibilities)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by General Counsel Bob Jackson.

112718
OGC

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §1.1 and 1.2 relating to organization and responsibilities to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §1.1 and §1.2 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

(2) Chapter 2 - Environmental Policy, Chapter 9, Contract and Grant Management, Chapter 24 - Trans-Texas Corridor, and Chapter 27 – Toll Projects (MO)

Amendments to §2.1, General; Emergency Action Procedures, §2.2, Definitions, §2.5, Public Involvement, §2.12, Environmental Impact Statement (EIS), §2.16, Mitigation, §2.19, Rail Transportation Project (Environmental Review and Public Involvement for

Transportation Projects), §9.6, Contract Claim Procedure for Comprehensive Development Agreement (General); Repeal of §24.11, Comprehensive Development Agreements, and §24.12, Environmental Review and Public Involvement (Development of Facilities); and Amendments to §27.2, Definitions (Comprehensive Development Agreements)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Texas Turnpike Authority Division Director Mark Tomlinson.

112719
TTA

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §2.1, §2.2, §2.5, §2.12, §2.16, §2.19, §9.6, §24.11, §24.12, and §27.2 relating to the implementation of provisions in Transportation Code, Chapter 227, concerning the Trans-Texas Corridor, to be codified under Title 43, Texas Administrative Code, Part 1.

The preambles and the proposed amendments, attached to this minute order as Exhibits A - H, 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 §2.1, §2.2, §2.5, §2.12, §2.16, §2.19, §9.6, §24.11, §24.12, and §27.2 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

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

Amendments to §21.10, Negotiations, §21.13, Highway Right-of-Way Values, and §21.14, Qualifications of Real Estate Appraisers and Other Technical Experts or Estimators (Land Acquisition Procedures), and Amendments to §21.111, Definitions and §21.118, Relocation Review Committee (Relocation Assistance and Benefits)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by the Office of General Counsel attorney Suzanne Mann.

112720
OGC

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §21.10, Negotiations, §21.13, Highway Right-of-Way Values, §21.14,

Qualifications of Real Estate Appraisers and Other Technical Experts or Estimators, §21.111, Definitions, and §21.118, Relocation Review Committee all relating to right of way to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments, attached to this minute order as Exhibits A - 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 §21.10, §21.13, §21.14, §21.111, and §21.118 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

(4) Chapter 25 - Traffic Operations (MO)

Amendments to §25.1, Uniform Traffic Control Devices (General)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. The Chair recused herself from the vote and did not participate in the decision. This item was presented by Traffic Operations Division Director Carol Rawson.

112721
TRF

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §25.1, relating to Uniform Traffic Control Devices, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §25.1 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

(5) Chapter 25 - Traffic Operations (MO)

Amendments to §25.21, Introduction, §25.22, Regulatory and Advisory Speeds, §25.23, Speed Zone Studies, §25.24, Speed Zone Approval (Procedures for Establishing Speed Zones)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Traffic Operations Division Director Carol Rawson.

112722
TRF

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§25.20-25.24 relating to Procedures for Establishing Speed Zones to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §§25.20-25.24 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

(6) Chapter 27 - Toll Projects (MO)

New §27.90, Purpose, §27.91, Definitions, and §27.92, Financial Terms (New Subchapter H, Determination of Terms for Certain Toll Projects)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Texas Turnpike Authority Division Director Mark Tomlinson.

112723
TTA

The Texas Transportation Commission (commission) finds it necessary to propose new §27.90, Purpose, §27.91, Definitions, and §27.92, Financial Terms, relating to Determination of Terms for Certain Toll Projects, 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 §27.90, §27.91, and §27.92, are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

7. Toll Road Projects

a. Accept the Report of Actual Traffic and Revenue for the Central Texas Turnpike System (CTTS) (MO)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Texas Turnpike Authority Division Director Mark Tomlinson.

112724
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 on file with minute order clerk.

b. Montgomery County – Consider the approval of the department's determination to exercise its option to develop, construct, and operate the portion of SH 99 (Grand Parkway) in Montgomery County, authorize the project with DEVELOP authority. (MO)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Assistant Executive Director for Engineering Operations John Barton.

112725
AEO

Transportation Code, §228.0111, recently repealed by Senate Bill 19, 82nd Legislature, Regular Session, 2011, established a process for providing local toll project entities, defined as regional tollway authorities, regional mobility authorities, or counties acting under Transportation Code, Chapter 284, with the first option to develop, construct, and operate toll projects located within the boundaries of the local toll project entity.

In accordance with the requirements of Transportation Code, §228.0111, the Texas Department of Transportation (department) and the counties in which State Highway 99 (Grand Parkway) is located entered into a Market Valuation Waiver Agreement, effective March 25, 2009, in which the parties agreed on the terms and conditions for the development, construction, and operation of the Grand Parkway, agreed to waive the development of a market valuation of the Grand Parkway, and agreed to certain other provisions applicable to the development, construction, and operation of the Grand Parkway.

In accordance with the requirements of Transportation Code, §228.0111(g), on September 14, 2009, Montgomery County (county) elected to exercise its option to develop, construct, and operate the portion of the Grand Parkway located within the county (project).

The Texas Legislature, in Senate Bill 19, which became effective on June 17, 2011, enacted Transportation Code, Chapter 373, establishing a new streamlined primacy determination process that replaces the market valuation and primacy determination process established in Transportation Code, §228.0111. Section 13 of Senate Bill 19 provides that the repeal of Section 228.0111 does not affect any market valuation waiver agreement or other agreement entered into between the department and a local toll project entity, or any resolution or minute order adopted by the department or a local toll project entity, under that repealed section.

However, Senate Bill 19 does not clearly provide that projects subject to the agreements, resolutions, or minute orders described in Section 13 of that bill are exempt from Chapter 373. In order to ensure the timely development of a project, it is important that it be absolutely clear whether a toll project is subject to the new primacy determination process in Chapter 373.

On June 20, 2011, the Montgomery County Commissioners Court elected to rescind the County's previous exercise of its option to develop, construct, and operate the portion of the Grand Parkway located within the county. To provide certainty for the procurement and contracting process for the project, the Montgomery County Commissioners Court further elected, pursuant to Transportation Code, §373.055, to waive and decline to exercise the county's option to develop, construct, finance, and operate the portion of the Grand Parkway project located in the county.

Transportation Code, §373.053 provides that if a local toll project entity fails or declines to exercise its option to develop, finance, construct, and operate a toll project, the department has 60 days after that date to decide whether it will exercise its option to develop, finance, construct, and operate that project. The department has determined that its option to develop, finance, construct, and operate the portion of the Grand Parkway located within the county should be exercised.

IT IS THEREFORE ORDERED by the commission that the department's determination to exercise its option to develop, finance, construct, and operate the portion of State Highway 99 (Grand Parkway) in Montgomery County, pursuant to Transportation Code, §373.053, is approved, and the project is authorized with DEVELOP authority.

8. Regional Mobility Authority

El Paso County – Camino Real Regional Mobility Authority (CRRMA) – Authorize the CRRMA to undertake projects to make aesthetic improvements to the I-10 corridor from Loop 375-Transmountain Road through Loop 375-Americas Avenue, and authorize the executive director to enter into a project development agreement with the CRRMA (MO)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Texas Turnpike Authority Division Director Mark Tomlinson.

112726
TTA

In Minute Order 110573, dated June 29, 2006, the Texas Transportation Commission (commission) authorized the creation of the Camino Real Regional Mobility Authority (CRRMA), for the City of El Paso, Texas (city).

The Texas Department of Transportation (department) and the CRRMA, in coordination with the city and the El Paso Metropolitan Planning Organization (EPMPO), developed the 2008 Comprehensive Mobility Plan (plan) that provides for the funding and development of certain transportation system improvements within the jurisdictional limits of the CRRMA, including aesthetic improvements to the I-10 corridor from Loop 375-Transmountain Road through Loop 375-Americas Avenue (I-10 aesthetics project). The plan was approved by the EPMPO on July 25, 2008, and a Memorandum of Understanding to implement the plan was executed by the department, the city, the EPMPO, and the CRRMA.

Transportation Code, §370.033(f) authorizes a regional mobility authority to develop a project within its boundaries on behalf of the department. On May 4, 2011, the CRRMA submitted a request to allow the CRRMA to develop and construct the I-10 aesthetics project. The CRRMA is required to comply with applicable federal, state, and department requirements in making such improvements.

The commission finds that the I-10 aesthetics project will be authorized and reimbursed from \$10 million in funds to be available under Category 2, Metropolitan and Urban Area Corridor Projects. Before the I-10 aesthetics project is developed or constructed

using funds to be administered by the department, the project must be included in the department's Unified Transportation Program.

The commission further finds that the CRRMA is fully capable of awarding and managing the construction contract for the improvement of the state highway system in a cost-effective and timely manner, consistent with applicable federal and state laws and regulations, and finds that the CRRMA's proposal will provide for the expeditious completion of a critically needed project within the I-10 corridor that will benefit the existing state highway system and the traveling public in El Paso County.

IT IS THEREFORE ORDERED by the commission that pursuant to Transportation Code, §370.033(f), the Camino Real Regional Mobility Authority is authorized to develop and construct improvements to the state highway system in connection with the design and construction of the I-10 aesthetics project, and the executive director is authorized to enter into a project development agreement with the Camino Real Regional Mobility Authority that provides for such improvements to the state highway system.

9. Transportation Planning

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

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Transportation Planning & Programming Division Director Jim Randall.

112727
TPP

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

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

The commission previously appointed Tony L. Rigdon, representing the Port of Victoria, to a three-year term on the committee. Mr. Rigdon is no longer employed by the Port of Victoria and has resigned his position on the committee. The commission has determined that the individual listed below fulfills the statutory requirements to serve as a member of the committee for the remainder of the term set to expire on February 28, 2014.

Michael D. Perez Port of Harlingen – Lower Coast

IT IS THEREFORE ORDERED by the commission that the individual identified above is appointed as a member of the Port Authority Advisory Committee until February 28, 2014.

b. Grayson County – Approve the redesignation of the Sherman-Denison Metropolitan Planning Organization (MPO) (MO)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Transportation Planning & Programming Division Director Jim Randall. Comments were also received from Sherman-Denison MPO Director Robert Wood.

112728
TPP

In accordance with Title 23, USC §134, as implemented by Title 23, CFR §450.310, an existing Metropolitan Planning Organization (MPO) may be redesignated only by agreement between the governor and units of general-purpose local government that together represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city).

On October 4, 2005, Governor Perry delegated authority to the Texas Transportation Commission (commission) to approve an MPO redesignation.

On April 6, 2011, the Sherman-Denison MPO Policy Board approved a resolution to redesignate the MPO by separating the MPO from the Texoma Council of Governments. Grayson County will serve as the fiscal agent for the MPO. The cities of Sherman and Denison represent at least 75 percent of the population of the existing metropolitan planning area.

The commission has reviewed and accepted the resolution supporting the Sherman-Denison MPO redesignation.

IT IS THEREFORE ORDERED by the commission that the proposed Sherman-Denison MPO redesignation, as described in Exhibit A, is hereby approved.

IT IS FURTHER ORDERED that the executive director is authorized to enter into any necessary agreements associated with the redesignation process.

Note: Exhibit A on file with minute order clerk.

c. **Harris County** – Authorize the transfer of \$17 million in Category 12 (Strategic Priority) funding from the Hardy Toll Road Extension Project to the Elysian Street Bridge Replacement Project (MO).

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Assistant Executive Director for Engineering Operations John Barton.

112729
AEO

Minute Order 108439, dated February 22, 2001, authorized \$17 million in funding for project development, including the construction of direct connectors, associated with the toll-free extension of the Hardy Toll Road from I-610 at Spur 548 to the Central Business District of downtown Houston at I-10.

The Harris County Toll Road Authority has informed the Texas Department of Transportation that adequate funding for the Hardy Toll Road Extension project is now available and has requested that these funds be transferred to the Elysian Street Bridge Replacement project at I-10 on Elysian Street from Commerce Street to Brooks Street. The

Elysian Street Bridge Replacement project is a key component to improving the flow of traffic in and out of downtown Houston and mitigating congestion in the surrounding area.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that \$17 million in Category 12 (Strategic Priority) funding is transferred from the Hardy Toll Road Extension project to the Elysian Street Bridge Replacement project. The executive director is authorized to proceed in the most feasible and economical manner with project development, and to enter into any agreements necessary to carry out the terms of this order.

IT IS FURTHER ORDERED that Minute Order 108439 is rescinded.

d. Nueces County – Authorize the Harbor Bridge Project with DEVELOP authority and increase the Corpus Christi District's Discretionary Programming Authority by \$600 million (MO)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Finance Division Director Brian Ragland.

112730
FIN

The Harbor Bridge is located on US 181 approximately one-half mile north of the US 181/I-37 interchange and crosses the Corpus Christi Ship Channel. The bridge, a six-lane divided highway without shoulders, was built in the 1950s and opened for operation in 1959. It has 138 feet of vertical clearance and is 5,818 feet long. A feasibility study completed in 2003 concluded that US 181 and the Harbor Bridge need to be improved to provide a safe and efficient transportation corridor.

The Harbor Bridge mega project is a high priority for the Texas Department of Transportation (department) and the State of Texas. The development of the project will require a lengthy environmental review process.

Minute Order 112696, dated May 26, 2011, approved the 2012 Unified Transportation Program (UTP) and established discretionary programming authority to assist the department's districts in developing projects with high local, regional or statewide interest that extend beyond traditional development timelines. For the Corpus Christi District to address the preliminary activities for such a large bridge replacement project, the programming authority necessary to develop this project needs to be increased.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the Harbor Bridge project is authorized with DEVELOP authority and the Corpus Christi District's Discretionary Programming Authority is increased by \$600 million. A detailed construction funding program for the project will be identified in the next update to the 2012 UTP.

IT IS FURTHER ORDERED that the Corpus Christi District's Discretionary Programming Authority, will be reduced by \$600 million when the Harbor Bridge project is authorized with CONSTRUCT authority utilizing a funded construction program and restored to its original level as authorized by Minute Order 112696, or the level authorized in the latest UTP.

10. Rulemaking Advisory Committee

Create a rulemaking advisory committee to advise the department regarding revisions to the rules for the transportation development credit (TDC) program, and designate entities authorized to appoint members of the committee (MO)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Finance Division Director Brian Ragland.

112731
FIN

Title 43, Texas Administrative Code, Chapter 5, Subchapter F, specifies the procedures and conditions by which an entity may be eligible for award of transportation development credits (TDC) and the procedures and conditions by which the Texas Transportation Commission (commission) may award TDC.

Rider 45 to the Texas Department of Transportation (department) appropriations for Fiscal Years 2012-2013 (page VII-36, General Appropriations Act, 2011) stipulates that the department shall make it a priority to utilize TDC as the required match in a manner that would maximize the utilization of federal funds on eligible projects. State funds no longer needed to be used as the required federal match should then be available to be targeted to priority projects in an effort to streamline their delivery.

Under Government Code §2001.031 and 43 Texas Administrative Code §1.85, the commission may appoint a rulemaking advisory committee to advise the department and the commission with respect to contemplated rulemaking.

IT IS THEREFORE ORDERED by the commission that the Transportation Development Credit Rulemaking Advisory Committee (committee) composed of seven members shall be created.

IT IS FURTHER ORDERED that the executive director or designee is directed to designate an office or division of the department to be responsible for development of revisions to the existing rules and to provide any necessary administrative support essential to the functions of the committee.

IT IS FURTHER ORDERED that the committee shall report its advice and recommendations to the Chief Financial Officer and Finance Division of the department.

IT IS FURTHER ORDERED that the entities identified in the attached Exhibit A are authorized to appoint members of the Transportation Development Credit Rulemaking Advisory Committee.

IT IS FURTHER ORDERED that the executive director is authorized to designate other entities that may appoint members of the committee in the event that one or more of the entities listed on Exhibit A is unable to appoint a member.

Note: Exhibit A on file with minute order clerk.

11. State Infrastructure Bank (SIB)

Final Approval

Hidalgo County – **City of Donna** - Consider granting final approval of an application from the City of Donna (city) to borrow up to \$607,000 from the SIB to pay for utility relocation and ROW costs associated with the overlay and reconstruction of FM 493 from Business US 83 to US 281 (MO)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Finance Division Director Brian Ragland.

112732
FIN

On May 26, 2011, by Minute Order 112693, the Texas Transportation Commission (commission) granted preliminary approval of an application for financial assistance from the City of Donna (city) to borrow \$607,000 to pay for utility relocation and right-of-way costs associated with the overlay and reconstruction of FM 493 from Business 83 to US 281 in Hidalgo County (project). The project will tie into the newly opened Donna/Rio Bravo International Bridge, and will become a main thoroughfare for international truck traffic.

Pursuant to the commission's preliminary approval, the executive director implemented and completed negotiations and other actions authorized and required by commission rules. The executive director affirms that the necessary social, economic, and environmental impact studies have been completed, and that the Texas Department of Transportation has approved those studies. The executive director recommends that the commission grant final approval of the SIB application for financial assistance.

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

IT IS THEREFORE ORDERED that the application for SIB financial assistance submitted by the City of Donna to borrow \$607,000 from the State Infrastructure Bank is granted final approval. The executive director is directed and authorized to enter into the financial assistance agreement as negotiated with the city. The loan will be repaid over a period of four years at 2.35 percent interest per annum.

12. Obligation Limit and Cash Reports

a. 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 and an update on motor fuel tax receipts

This item was presented by Finance Division Director Brian Ragland.

b. Quarterly report on FY 2011 State Highway Fund 6 cash status

This item was presented by Finance Division Director Brian Ragland.

16. Executive Session Pursuant to Government Code, Chapter 551

- a. Section 551.071 – Consultation with and advice from legal counsel regarding any item on this agenda**
- b. Section 551.074 – Deliberate on the duties of the new position of director of the department's compliance office and the search for a person to fill that position.**
- c. Section 551.074 – Deliberate on the search for a new Executive Director and for a new internal auditor for the department.**

Due to scheduling conflicts necessitating the early departure of one of the commissioners, the chair recessed the open meeting at 11:30 a.m. to enter into executive session on Item 16.b. The commission reconvened the open meeting at 11:59 a.m. and proceeded with the open meeting.

13. Contracts

Award or reject contracts for maintenance, highway and building construction

- a. Highway Maintenance and Department Building Construction (see attached itemized list) (MO)**

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. (Commissioner Underwood was not present.) This item was presented by Construction Division Director Russel Lenz.

112733
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 June 7 and 8, 2011.

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

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

The department recommends that the Texas Transportation Commission (commission) respectively award to the lowest bidder or reject, as indicated, those highway maintenance and department building construction contracts, with an engineer's estimated cost of \$300,000 or more, identified on attached Exhibit A to this order.

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

If a contractual requirement of award is not satisfied within the prescribed time limit, including any extension of time allowed by the executive director or the director's designee, by reason of the action or inaction of the successful low bidder on any contract, including, but not limited to, disadvantaged business/historically underutilized business participation,

the contract is automatically in default and the executive director is authorized and directed to retain and deposit the related contract proposal guaranty to the credit of the State Highway Fund and to readvertise that project for competitive bids at the earliest practical subsequent date.

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

Note: Exhibit A on file with minute order clerk.

b. Highway and Transportation Enhancement Building Construction (see attached itemized list) (MO)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. (Commissioner Underwood was not present.) This item was presented by Construction Division Director Russel Lenz.

112734
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 June 7 and 8, 2011.

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 on file with minute order clerk.

14. Eminent Domain Proceedings

Various Counties – Authorize the filing of condemnation proceedings to acquire real property by eminent domain for non-controlled and controlled access highways (see attached list) (MO)

Commissioner Meadows made a motion that the Texas Transportation Commission authorize the Texas Department of Transportation to use the power of eminent domain to acquire the properties described in the minute order set forth in the agenda for the current month for construction, reconstruction, maintenance, widening, straightening or extending the highway facilities listed in the minute order as a part of the state highway system, and that the first record vote applies to all units of property to be condemned. The motion was seconded and the commission approved the following minute order by a vote of 4 – 0. (Commissioner Underwood was not present.) This item was presented by Right of Way Division Director John Campbell. Comments were also received from Dawson, Sodd, Ellis, & Hodge attorney Luke Ellis.

112735
ROW

To facilitate the safety and movement of traffic and to preserve the financial investment of the public in its highways, the Texas Transportation Commission (commission) finds that public necessity requires the laying out, opening, constructing, reconstructing, maintaining, widening, straightening, extending, and operating of the highway facilities listed below as a part of the State Highway System (highway system).

As provided for by Transportation Code, Chapter 203, Subchapter D, including Sections 203.051, 203.052, and 203.054, the commission finds and determines that each of the parcels of land listed below, and more particularly described in the attached Exhibits (parcels), are necessary or convenient as a part of the highway system to be constructed, reconstructed, maintained, widened, straightened, or extended (constructed or improved) and it is necessary to acquire fee simple title in the parcels or such lesser property interests as set forth in the attached Exhibits.

The commission finds and determines that the highway facilities to be constructed or improved on the parcels identified and listed below under "CONTROLLED ACCESS" are designated as a Controlled-Access Highway in accordance with Transportation Code, Section 203.031; and where there is adjoining real property remaining after acquisition of a parcel, the roads are to be constructed or improved as a part of the highway facility with the right of ingress and egress to or from the remaining real property adjoining the highway facility to be permitted or denied, as designated and set forth on each of the attached Exhibits A - LL. Where there is adjoining real property remaining after acquisition of a parcel with respect to the highway facilities to be constructed or improved on the parcels identified and listed below under "NON-CONTROLLED ACCESS," roads are to be

constructed or improved as a part of the highway facility with the right of ingress and egress to or from the remaining real property adjoining the highway facility to be permitted or denied, as designated and set forth on each of the attached Exhibits 1 - 20, in accordance with Transportation Code, Sections 203.002 and 203.003.

The commission finds and determines that condemnation of the parcels is required.

IT IS THEREFORE ORDERED that the initiation of condemnation proceedings for the parcels is adopted and authorized by a single order for the parcels, and this first vote by the commission applies to all of the parcels.

IT IS FURTHER ORDERED that the executive director is hereby authorized to proceed to condemnation on the parcels and directed to transmit or cause to be transmitted this request of the commission to the Office of the Attorney General to file or cause to be filed against all owners, lienholders, and any owners of any other interests in the parcels, proceedings in condemnation to acquire in the name of and on behalf of the state, fee simple title to each parcel or such lesser estates or property interests as are more fully described in each of the attached Exhibits, save and excepting oil, gas, and sulfur, as provided by law, as follows:

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ACCOUNT</u>	<u>PARCEL</u>
Bell	SH 317	20	0398-04-064	33
Collin	FM 3537	9	0135-12-027	25
Collin	FM 3537	5	0135-12-027	32
Collin	FM 3537	8	0135-12-027	23
Collin	FM 3537	10	0135-12-027	8
Collin	FM 455	7	0816-04-046	44
Collin	SH 289	18	0091-04-057	35
Collin	SH 289	17	0091-04-057	24
Collin	SH 289	16	0091-04-057	10
Collin	SH 289	15	0091-04-057	6
Collin	SH 289	14	0091-04-057	28
Comal	US 281	2	0253-03-065	66
Comal	US 281	1	0253-03-065	54
Comal	US 281	13	0253-03-065	7
Comal	US 281	12	0253-03-065	65
Comal	US 281	11	0253-03-065	3
Denton	FM 2181	4	2054-02-017	16
Denton	FM 2181	19	2054-02-017	7
Denton	FM 423	3	1315-02-010	17
El Paso	SL 375	6	2552-03-048	3

CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Bell	IH 35	W	0015-04-083	45
Bell	IH 35	N	0015-04-083	3
Bell	IH 35	X	0015-04-083	44
Bell	IH 35	Y	0015-04-083	42
Bell	IH 35	BB	0015-04-083	38,38AC
Bell	IH 35	V	0015-04-083	46
Bell	IH 35	Z	0015-07-078	11
Bell	IH 35	KK	0015-07-078	56
Ellis	US 287	C	0172-08-054	5AC
Ellis	US 287	B	0172-08-054	4,4AC
Ellis	US 287	GG	0172-08-054	24
Ellis	US 287	HH	0172-08-054	23,23E
Harris	IH 610	J	0271-14-221	224
Harris	IH 610	K	0271-14-221	221
Harris	IH 610	A	0271-14-221	212
Hill	IH 35	P	0014-07-096	33

CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ACCOUNT</u>	<u>PARCEL</u>
McLennan	IH 35	JJ	0014-08-083	12,12E
McLennan	IH 35	T	0014-08-083	34AC
McLennan	IH 35	O	0014-08-083	29AC
McLennan	IH 35	S	0015-01-220	34
McLennan	IH 35	L	0015-01-221	117
McLennan	IH 35	AA	0015-02-058	31
McLennan	IH 35	M	0015-02-058	28
McLennan	IH 35	U	0015-02-058	33
McLennan	IH 35	II	0015-02-058	50
San Jacinto	US 59	LL	0177-02-084	5
Tarrant	IH 820	H	0008-14-093	167
Tarrant	SH 121	G	0364-01-119	506
Tarrant	SH 121	FF	0364-01-119	597
Tarrant	SH 121	EE	0364-01-119	505
Tarrant	SH 121	CC	0364-01-119	532
Tarrant	SH 121	I	0364-01-119	603
Tarrant	SH 121	Q	0364-01-119	612
Tarrant	SH 121	R	0364-01-119	522
Tarrant	SH 183	F	0364-05-038	655
Tarrant	SH 183	DD	0364-05-038	700
Tarrant	SH 183	E	0364-05-038	662A
Tarrant	SH 183	D	0364-05-038	643

Note: Exhibits 1 through 20 and A through LL on file with minute order clerk.

15. Routine Minute Orders

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute orders by a vote of 4 – 0. (Commissioner Underwood was not present.) This item was presented by Executive Director Amadeo Saenz.

a. Donations to the Department

Beaumont District – Consider a donation from Enterprise Products Operating, LLC for sufficient funding to construct an extension of FM 565 from LP 207 to SH 146, which will then be conveyed to the state in exchange for the right of way on the existing LP 207 from FM 565, south of SH 146 (MO)

112636
GSD

Transportation Code, §201.206, authorizes the Texas Department of Transportation (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.

In accordance with Transportation Code, Chapter 202, Subchapter B, the commission may recommend the exchange of surplus land as partial or full consideration for other land needed by the state for highway purposes.

Enterprise Products Operating, LLC would like to donate sufficient funding, property and services to provide for land acquisition, utility relocation, environmental assessments, schematics, plans, specifications and estimates, and construction and construction engineering necessary to extend FM 565 from LP 207 to SH 146 for approximately 0.27 miles to provide a direct connection with SH 146 (new right of way). Upon completion of construction, Enterprise Products Operating, LLC, has further agreed to convey the new right of way to the state. Upon acceptance of the new right of way, the department will abandon the southern end of LP 207 from FM 565, south of SH 146 for approximately 0.86 miles, described in Exhibit A (existing right of way or surplus land). The existing right of way will then be closed to public traffic and be used as a road within the refinery. The exchange of a portion of LP 207 for the extension of FM 565 will result in a savings of rehabilitation funds for the department, reduce travel time, and improve safety for the traveling public. The estimated amount of the donation is approximately \$253,177.

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

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

The commission finds that the donor is not interested in or likely to become interested in a contract, purchase, payment, or claim with or against the department. The commission has determined that acceptance of the donation would provide significant public benefits and would not influence or reasonably appear to influence the department in the performance of its duties.

It is the opinion of the commission that upon completion and acceptance of the new right of way, the existing right of way will no longer be needed for highway purposes, will

be surplus, and should be removed from the state highway system. It would then be proper and correct that the state convey and release its rights, title and interest in the surplus land to Enterprise Products Operating, LLC, in exchange and as consideration for the conveyance of the new right of way to the state.

IT IS THEREFORE ORDERED by the commission that the donation by Enterprise Products Operating, LLC, is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation and completion of the exchange.

IT IS FURTHER ORDERED by the commission that the executive director is authorized to tender the following proposal to Enterprise Products Operating, LLC (donor).

Provided that Enterprise Products Operating, LLC, at its sole expense completes construction on the new right of way to the satisfaction of the department, conveys the new right of way to the state, and pays the cash difference between the value of the surplus land to the donor in accordance with Transportation Code, Chapter 202, Subchapter B.

IT IS FURTHER ORDERED, in consideration of the foregoing premises and in accordance with Transportation Code, Chapter 202, Subchapter B, the commission hereby finds that if and when the donor satisfactorily complies with all the conditions of this minute order, the designation of the surplus land as part of the state system is then cancelled and the surplus land is no longer needed for highway or public transportation purposes and recommends, subject to approval by the attorney general, that the governor of Texas execute proper instruments conveying and releasing all of the state's rights, title and interest in the surplus land to Enterprise Products Operating, LLC, in exchange and as consideration for the conveyance to the state of the new right of way.

Note: Exhibits A and A1 on file with minute order clerk.

b. Right of Way Dispositions and Donations

(1) Dallas County – SL 12 at SH 180 in Dallas - Consider the sale of surplus right of way to the abutting landowner (MO)

112737
ROW

In the city of Dallas, DALLAS COUNTY, on STATE HIGHWAY LOOP 12, the State of Texas acquired certain land needed for highway purposes by instrument recorded in Volume 4022, Page 463, Deed Records of Dallas County, Texas.

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

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

John Malchi is the abutting landowner and has requested that the surplus land be sold to him for \$24,331.

The commission finds \$24,331 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 John Malchi for \$24,331; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(2) Hays County – I-35 at County Road 210 in Kyle - Consider the exchange of surplus right of way for new right of way (MO)

112738
ROW

In the city of Kyle, HAYS COUNTY, on INTERSTATE HIGHWAY 35, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 176, Page 399, Deed Records of Hays County, Texas.

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

Comal County Metro Investments, Ltd., a Texas limited partnership (owner), has conveyed to the state land needed for a state highway purpose (new land), described in Exhibit B, and desires to make a partial donation to the state of the cash difference in value between the new land and the surplus land.

V.T.C.A., Transportation Code, Chapter 201, Subchapter D, authorizes the Texas Department of Transportation (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 by majority vote at an open meeting any gift or donation valued at over \$500, and the commission hereby finds that acceptance of the donation will provide a significant public benefit and will not influence or reasonably appear to influence the department in the performance of its duties.

An Agreement Concerning the Donation of Property to the Texas Department of Transportation (donation agreement) has been executed by the owner and tendered to the department for acceptance under the provisions of Title 43, Texas Administrative Code, Chapter 1, Subchapter G, since the new land provided by the owner is valued at \$203,703 and exceeds the value of the surplus land at \$196,560.

The owner has executed and delivered a conveyance document under the terms of the donation agreement to convey the new land to the state and has requested that the state's rights, title and interest in the surplus land be conveyed to the owner.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission may recommend the exchange of surplus land as partial or full consideration for other land needed for a state highway purpose.

It is the opinion of the commission that it is proper and correct that the state convey its rights, title and interest in the surplus land to the owner in exchange and as consideration for the partial cash donation and the conveyance of the new land to the state.

IT IS THEREFORE ORDERED by the commission that the executive director is hereby authorized to accept the partial donation of the new land and that the executive director or the director's designee is authorized and directed to sign and execute a donation agreement with the owner, in accordance with Title 43, Texas Administrative Code, Chapter 1, Subchapter G.

FURTHER, in consideration of the foregoing premises and 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 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 owner in exchange and as consideration for the conveyance of the new land to the state and partial cash donation to the state of the difference in value.

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

(3) **Houston County** – SH 7 northeast of Kennard - Consider the sale of surplus right of way to the abutting landowner (MO)

112739
ROW

In HOUSTON COUNTY, on STATE HIGHWAY 7, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 186, Page 122, Deed Records of Houston County, Texas.

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

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

William Cody Wheeler is the abutting landowner and has requested that the surplus land be sold to him for \$9,035.

The commission finds \$9,035 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 William Cody Wheeler for \$9,035; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(4) Midland County – SH 58, BS 158-B, SS 269 and SS 268 in Midland - Consider the designation, redesignation and removal of various highway segments and the quitclaim of surplus right of way and transfer of control, jurisdiction and maintenance to the City of Midland (MO)

112740
ROW

In the city of Midland, MIDLAND COUNTY, on BUSINESS STATE HIGHWAY 158-B and STATE SPUR 269, the State of Texas used certain land for highway purposes, there being no record title in the name of the state or city.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended, as shown in Exhibit A, the redesignation of a segment of BS 158-B, SH 58 and SS 268. The executive director has also recommended that a segment of BS 158-B and SS 269 be removed from the state highway system and that control, jurisdiction and maintenance be transferred to the city.

Portions of the land (surplus land), described in Exhibit B, 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 quitclaim to the city of any interest in land to which there is no record title in the state's name.

IT IS THEREFORE ORDERED by the commission that:

1) BS 158-B from BS 349-C to I-20 is redesignated as SH 140, an approximate distance of 2.4 miles;

2) SH 58 from SS 268 to I-20 is redesignated as BS 158-B, an approximate distance of 1.8 miles;

3) SS 268 is redesignated as State Loop 268, an approximate distance of 1.1 miles;

4) BS 158-B from SS 268 to BS 349-C and SS 269 from BS 349-C to BI 20-E, a total distance of approximately 1.7 miles, are removed from the state highway system and control, jurisdiction and maintenance are transferred to the city.

FURTHER, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument quitclaiming the state's rights and interest in the surplus land to the City of Midland, Texas.

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

(5) Rockwall County – SH 205 at FM 549 in Rockwall - Consider the sale of a surplus easement to the property owners (MO)

112741
ROW

In the city of Rockwall, ROCKWALL COUNTY, on STATE HIGHWAY 205, the State of Texas acquired an easement interest in certain land needed for highway purposes by instrument recorded in Volume 33, Page 459, Deed Records of Rockwall County, Texas.

The easement (surplus easement), 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 easements.

Mark M. Medcalf, as to a 50 percent undivided interest, and Shannon Balthrop, as to a 50 percent undivided interest, are the underlying fee owners and have requested that the surplus easement be sold to them for \$2,864.

The commission finds \$2,864 to be a fair and reasonable value for the state's rights and interest in the surplus easement.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus easement is no longer needed for a state highway purpose and that the value of the surplus easement is less than \$10,000 and authorizes the executive director to execute a proper instrument partially releasing all of the state's rights and interest in the surplus easement to Mark M. Medcalf, as to a 50 percent undivided interest, and Shannon Balthrop, as to a 50 percent undivided interest, for \$2,864.

Note: Exhibit A on file with minute order clerk.

(6) Tarrant County – SH 121 along Union Pacific Railroad in Fort Worth - Consider the sale of surplus right of way and waiver of the service fee to the abutting landowner and designate permitted access to the abutting landowner (MO)

112742
ROW

In the city of Fort Worth, TARRANT COUNTY, on STATE HIGHWAY 121, a designated controlled-access highway, the State of Texas acquired certain land needed for highway purposes and additional portions of land were acquired by the city on behalf of the state for the same highway purposes and project, under agreement whereby said land acquired by the city is to be conveyed to the state. The state also acquired certain land by instrument recorded in D211099249, Official Public Records of Tarrant County, Texas, with denial of access to the abutting remainder property as described in the instrument.

Portions of the land (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 surplus land to the abutting landowner.

Union Pacific Railroad Company (UPRR) is the abutting landowner and has requested that the surplus land be sold to the company for \$2,777,359.

UPRR has requested that access to and from the highway facility be permitted along its north property line at a location (new access point), described in Exhibit B.

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

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

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

The commission finds \$2,777,359 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

In accordance with Title 43, Texas Administrative Code, §21.105, the commission may determine that a service fee to be charged for the disposal of real property shall not apply if the commission determines the service fee to be unjust or unwarranted.

The commission finds that the service fee is unjust or unwarranted because UPRR has cooperated in the reconstruction of bridge and drainage structures on highway right of way adjacent to and affecting UPRR facilities.

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 Union Pacific Railroad Company for \$2,777,359 and that the service fee be waived; 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.

FURTHER, the commission finds that the new access point will not compromise the mobility, safety or operation of the existing state highway facility, and designates the new access point as a location where ingress and egress are permitted to and from the frontage road of SH 121.

IT IS FURTHER ORDERED by the commission that the executive director or his designee is hereby authorized to execute any necessary documents containing terms consistent with the provisions of this order.

Note: Exhibit A on file with minute order clerk.

c. Release of Access Rights

Brazoria County – SH 288, immediately south of Hughes Road/CR 403 - Consider the designation of a location on the highway at which access will be permitted to the abutting property (MO)

112743
DES

In BRAZORIA COUNTY, on STATE HIGHWAY 288, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 1038, Page 861, Deed Records of Brazoria County, Texas, with denial of access to the abutting remainder property as described in the instrument.

James and Barbara Dixon Family, L.P., the current owner of the abutting property, has requested that access to and from the northbound frontage road of SH 288 be permitted along their west property line at a new access point, described in Exhibit A.

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

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

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

NOW, THEREFORE, the commission finds that the new access point will not compromise the mobility, safety or operation of the existing state highway facility, and designates the new access point as a location where ingress and egress are permitted to and from the northbound frontage road of SH 288.

IT IS FURTHER ORDERED by the commission that the executive director or his designee is hereby authorized to execute any necessary documents containing terms consistent with the provisions of this order.

Note: Exhibit A on file with minute order clerk.

d. Speed Zones

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

112744
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 limits on various segments of the state highway system, previously established by the commission by minute order and listed in Exhibit C, are no longer necessary or have been incorporated by the city which has the authority to set the speed limits on these sections of the highway.

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

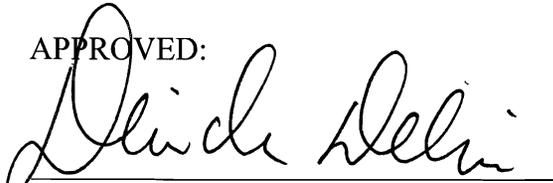
IT IS FURTHER ORDERED that a provision of any prior order by the commission which is in conflict with a provision of this order is superseded to the extent of that conflict, and that the portion of the minute order establishing the speed zones shown on the attached Exhibit C are canceled.

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

OPEN COMMENT PERIOD – At the conclusion of all other agenda items, the commission received additional comments from Hidalgo County RMA Chairperson Dennis Burleson.

The regular meeting of the Texas Transportation Commission adjourned at 12:32 p.m.

APPROVED:



Deirdre Delisi, Chair
Texas Transportation Commission

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I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on June 30, 2011, in Austin, Texas.



JoLynne Williams, Chief Minute Order Clerk
Texas Department of Transportation