

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on October 27, 2011, in Austin, Texas. The meeting was called to order by Chairman Houghton. The meeting opened at 9:00 a.m. with the following commissioners present:

Texas Transportation Commission:

Ted Houghton	Chairman
Fred Underwood	Commissioner
Bill Meadows	Commissioner
Jeff Austin III	Commissioner

Commissioner Ned Holmes was absent from the meeting.

Administrative Staff:

Phil Wilson, Executive Director
Bob Jackson, Office of 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 3:43 p.m. on October 19, 2011, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

ITEM 1. Approval of Minutes of the September 29 meeting of the Texas Transportation Commission

Commissioner Underwood made a motion, which was seconded, and the commission approved the minutes of the September 29, 2011, regular meeting, by a 3-0 vote. Commissioner Austin abstained since he was not present at the previous meeting.

Executive Director Phil Wilson recognized Assistant Executive Director for Field and District Operations David Casteel and expressed the department's appreciation for his 28 years of service. A resolution will be presented to Mr. Casteel in November to appropriately recognize his retirement at the end of October. The commission received comments from Mr. Casteel.

ITEM 2 Resolution

Resolution to recognize Laredo District Engineer Albert Quintanilla, P.E., upon his retirement from the department after 26 years of service.

This item was presented by Executive Director Phil Wilson. The commission received comments from Mr. Quintanilla.

ITEM 3. Reports

a. Update on TxDOT's modernization project

This item was presented by Public Transportation Division Director and member of the modernization leadership team Eric Gleason. Comments were also received from South Regional Support Center Director Cathy Floyd.

b. Strategic Research Program Advisory Committee Report

This item was presented by Strategic Policy and Performance Management Office Director Rick Collins. Comments were also received from Strategic Research Program Advisory Committee members Rollin Bredenberg, Ken Allen, and Mary Peters.

c. Report on the activities and recommendations of the I-35 Advisory Committee

This item was presented by Government and Public Affairs Division Director Coby Chase. Comments were also received from Bell County Commissioner Tim Brown and I-35, Segment 2 Committee Member Grady Smithey.

4. Aviation

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

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Aviation Division Director Dave Fulton.

112867
AVN

The Texas Department of Transportation (department) is authorized under the federal Aviation Development Act and the state Aviation Facilities Development and Financial Assistance Act to award federal and state funding for capital improvement projects and to assist in the development and establishment of airports in the state of Texas.

The airports listed in Exhibit A are currently in need of improvements to preserve the airports or to meet standards. The department recommends the award of federal and state grant funds for the improvements.

On Thursday, September 22, 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, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$18,807,732.

Note: Exhibit A on file with minute order clerk.

5. Public Transportation

Various Counties – Award transportation development credits to LULAC Project Amistad and Mounting Horizons to match federal awards for capital projects for information technology, fleet procurement and purchase of service (MO)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Public Transportation Division Director Eric Gleason.

112868
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. On June 30, 2011, the commission passed Minute Order 112709 awarding FY 2012 federal program funds and Transportation Development Credits (TDC). The award for Mounting Horizons should have included 30,400 TDC for purchase of services, and the TDC award for LULAC Project Amistad failed to include the category vehicles.

The commission recognizes that state and federal law permits the substitution of TDC as the required non-federal match for capital projects. Title 43, Texas Administrative Code, §5.73 establishes a process by which TDC may be awarded at the discretion of the commission. The commission finds that TDC investments in purchase of service will provide mobility options for individuals seeking employment, training, and other essential services thus expanding economic opportunities; and purchases of transit vehicles improves 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.

The commission finds that the projects in Exhibit A are eligible for funding and award revision and satisfy the criteria of 43 TAC §5.73 as described above.

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

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

IT IS THEREFORE ORDERED that this minute order supersedes the awards for Mounting Horizons and LULAC Project Amistad, in Minute Order 112709. All other projects previously awarded under this minute order remain unchanged

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

Note: Exhibit A on file with minute order clerk.

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 1 - Management (MO)

New §1.12, Negotiated Rulemaking (Procedure for Adoption of Rules)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. This item was presented by General Counsel Bob Jackson.

112869
OGC

Texas Transportation Commission (commission) finds it necessary to adopt new §1.12 relating to negotiated rulemaking to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted new section, 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 §1.12 is adopted and is 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 are on file with minute order clerk.

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

Amendments to §9.13, Notice of Letting and Issuance of Bid Forms (Highway Improvement Contracts)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Construction Division Interim Director Ken Barnett

112870
CST

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §9.13 relating to Notice of Letting and Issuance of Bid Forms 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 §9.13 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 are on file with minute order clerk.

(3) Chapter 9 - Contract and Grant Management (MO)
Amendments to §9.21, Purchase of Service (Highway Improvement Contracts)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. This item was presented by the General Services’ Division Director of Purchasing Glenn Hagler.

112871
GSD

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §9.21 relating to purchase of service 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 §9.21 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 are on file with minute order clerk.

(4) Chapter 21 - Right of Way (MO)
Amendments to §21.38, Construction and Maintenance (Utility Accommodation)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Right of Way Division Director John Campbell.

112872
ROW

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §21.38 relating to construction and maintenance 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 §21.38 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 are on file with minute order clerk.

b. Proposed Adoption

Chapter 3 - Public Information (MO)

Repeal of §3.20, Purpose, and New §3.20, Purpose; Amendments to §3.21, Applicability, §3.22, Definitions §3.23, Filing a Complaint, and §3.24, Notice to Consumers and Service Recipients; Repeal of §3.25, Complaint Resolution; and New §3.25, Complaint Resolution and §3.26, Complaint Data Collection, Analysis, and Reporting (Complaint Resolution)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Government and Public Affairs Division Director Coby Chase.

112873
GPA

The Texas Transportation Commission (commission) finds it necessary to propose the repeal of §3.20 and §3.25, amendments to §§3.21 - 3.24, and new §3.20, §3.25, and §3.26 relating to complaint resolution to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments, repeals, and 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 the repeal of §3.20 and §3.25, amendments to §§3.21 - 3.24, and new §3.20, §3.25 and §3.26 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 are on file with minute order clerk.

7. Internal Compliance Program (ICP) Report

This item was presented by Interim Compliance Office Director Angie Parker.

8. Design-Build Projects

Dallas County – Authorize the department to issue a request for qualifications for the development, design, construction and, potentially, maintenance of a project with estimated construction costs of \$700 million, providing for the replacement and addition of bridges and lanes on I-35E and I-30 in Dallas County at the Trinity River (MO)

Commissioner Meadows made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Texas Turnpike Authority Division Interim Director Ed Pensock.

112874
TTA

Subchapter F, Chapter 223, Transportation Code prescribes the process by which the Texas Department of Transportation (department) may enter into a design-build contract with a private entity that provides for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project. Transportation Code, §223.242 authorizes the department to enter into, in each fiscal year, up to three design-build contracts for highway projects with estimated construction costs of \$50 million or more.

Project Pegasus is a \$2.1 billion (construction cost only) project in downtown Dallas on two major interstates, I-35E and I-30. All four legs of this project are on the list of 2011 Top 100 Most Congested Roadways in the State of Texas. Due to the lack of immediate funding for Project Pegasus, the deterioration of the I-35E and I-30 bridges over the Trinity River, the heavy congestion at the I-30/I-35E interchange (approximately 350,000 vehicles/day) and the outdated roadway geometry, the department has developed a breakout project from Project Pegasus known as the Horseshoe Project (project).

The project begins at Sylvan Avenue on I-30, extends to the I-30/I-35E interchange (commonly referred to as the Mixmaster) and heads south on I-35E to cross the Trinity River, ending just south of Colorado Boulevard. The project will replace the bridges at I-30 and I-35E that cross the Trinity River and the connecting roadways, as well as upgrading outdated roadway geometry. The estimated construction cost of the project is \$700 million.

The I-35E and I-30 corridors in Dallas County are two of the most highly congested, demand-critical and mobility constrained transportation corridors in the region. The development and completion of the project can be expedited through the

use of a design-build contract, and the employment of innovative methods for the development and construction of projects that are available with a design-build contract. Development of the project is a crucial element to responding to traffic congestion throughout the Dallas/Fort Worth Metroplex. Completion of the project will improve mobility on two of the 20 most congested roadways in the state.

Transportation Code, §223.245 prescribes requirements for the procurement of a project to be developed under a design-build contract, and requires the department to publish a notice advertising the issuance of a request for qualifications in the *Texas Register* and on the department's internet website that includes the criteria that will be used to evaluate qualification statements, the relative weight given to the criteria, and the deadline by which qualification statements must be received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the department is authorized to publish in the *Texas Register* and in one or more newspapers of general circulation, and to post on the department's internet website, a request for qualifications to develop, design, construct, and potentially maintain the Horseshoe Project in Dallas County, providing for the replacement and addition of bridges and lanes on I-35 and I-30 at the Trinity River.

9. Transportation Planning

a. Nueces County – Designate a segment of US 77 from I-37 in Corpus Christi to SH 44 in Robstown as Interstate 69 (MO)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Transportation Planning & Programming Division Director Jim Randall. The commission also received comments from Cameron County Regional Mobility Authority Vice Chairman John Wood and a letter from Congressman Blake Farenthold was read into the record by Mr. Wilson.

112875
TPP

In NUECES COUNTY, officials have requested the designation of INTERSTATE HIGHWAY I 69 (I-69) concurrent with US HIGHWAY 77 (US 77), from I-37 in Corpus Christi southward to SH 44 in Robstown, a distance of approximately 6.2 miles.

In Minute Order 112791, dated August 25, 2011, the Texas Transportation Commission (commission) authorized the submission of an application to the American Association of State Highway and Transportation Officials (AASHTO) requesting that the segment of US 77 described above be added to the Interstate Highway System and designated as I-69. During its October 2011 meeting, the AASHTO Special Committee on US Route Numbering approved the application.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the interim executive director has recommended the concurrent designation of I-69 with US 77 on the state highway system.

The commission finds that the designation will facilitate the flow of traffic, promote public safety, maintain continuity of the state highway system, and is necessary for the proper development and operation of the system.

IT IS THEREFORE ORDERED by the commission that I-69 is designated on the state highway system concurrent with US 77 from I-37 in Corpus Christi southward approximately 6.2 miles to SH 44 in Robstown, as shown in Exhibit A.

Note: Exhibit A on file with minute order clerk.

b. Various Counties – Certify eligible counties for the 2012 Economically Disadvantaged Counties Program and establish local match adjustments for each county and certain cities (MO)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Transportation Planning & Programming Division Director Jim Randall.

112876
TPP

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

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

Transportation Code, §222.053(f), requires the commission to certify a county as economically disadvantaged on an annual basis as soon as possible after the Comptroller of Public Accounts (comptroller) provides reports on the economic indicators listed above.

43 TAC §15.55(b)(2) provides that, in determining the adjustment to the local matching funds requirement, and the local government’s efforts and ability to meet the requirement, the commission will consider a local government’s: (A) population level; (B) bonded indebtedness; (C) tax base; (D) tax rate; (E) extent of in-kind resources available; and (F) economic development sales tax.

The comptroller has provided the data needed to determine the counties eligible for the Economically Disadvantaged Counties Program for 2012. The counties’ efforts and ability to provide a local match have been considered using the criteria set forth in 43 TAC §15.55. Exhibit A lists the eligible counties and the respective recommended local match adjustment. Exhibit B establishes additional local match adjustments for cities within these counties participating in the program.

IT IS THEREFORE ORDERED by the commission that the list of counties eligible for the 2012 Economically Disadvantaged Counties Program is certified and the local match adjustment for each county is established, as shown in Exhibit A, as

well as additional adjustments for cities participating in the program, as shown in Exhibit B.

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

c. Appoint members to the Bicycle Advisory Committee (MO)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Transportation Planning & Programming Division Director Jim Randall.

112877
TPP

The Bicycle Advisory Committee (committee) provides the Texas Transportation Commission (commission) with insight from the perspective of bicyclists. The primary mission of the committee is to advise the commission on bicycle issues and to provide a forum for communication between the Texas Department of Transportation (department), bicyclists and the public. The committee also evaluates projects submitted for the Safe Routes to School Program and makes recommendations regarding the development of bicycle tourism trails. The committee operates under Title 43, Texas Administrative Code, §1.85, concerning department advisory committees.

The commission desires that the committee continue to provide advice on bicycle issues, the Safe Routes to School Program and bicycle tourism trails.

The commission makes the following appointments with terms expiring August 31, 2014:

Tommy Eden	Austin
Sheila Holbrook – White	Austin
Annie Melton	Dallas
Regina Garcia	Houston

IT IS THEREFORE ORDERED by the commission that the individuals identified above are appointed as members of the Bicycle Advisory Committee with terms as specified herein.

10. Obligation Limit and Quarterly Cash Status Reports

a. Status report on the FY 2012 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.

11. Contracts

Award or reject contracts for maintenance, highway and building construction

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

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Construction Division Interim Director Ken Barnett.

112878
MNT

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 October 6 and 7, 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 Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Construction Division Interim Director Ken Barnett.

112979
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 October 6 and 7, 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: Exhibits A and A-1 are on file with minute order clerk.

12. 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 Austin 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 following minute order was approved by Chairman Houghton, Commissioner Underwood, Commissioner Meadows and Commissioner Austin (a vote of 4 – 0). This item was presented by Right of Way Division Director John Campbell.

112880
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 - I.

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:

CONTROLLED ACCESS

COUNTY HIGHWAY EXHIBIT ACCOUNT PARCEL

Bell	IH 35	F	0015-04-083	24
Bell	IH 35	E	0015-07-078	8
Denton	IH 35E	B	0196-02-115	162
Harris	IH 610	A	0271-14-225	313
McLennan	IH 35	H	0015-02-058	25, 25E
McLennan	IH 35	D	0015-02-058	19
McLennan	IH 35	C	0015-02-058	1, 1E
McLennan	IH 35	G	0015-01-220	51
Rusk	US 259	I	0138-05-053	5

Note: Exhibits A though I are on file with minute order clerk.

13. Routine Minute Orders

Commissioner Austin made a motion, which was seconded and the commission approved the following minute orders by a vote of 4 – 0. This item was presented by Executive Director Phil Wilson.

a. Donations to the Department

(1) Bridge Division – Acknowledge a donation from the Precast/Prestressed Concrete Institute (PCI) for a department employee’s travel expenses to attend the 2011 National Bridge Conference in Salt Lake City, Utah, October 20 – 26, 2011 (MO)

112881
GSD

This minute order acknowledges a donation of an estimated \$1,529 from the Precast/Prestressed Concrete Institute (PCI) for a Texas Department of Transportation (department) employee’s travel expenses to attend the 2011 National Bridge Conference in Salt Lake City, Utah, from October 20 – 26, 2011.

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

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department’s acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not

influence or reasonably appear to influence the department in the performance of its duties.

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

The commission also finds that the donor is not subject to department regulation or oversight, and that this donation will not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation of an estimated \$1,529 by the PCI is acknowledged. The executive director or the executive director’s designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

(2) Bryan District – Consider a donation from HEB Grocery Company, LP, for the cost to design and construct a raised median and protected left turn lane from SH 21 to the new HEB grocery store and commercial development located in Bryan, Texas (MO)

112882
GSD

This minute order considers a donation of an estimated \$68,630 from H-E-B Grocery Company, LP (H-E-B) for the cost to design and construct a raised median and protected left turn lane from SH 21 to the new H-E-B grocery store and commercial development located in Bryan, Texas.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

Transportation Code, §223.049 authorizes the department to contract with an owner of land adjacent to a highway that is part of the state highway system to construct an improvement on the highway right-of-way that is directly related to improving access to or from the owner’s land.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department’s acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

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

The commission finds that acceptance of the donation would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation of an estimated \$68,630 by H-E-B is approved for acceptance. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

(3) **Houston District** – Consider a donation from HEB Grocery Company, LP, for the cost to design and modify a raised median opening and protected left turn lane from SS 261 to the new HEB grocery store and commercial development located in Houston, Texas (MO)

112883
GSD

This minute order considers a donation of an estimated \$100,000 from H-E-B Grocery Company, LP (H-E-B) for the cost to design and modify a raised median opening, and a protected left turn lane and right turn lane from SS 261 to a new H-E-B grocery store and commercial development located in Houston, Texas.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

Transportation Code, §223.049 authorizes the department to contract with an owner of land adjacent to a highway that is part of the state highway system to construct an improvement on the highway right-of-way that is directly related to improving access to or from the owner's land.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

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

The commission finds that acceptance of the donation would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation of an estimated \$100,000 by H-E-B is approved for acceptance. 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.

(4) Houston District – Consider a donation from Trendmaker Development Company for the cost to construct right and left turn lanes to access a new subdivision and commercial sites located on FM 1463 in Fulshear, Texas (MO)

112884
GSD

This minute order considers a donation of an estimated \$550,000 from Trendmaker Development Company for the cost to construct right and left turn lanes to access a new subdivision and commercial sites located on FM 1463 in Fulshear, Texas.

The department has determined that acceptance of the donation is in the best interest and welfare of the traveling public and will provide a significant public benefit.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

Transportation Code, §223.049 authorizes the department to contract with an owner of land adjacent to a highway that is part of the state highway system to construct an improvement on the highway right-of-way that is directly related to improving access to or from the owner's land.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not

influence or reasonably appear to influence the department in the performance of its duties.

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

The commission also finds that the donor is not subject to department regulation or oversight, and that this donation will not influence or reasonably appear to influence the department in the performance of its duties.

The commission also finds that the donor is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department.

IT IS THEREFORE ORDERED by the commission that the donation of an estimated \$550,000 by Trendmaker Development Company is approved for acceptance. 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.

(5) Houston District – Consider a donation from the Waffle House, Inc., for the cost of constructing a right turn lane on the north side of FM 518 between FM 1128 and Max Road in Pearland, Texas (MO)

112885
GSD

This minute order considers a donation of an estimated \$23,100 from Waffle House, Inc., to construct a right turn lane on the north side of FM 518 between FM 1128 and Max Road in Pearland, Texas.

The department has determined that acceptance of the donation is in the best interest and welfare of the traveling public and will provide a significant public benefit.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

Transportation Code, §223.049 authorizes the department to contract with an owner of land adjacent to a highway that is part of the state highway system to construct an improvement on the highway right-of-way that is directly related to improving access to or from the owner's land.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it

determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

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

The commission also finds that the donor is not subject to department regulation or oversight, and that this donation will not influence or reasonably appear to influence the department in the performance of its duties.

The commission also finds that the donor is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department.

IT IS THEREFORE ORDERED by the commission that the donation of an estimated \$23,100 by Waffle House, Inc., is approved for acceptance. 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.

(6) Traffic Operations Division – Consider a donation from the 95th Division Foundation for the cost associated with the design, creation and installation of two highway signs designating a portion of SH 71 between the eastern municipal boundary of Bastrop and its intersection with County Road 329 as the 95th Division Memorial Highway (MO)

112886
GSD

This minute order considers a donation of an estimated \$6,000 from the 95th Division Foundation for the cost associated with the design, creation and installation of two highway signs which designate a portion of SH 71 between the eastern municipal boundary of Bastrop and its intersection with CR 329 as the 95th Division Memorial Highway.

The department has determined that acceptance of the donation is in the best interest and welfare of the traveling public and will provide a significant public benefit.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the

acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

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

The commission also finds that the donor is not subject to department regulation or oversight, and that this donation will not influence or reasonably appear to influence the department in the performance of its duties.

The commission also finds that the donor is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department.

IT IS THEREFORE ORDERED by the commission that the donation of an estimated \$6,000 by the 95th Division Foundation is approved for acceptance. 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.

(7) Various Districts – Consider a donation from SH 130 Concession Company, LLC to provide funding for the cost associated with equipment and services to install and maintain microwave vehicle detection sensors (MO)

112887
GSD

This minute order considers a donation of an estimated \$650,000 from SH 130 Concession Company, LLC., for the cost associated with equipment and services to install and maintain microwave vehicle detection sensors to be used for traffic operations and transportation planning for SH 130, 1-6.

The department has determined that acceptance of the donation is in the best interest and welfare of the traveling public and will provide a significant public benefit.

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not

influence or reasonably appear to influence the department in the performance of its duties.

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

The commission also finds that acceptance of the donation would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation of an estimated \$650,000 by SH 130 Concession Company, LLC., is approved for acceptance. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

b. Public Transportation

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

112888
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 of 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, 112597 and 112714 dated January 28, 2010, July 29, 2010, August 26, 2010, December 16, 2010, February 24, 2011 and June 30, 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 is on file with minute order clerk.

(2) Taylor County – Award transportation development credits to the City of Abilene to provide a match to a federal discretionary public transportation grant to replace transit fleet (MO)

112889
PTN

The Texas Transportation Commission (commission) desires to award 77,520 Transportation Development Credits (TDC) to the City of Abilene, to be used as the local match for a federal funding award for vehicle capital replacement.

The commission recognizes that state and federal law permits the substitution of TDC as the required non-federal match for capital projects. Title 43, Texas Administrative Code, §5.73 establishes a process by which 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.

The commission finds that the City of Abilene project is eligible to receive TDC and satisfies the criteria of 43 TAC §5.73 as described above.

Transportation Code, Chapter 455 assigns a broad spectrum of public transportation roles and missions to the Texas Department of Transportation (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 to the City of Abilene and enter into the necessary contract in accordance with the priorities established in this minute order.

c. Right of Way Dispositions and Donations

(1) McLennan County – FM 1637 east of County Road 406 - Consider the sale of surplus right of way with reservation of an easement interest (MO)

112890

In McLENNAN COUNTY, on FARM TO MARKET ROAD 1637, the State of

ROW

Texas acquired certain land for highway purposes by instrument recorded in Volume 990, Page 4, Deed Records of McLennan County, Texas, and the state used certain land for highway purposes, there being no record title in the state's or county's name.

Portions of the land (surplus land), described in Exhibit A as Tracts 1 and 2, are no longer needed for state highway purposes.

An easement interest in a portion of the surplus land is needed for highway drainage purposes (drainage easement), described in Exhibit B, and is reserved to the state.

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 abutting landowners and may recommend the quitclaim of any interest that might have accrued to the state to abutting property owners at the request of the county, if there is no record title to the property.

L Bar L Ranch, LP, a Texas limited partnership, is the abutting owner and has requested that, subject to the drainage easement, Tract 1 be sold to the partnership for \$6,900 and Tract 2 be quitclaimed to the partnership.

The commission finds \$6,900 to be a fair and reasonable value of the state's rights, title and interest in Tract 1.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value of Tract 1 is less than \$10,000. The commission authorizes the executive director to execute a proper instrument conveying all of the state's rights, title and interest in Tract 1 to L Bar L Ranch, LP, a Texas limited partnership, for \$6,900, subject to the drainage easement; 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 Tract 1.

FURTHER, the commission recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument quitclaiming all of the state's rights and interest in Tract 2 to L Bar L Ranch, LP, a Texas limited partnership, subject to the drainage easement.

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

(2) Tarrant County – SH 360 at East Harwood Street in Euless - Consider the sale of surplus right of way to the abutting landowner (MO)

112891
ROW

In the city of Euless, TARRANT COUNTY, on STATE HIGHWAY 360, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 8787, Page 1310, Deed Records of Tarrant County, Texas.

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

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

Navasota Harwood Lot 6, LLC, is an abutting landowner and has requested that the surplus land be sold to the company for \$300,000.

The commission finds \$300,000 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Navasota Harwood Lot 6, LLC, for \$300,000; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

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

(3) Tarrant County – SH 121, now designated Chisholm Trail Parkway, along Union Pacific Railroad (UP) in Fort Worth - Consider the conveyance of reciprocal easements from UP to the state and from the state to UP for access to maintain retaining wall structures and drainage and water runoff systems in accordance with a multi-party agreement (MO)

112892
ROW

In the city of Fort Worth, TARRANT COUNTY, on STATE HIGHWAY 121, now designated CHISHOLM TRAIL PARKWAY, the State of Texas acquired certain land needed for highway purposes, and additional land was 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.

In accordance with an executed multi-party agreement, easement interests in the land (surplus easements) located west of Hulen Street to Summit Avenue, as shown on Exhibit B-1, 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 exchange of an interest in real property as partial or full consideration for another interest in real property needed for a state highway purpose.

Union Pacific Railroad Company (UP) is the abutting landowner and has requested that the state convey the surplus easements to UP for access to and maintenance of the railroad facility in accordance with the agreement and in exchange for the conveyance to the state of easements on land owned by UP (new easements) for maintenance of the highway facility. The new easements are located west of Hulen Street to Summit Avenue, as shown on Exhibit A-1.

NOW, THEREFORE, the commission finds that the surplus easements are 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 the state's rights and interest in the surplus easements to Union Pacific Railroad Company in exchange and as consideration for the conveyance of the new easements to the state.

Note: Exhibits A1 through B1 are on file with minute order clerk.

d. Finance**Accept the Quarterly Investment Report (MO)**112893
FIN

Government Code, Chapter 2256 (Public Funds Investment Act) authorizes the Texas Transportation Commission (commission) to purchase, sell, and invest its funds and funds under its control in investments authorized under the Public Funds Investment Act, in accordance with investment policies approved by the commission.

Government Code, §2256.005 requires the commission to adopt a written investment policy regarding the investment of its funds and funds under its control, including a separate written investment strategy for each of the funds or group of funds under its control, and to designate one or more officers or employees of the Texas Department of Transportation (department) as investment officer to be responsible for the investment of funds consistent with the investment policy.

Pursuant to this legislation, in Minute Order 108970, dated July 25, 2002, the commission approved and adopted a written investment policy and investment strategy applicable to funds of the commission held under the Indenture of Trust dated July 15, 2002, securing the outstanding bonds, notes, and other obligations issued by the commission to finance a portion of the cost of the initial phase of the Central Texas Turnpike System, also known as the 2002 Project. The commission has designated the department's Chief Financial Officer as investment officer. In the absence of the Chief Financial Officer, Director of the Debt Management Office, the Director of Finance or the Deputy Director of Finance is authorized to act as investment officer.

Pursuant to Government Code §2256.005(e) and Section 20 of the investment policy, the investment policy and investment strategies of the commission have been reviewed and revised annually by minute order since 2003, most recently by Minute Order 112799, dated August 25, 2011.

Government Code, §2256.023 requires the designated investment officer to prepare and submit to the commission and the executive director, not less than quarterly, a written report of investment transactions for all funds covered by the Public Funds Investment Act for the preceding reporting period. The report must describe in detail the investment position of the department on the date of the report, and must be prepared jointly and signed by each investment officer.

Section 9.0 of the investment policy requires the investment officer to prepare and submit to each member of the commission and the executive director of the department an investment report on no less than a quarterly basis. The report must be prepared in accordance with the requirements of that section, including containing sufficient information to provide for a comprehensive review of investment activity and current investment instruments and performance for the reporting period. A quarterly investment report for the department for the period ending August 31, 2011, attached as Exhibit A, has been prepared in accordance with Government Code, §2256.023 and Section 9.0 of the investment policy.

IT IS THEREFORE ORDERED by the commission that the quarterly investment report attached as Exhibit A is accepted.

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

e. Highway Designation

Polk County – Extend the designation of FM 2665 along a new location east of US 59 north to FM 1988, in the city of Goodrich (MO)

112894
ROW

In POLK COUNTY, the Lufkin District has requested to extend the designation of FARM TO MARKET ROAD 2665 (FM 2665) along a new location from approximately 0.25 mile east of US 59 in the city of Goodrich, north to FM 1988, a distance of approximately 0.7 mile.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended extending the designation of FM 2665 on the state highway system (system).

The Texas Transportation Commission (commission) finds that the extension of FM 2665 will facilitate the flow of traffic, promote public safety, and maintain continuity, and it is necessary for the proper development and operation of the system.

IT IS THEREFORE ORDERED by the commission that the designation of FM 2665 is extended along a new location from approximately 0.25 mile north of US 59 to FM 1988, a distance of approximately 0.7 mile, as shown in Exhibit A.

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

f. Transportation Development Credit (TDC)

Award TDC for air quality programs to the Alamo Area Council of Governments funded by the Surface Transportation Program - Metropolitan Mobility (MO)

112895
FIN

Transportation Code, Chapter 455 assigns a broad spectrum of powers and duties to the Texas Department of Transportation (department) regarding public and mass transportation. Transportation Code, Chapter 456 authorizes the Texas Transportation Commission (commission) to administer funds appropriated for public transportation.

Title 43, Texas Administrative Code, §5.73(a) establishes a process by which transportation development credits may be awarded at the discretion of the commission. In accordance with §5.73(b), the commission will consider the expressed opinion of the metropolitan planning organization with respect to a project within its boundaries.

The San Antonio District, with the support of the San Antonio Metropolitan Planning Organization, requests the award of 213,000 in transportation development credits (TDC) to the Alamo Area Council of Governments (AACOG). This minute order authorizes the award of TDC to the AACOG in the amount of 53,400 for each of the fiscal years of the current Transportation Improvement Program (2011, 2012, 2013 and 2014) for a total of 213,600.

The commission finds that distribution of TDC for this particular purpose would enable AACOG to continue to support the Alamo Area Commute Solutions Program.

This program assists with congestion relief, improved air quality, and reduced mobile source emissions by reducing single occupancy vehicles. The programs address and encourage carpooling, walking whenever possible, greater use of school buses, and other alternatives intended to reduce congestion.

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is authorized to utilize transportation development credits in support of the Alamo Area Council of Governments in an amount not to exceed 213,600.

g. Speed Zones

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

112896
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.

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

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

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

15. 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 - Discuss the duties and compensation of one or more persons who fill a senior leadership position of the department, other than the position of executive director.

The commission recessed at 10:41 a.m. and entered executive session.
The commission reconvened the open meeting at 11:06 a.m.

15. Compensation of Senior Leadership Positions

Set the compensation for five or fewer senior leadership positions of the Texas Department of Transportation below the position of executive director (MO)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute orders by a vote of 4 – 0. This item was presented by Executive Director Phil Wilson.

112897
OGC

Article IX, Section 18.16 of the General Appropriations Act of the 82nd legislature, provides that the Commission may set the amount of compensation for up to five senior leadership positions, in addition to the executive eirector of the Texas Department of Transportation (department), within the Group 8 salary classification, as provided in Article IX, Section 3.05(b)(2) of that Act.

The executive director of the department has established the preliminary titles of and assigned initial duties to four job positions that he has designated as senior leadership positions. A document that provides those titles and the initial duties is attached to this minute order as Exhibit A and is incorporated by reference as though set forth verbatim in this minute order. The executive director has designated a fifth job position as a senior leadership position. The executive director will determine the title and duties of that position and will submit that information to the Texas Transportation Commission (commission) before the position is filled. The executive director has requested that the commission set the compensation of all five positions within the Group 8 salary classification.

The commission finds that it would be in the best interest of the state and the department to set the compensation of the five senior leadership positions at amounts that are within the Group 8 salary classification.

IT IS THEREFORE ORDERED by the commission that the position of Deputy Executive Director and Chief Engineering Officer be compensated at an annual salary that does not exceed \$272,000.

IT IS FURTHER ORDERED that the position of Chief Planning and Project Officer be compensated at an annual salary that does not exceed \$250,000.

IT IS FURTHER ORDERED that the position of Chief Financial Officer be compensated at an annual salary that does not exceed \$250,000.

The regular meeting of the Texas Transportation Commission was adjourned at 11:10 a.m.

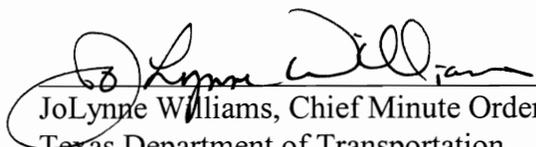
APPROVED:



Ted Houghton, Chairman
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 October 27, 2011, in Austin, Texas.



JoLynne Williams, Chief Minute Order Clerk
Texas Department of Transportation