

These are the minutes of the regular meeting of the Texas Transportation Commission held on December 13, 2012, Austin, Texas. The meeting was called to order at 9:00 am by Chairman Houghton with the following commissioners present:

**Texas Transportation Commission:**

|                 |              |
|-----------------|--------------|
| Ted Houghton    | Chairman     |
| Fred Underwood  | Commissioner |
| Bill Meadows    | Commissioner |
| Jeff Austin III | Commissioner |
| Jeff Moseley    | Commissioner |

**Administrative Staff:**

Phil Wilson, Executive Director  
 Jeff Graham, General Counsel  
 Rose Walker, Chief Clerk  
 Kristen Webb, 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 3:59 p.m. on December 5, 2012, as required by Chapter 551, of the Government Code, referred to as “The Open Meetings Act.”

**ITEM 1. Safety Briefing**

This item was presented by Deputy Executive Director John Barton.

**ITEM 2. Approval of Minutes of the November 15, 2012, meeting of the Texas Transportation Commission**

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 – 0.

**ITEM 3. Discussion Item**

Discussion of ongoing studies to identify transportation projects that will significantly reduce levels of congestion on the state's most congested roadways, as required by the General Appropriations Act

This item was introduced by Research and Technology Implementation Director Shannon Crum and presented by Texas A&M Transportation Institute Senior Research Engineer Tim Lomax.

**ITEM 4. Transportation Planning****a. Panama Canal Report (REPORT)**

This item was introduced by Director of Federal Affairs Coby Chase and presented by Harris County Judge Ed Emmett and Cameron County Judge Carlos H. Cascos.

**b. Task Force on Texas' Energy Sector Roadway Needs Report (REPORT)**

This item was presented by Deputy Executive Director John A. Barton.

**c. I-69 Advisory Committee Report (REPORT)**

This item was introduced by Director of Planning Marc Williams and presented by I-69 Advisory Committee Chair Judy Hawley. The commission also received comments from Alliance for I-69 Chair John Thompson and Port of Corpus Christi Executive Director John LaRue.

**d. Approve the Gulf Intracoastal Waterway Report (MO)**

Commissioner Moseley 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 Maritime Division Director Herman Deutsch. The commission also received comments from Harris County Judge Ed Emmett.

113391  
MRD

Transportation Code, Chapter 51 (Texas Coastal Waterway Act), designates the state to act as the non-federal sponsor of the main channel of the Gulf Intracoastal Waterway (GIWW) from the Sabine River to the Brownsville Ship Channel.

Transportation Code, Section 51.007 requires the Texas Transportation Commission (commission) to continually evaluate the impact of the GIWW on the state and prepare a report for each regular session of the Texas Legislature. The evaluation shall include:

- 1) an assessment of the importance of the GIWW that includes identification of its direct and indirect beneficiaries;
- 2) identification of principal problems and possible solutions to those problems that includes estimated costs, economic benefits, and environmental effects;
- 3) an evaluation of the need for significant modifications to the GIWW; and
- 4) specific recommendations for legislative action that the commission believes are in the best interest of the state in carrying out the state's duties under this chapter.

The report of the evaluation shall be published and presented to each regular session of the Texas Legislature.

The Texas Department of Transportation has completed the evaluation and developed the report for the period of Fiscal Years 2011-2012.

IT IS THEREFORE ORDERED that the Gulf Intracoastal Waterway Report, as shown in Exhibit A, is accepted by the commission and should be published and presented to the members of the 83rd Texas Legislature, the governor, the lieutenant governor, and the speaker of the house of representatives.

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

The commission stood at recess at 10:44 a.m. and reconvened at 10:57 a.m.

**ITEM 5. 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 5 – 0. This item was presented by Aviation Division Director Dave Fulton.

113392  
AVN

The Texas Department of Transportation (department) is authorized under the federal Airport and Airway Improvement 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, November 8, 2012, 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 \$12,310,602.

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

**ITEM 6. Public Transportation**

**a. Various Counties - Award Federal §5316, Job Access Reverse Commute (JARC) grant program funds to various transit providers (MO)**

Commissioner Meadows 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.

113393  
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.

Title 43, Texas Administrative Code, Section §31.17 establishes the process by which program proposals shall be evaluated and funds distributed. On July 23, 2012, the department informed the potential eligible Texas transit agencies of a special Job Access Reverse Commute Transition Funding Call for Projects. Project criteria included demonstration of need and benefits of the project, including information regarding transitioning the current JARC program to the new funding paradigm under the new Federal Transportation Law, Moving Ahead for Progress for the 21st Century.

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;
- Capital cost of contracting will provide transportation options for low income individuals to access employment related activities thus expanding economic opportunities;
- 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; and
- Coordinated planning of transportation projects will reduce the need for single occupant vehicle travel and passenger trips, thus reducing congestion and improving air quality.

The commission recognizes the importance of the success of JARC projects and finds that the projects in Exhibit A are eligible for funding and awards a total of \$7,919,888 in federal funds and 421,788 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 is on file with the minute order clerk.

**b. Various Counties - Award federal §5311 funds, Nonurbanized Area Formula Program for FY 2013 (MO)**

Commissioner Moseley 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.

113394  
PTN

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

The United States Congress has passed the Continuing Appropriations Resolution, 2013 for a six-month period; the FTA has available funds for this period. As soon as appropriation covering the remainder of the fiscal year or a portion of it has been enacted, the additional funding will be made available.

Awards to rural transit systems are calculated in accordance with the formula in 43 Texas Administrative Code §31.36(g)(3). The distribution of the FY 2013 awards is shown in Exhibit A.

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

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

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the available FY 2013 §5311 FTA allocation for the program as described in Exhibit A, submit the necessary state application to the FTA, and enter into the necessary contracts for the FY 2013 program of projects.

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

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

**c. Hays, Travis and Williamson Counties - Award STP funds through the §5311 grant program to the Capital Area Rural Transportation System for the purchase of buses (MO)**

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 Public Transportation Division Director Eric Gleason.

113395  
PTN

The Texas Transportation Commission (commission) takes special note of its designation by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, "Formula Grants for Rural Areas" (49 U.S.C. §5311), in a letter dated October 4, 2005; and further acknowledges that federal program

regulations require the Texas Department of Transportation (department) to ensure that these grant funds are distributed fairly and equitably within the state.

The Capital Area Metropolitan Planning Organization (CAMPO) has authorized the transfer of \$880,000 in Surface Transportation Program Metropolitan Mobility and Rehabilitation funding for the purchase of 6 transit vehicles. The flexed funding will be administered under the FTA grant program, Formula Grants for Rural Areas (49 U.S.C. §5311).

Title 43, Texas Administrative Code, §5.107 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.

The commission further finds that the purchase of 6 transit vehicles is eligible for funding and desires to award \$880,000 in §5311 funds and 176,000 in TDC to Capital Area Rural Transportation System(CARTS).

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 submit the necessary state application to the FTA, and enter into the necessary contracts with CARTS upon completion of all application requirements.

**ITEM 7. 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 §9.4, Civil Rights-Title VI Compliance (General)**

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 Office of Civil Rights Director Ron Wilson.

113396  
OCR

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §9.4, relating to Civil Rights - Title VI Compliance, 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 §9.4 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 the minute order clerk.

**b. Proposed Adoption**

**(1) Chapter 5 - Finance and Chapter 23 - Travel Information (MO)**

Amendments to §5.42, Definitions, and §5.44, Exceptions (Payment of Fees for Department Goods and Services); the Repeal of §23.27, Magazine Ancillary Products (Texas Highways Magazine); New Subchapter D, Promotional Product Program, New §§23.51-23.59; and New Subchapter E, Merchandising Program, New §§23.101-23.105

Commissioner Austin 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 Travel Information Division Director Margo Richards.

113397  
TRV

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §5.42, relating to definitions, and §5.44, relating to exceptions, the repeal of §23.27 relating to magazine ancillary products, and propose new §§23.51-23.59, relating to a promotional product program and new §§23.101-23.105, relating to a merchandising program, all 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 - F, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §5.42 and §5.44, the repeal of §23.27, new §§23.51-23.59, and new §§23.101-23.105 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 - F are on file with the minute order clerk.

**ITEM 8. Office of Compliance and Ethics Report**

This item was presented by Office of Compliance and Ethics Director Suzanne Latimer.

**ITEM 9. Toll Roads**

a. Denton and Dallas Counties - Approve the selection of the proposer who submitted the best value proposal to develop, design, construct, and, potentially maintain the I-35E Managed Lanes Project, from I-635 in Dallas County to US 380 in Denton County, and authorize the executive director of the department to execute a comprehensive development agreement with the selected proposer (MO)

Commissioner Meadows 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 Strategic Projects Division Director Ed Pensock.

113398  
SPD

Transportation Code, Chapter 223, Subchapter E, prescribes the process by which the Texas Department of Transportation (department) may enter into a comprehensive development agreement (CDA) with a private entity that provides for the design, development, financing, construction, maintenance, repair, operation, extension, or expansion of an eligible project.

On September 29, 2011, by Minute Order 112840, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the development of the IH 35E Managed Lanes Project from IH 635 in Dallas County to US 380 in Denton County. The department issued the RFQ on January 23, 2012 and subsequently determined that four of the five teams submitting qualifications statements in response to the RFQ were most qualified to be on the short list of teams that would be requested to submit detailed proposals to develop, design, construct, and, potentially, maintain the project.

Transportation Code, §223.203 and 43 TAC §27.4 provide that, if authorized by the commission, the department will issue a request for proposals (RFP) from all private entities qualified for the short-list. On June 28, 2012, by Minute Order 113156, the commission authorized and directed the department to issue an RFP requesting detailed proposals from the short-listed teams to develop, design, construct, and potentially maintain the IH 35E Managed Lanes Project from IH 635 in Dallas County to US 380 in Denton County and authorized a payment for work product of each unsuccessful responsive proposer of up to \$1 million. On July 13, 2012, the department issued the RFP.

On November 12, 2012, technical and financial proposals were received, and on November 19, 2012, price proposals were received, from AGL Constructors, Dallas to Denton Constructors, IH 35E Infrastructure, and Northern Link Constructors. From November 13, 2012 until December 5, 2012, the department evaluated the technical and financial proposals from the proposers, and from November 19, 2012 until December 5, 2012, the department evaluated the price proposals from the proposers.

The proposals were evaluated in the following categories: (1) Pass/Fail and Responsiveness; (2) Technical Score; and (3) Price Score. The project development plans in the technical proposals were evaluated using qualitative ratings of: meets minimum, fair, good, very good, and excellent; and assigned adjectival ratings and numerical scores for each evaluation subfactor. Points were assigned to the technical proposals based on those ratings and the weightings of the individual evaluation factors, with the sum of those points resulting in a total evaluation score, which was multiplied

by a defined percentage to arrive at the Technical Score. To arrive at the Price Score, points were assigned to the price proposals using a formula that is comprised of the combination of the base price score, the options price score, and the maintenance price score.

The Technical Score points assigned to the technical proposal were then added to the Price Score points to determine the total number of points received by each proposal. The responsive proposal with the highest score and the largest base scope was determined to provide the apparent best value.

The evaluation and scoring of each proposal under the Technical Score and Price Score categories resulted in the proposals being ranked as follows: AGL Constructors, Dallas to Denton Constructors, and Northern Link Constructors. IH 35E Infrastructure submitted a responsive proposal with a development price in excess of the Adjusted Available Public Funds Amount, and therefore was not scored or ranked. The proposal submitted by AGL Constructors was accordingly determined to provide the apparent best value.

IT IS THEREFORE ORDERED by the commission that the determination that the proposal submitted by AGL Constructors provides the apparent best value to the department is approved, and the department is authorized and directed to commence and complete negotiations with AGL Constructors necessary to finalize the design- build comprehensive development agreement and associated optional capital maintenance agreement, to develop, design, construct, and, potentially, maintain the IH 35E Managed Lanes Project from IH 635 in Dallas County to US 380 in Denton County, and to modify the comprehensive development agreement as necessary as a result of such negotiations.

IT IS FURTHER ORDERED that the comprehensive development agreement and the associated optional capital maintenance agreement is awarded to AGL Constructors subject to, and effective upon the occurrence of, all of the following: (1) the successful conclusion of negotiations; (2) the issuance of a Notice of Intent to Award by the department; (3) applicable FHWA approvals as identified by the department; (4) a determination by the Office of the Attorney General that the proposed comprehensive development agreement, including the optional capital maintenance agreement, is legally sufficient, in accordance with Transportation Code, §371.051; (5) notification and information having been provided to the Legislative Budget Board, in accordance with Transportation Code, §371.052(b) and Riders 22 and 24, Pages VII-33, Chapter 1355, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act); and (6) the mutual execution and delivery of the comprehensive development agreement, including the optional capital maintenance agreement, by the executive director of the department or his designee and the developer.

IT IS FURTHER ORDERED that if the executive director determines that the negotiations with AGL Constructors cannot be successfully completed, and that therefore the proposal submitted by AGL Constructors will not provide the apparent best value, the department is authorized to commence and complete discussions and negotiations with Dallas to Denton Constructors, the next highest ranked proposer, with award to the next highest ranked proposer subject to the terms and conditions in the immediately preceding paragraph of this order.

**b. Harris, Montgomery, and Chambers Counties - Establish toll rate tables for portions of SH 99 (Grand Parkway) consisting of the tolled portion of Segment D in Harris County, and Segments E, F-1, F-2, and G; establish new rate tables for Grand Parkway Segment I-2, replacing the rates previously set by the commission; establish a toll escalation policy for six segments of the Grand Parkway consistent with the terms and conditions of the Market Valuation Waiver Agreement (MVWA) and authorize the chairman of the commission to execute a toll rate agreement between the commission and Grand Parkway Transportation Corporation (GPTC) (MO)**

Commissioner Moseley 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 Toll Operations Division Director Doug Woodall.

113399  
TOD

The Texas Department of Transportation (department) and the seven counties in the Houston area in which SH 99 (Grand Parkway) is located have been proceeding with the development of the Grand Parkway from SH 146 in Galveston County to SH 146 in Chambers County. In accordance with the requirements of Transportation Code §228.0111 and the policies included in Minute Order 111410, the department and the seven counties 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, including terms for establishing baseline toll rates and toll escalation policies applicable to the Grand Parkway.

Title 43, Texas Administrative Code, §27.82(d) provides that the Texas Transportation Commission (commission) will establish toll rates for the use of a toll project on the state highway system and prescribes criteria to be considered by the commission in setting toll rates. In setting toll rates, the commission considers: (1) the results of traffic and revenue studies and any schedule of toll rates established in a traffic and revenue report; (2) the requirements of project bond covenants, if applicable; and (3) vehicle classifications, type and location of the facility, and similar criteria that apply to the project. The terms and conditions of the Market Valuation Waiver Agreement provide the basis for the toll rates established in the traffic and revenue report for the tolled portion of Segment D in Harris County and Segments E, F-1, F-2 and G in Harris and Montgomery counties and Segment I-2 in Chambers County.

The commission is establishing initial toll rates and a toll escalation policy, consistent with the terms and conditions of the Market Valuation Waiver Agreement, as shown on Exhibit A for the tolled portion of Segment D in Harris County and Segments E, F-1, F-2, and G, which will comprise the initial elements of the Grand Parkway System (system) to be operated on behalf of the commission by the Grand Parkway Transportation Corporation (GPTC) pursuant to a project agreement between the department and GPTC and in accordance with a trust agreement between GPTC and the trustee for the holders of GPTC's toll revenue bonds to be issued to pay the costs of constructing the system. The system will be operated as an all-electronic, open-road

tolling facility with a closed ramp system of toll collections. The initial system elements are (a) a 2011 toll project using the department's design-bid-build method of constructing highway improvement projects on the state highway system, composed of (1) Segment D construction of an overpass at I-10 West and related highway improvements from north of Kingsland Boulevard to south of Colonial Parkway in Harris County, and (2) three highway improvement projects identified as Segment E that will extend Grand Parkway from south of Colonial Parkway to south of US 290 in Harris County; and (b) a 2012 toll project in Harris and Montgomery counties that will extend Grand Parkway from east of US 290 in Harris County to west of US 59 in Montgomery County, identified as Segments F-1, F-2 and G, using a design-build comprehensive development agreement in accordance with Subchapter E, Chapter 223, Transportation Code.

Minute Order 111167, dated December 13, 2007, designated Grand Parkway Segment I-2 as a toll project on the state highway system. Segment I-2 is in operation outside the Grand Parkway System as a four-lane controlled-access toll road extending 6.6 miles from I-10 to Fisher Road in Chambers County (Segment I-2 toll project). The Segment I-2 toll project is an all-electronic, openroad tolling facility with a closed ramp system of toll collection.

Minute Order 112756, dated July 28, 2011, authorized the Texas Department of Transportation (department) to charge tolls in Chambers County on the Segment I-2 toll project from I-10 to Fisher Road. The toll rates and toll escalation policy set forth in Exhibit A for the Segment I-2 toll project will replace the toll rates established in Minute Order 112756 to make the toll rates for the Segment I-2 toll project consistent with the rates and toll escalation policy in effect for the segments comprising the system and the terms and conditions of the Market Valuation Waiver Agreement.

The commission has determined it is in the best interest of the state for the commission to enter into a toll rate agreement with GPTC (toll rate agreement) to set forth the covenant of the commission to establish and maintain toll rates for the system sufficient to pay (a) principal and interest on the system's toll revenue bonds to be issued by GPTC, (b) maintenance and operation expenses of the system and (c) certain debt service coverage factors, as required in connection with the rating and marketing of such bonds as further set forth in the toll rate agreement, substantially in the form attached as Exhibit B.

IT IS THEREFORE ORDERED by the commission that the Grand Parkway Transportation Corporation is authorized to charge tolls for the tolled portion of Segment D of the Grand Parkway in Harris County and for Segments E, F-1, F-2, and Segment G of Grand Parkway in Harris and Montgomery counties, as set forth in Exhibit A.

IT IS FURTHER ORDERED by the commission that the Texas Department of Transportation is authorized to revise the toll rates in Chambers County on the Grand Parkway Segment I-2 toll project from I-10 to Fisher Road to be consistent with the toll rates for Segments E, F-1, F-2, and G in Harris and Montgomery counties at the rates set forth in Exhibit A.

IT IS FURTHER ORDERED that the executive director is authorized annually to escalate toll rates on the tolled portion of Segment D of the Grand Parkway in Harris

County and on the Grand Parkway Segments E, F-1, F-2, G and I-2 in Harris, Montgomery and Chambers counties in accordance with established indices and toll escalation policy as shown in Exhibit A.

IT IS FURTHER ORDERED that the chairman of the commission is authorized to execute a toll rate agreement with the Grand Parkway Transportation Corporation regarding covenants to maintain toll rates on the tolled portion of Segment D of the Grand Parkway in Harris County and on the Grand Parkway Segments E, F-1, F-2, and G in Harris and Montgomery counties in accordance with the toll rate agreement substantially in the form shown in Exhibit B.

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

c. Grand Parkway Report - Annual report on the status of projects and activities undertaken during the preceding 12 months (REPORT)

This item was introduced by Director of Planning Marc Williams and presented by Grand Parkway Association Executive Director David Gornet and Grand Parkway Association President William F. (Billy) Burge III.

**ITEM 10. Transportation Development Credits**

**Red River County - Award transportation development credits to provide the non-federal match associated with the paving of CR 3230 and CR 3240 connecting FM 1158 and FM 1159 northeast of the city of Clarksville (MO)**

Commissioner Moseley 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 Director of Planning Marc Williams.

113400  
TPP

Title 23 U.S.C. §120 permits a state to use certain toll revenue expenditures, known as transportation development credits (TDC), as credit toward the non-federal share of certain projects.

Rider 45 to the appropriations to the Texas Department of Transportation (department) in the General Appropriations Act (HB 1, 82nd Legislature, Regular Session) provides that the department shall make it a priority to utilize TDC as the required match in a manner that would maximize the use of federal funds on eligible projects.

The Texas Transportation Commission (commission) has adopted rules in 43 TAC §§5.101-5.111 governing the TDC program. Section 5.109 establishes a process by which TDC may be awarded at the discretion of the commission.

SAFETEA-LU authorized \$1,001,475 in federal earmark funds for the paving of county roads 3230 and 3240 connecting FM 1158 and FM 1159 northeast of Clarksville, Texas. This project will provide enhanced safety by improving the driving surface and providing increased traction during weather events as well as provide improved access to local timber wood farms and expanded connectivity between two farm-to-market roadways.

Red River County is recognized as an economically disadvantaged area and does not have the financial resources to pay for the required local match associated with this project. Therefore, the Paris District (district) has requested the use of TDC as the non-federal match in order to ensure the federal earmark funds for this project can be utilized. The department received a letter from Red River County representatives supporting the award of TDC for this project. The total amount of TDC requested by the district is 250,369.

In making this award, the commission has considered the potential of the project to expand the availability of funding for transportation projects and finds that the project meets the established program goal set forth in 43 TAC §5.102 to maximize the use of available federal funds, particularly in situations in which federal funds otherwise would be unused because of the inability to provide the non-federal share. The commission further finds that distribution of TDC for this particular purpose serves the department's mission of working with others to provide safe and reliable transportation solutions for Texas.

IT IS THEREFORE ORDERED by the commission that the executive director or designee is authorized to utilize TDC in support of the CR 3230 and CR 3240 paving project, in an amount not to exceed 250,369.

**ITEM 11. Unified Transportation Program (UTP)**

**Approve updates to the 2013 UTP (MO)**

Commissioner Moseley 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 Director of Planning Marc Williams.

113401  
TPP

Transportation Code, §201.991 provides that the Texas Department of Transportation (department) shall develop a Unified Transportation Program (UTP) covering a period of 10 years to guide the development of and authorize construction of transportation projects.

The Texas Transportation Commission (commission) has adopted rules in Title 43, Texas Administrative Code, Chapter 16, governing the planning and development of transportation projects.

The rules include guidance regarding the development of the UTP and any updates to the program, as well as public involvement requirements.

The 2013 UTP was approved by the commission on April 26, 2012, in Minute Order 113074 and revisions to the 2013 UTP were approved by the commission on June 28, 2012, in Minute Order 113162, August 30, 2012, in Minute Order 113250 and October 25, 2012 in Minute Order 113319.

On October 18, 2012 the department conducted public video-teleconferences across the state, and a public hearing was held on November 5, 2012 to receive comments and testimony concerning the proposed updates to the 2013 UTP.

The updates to the 2013 UTP, as shown in Exhibit A, include revised funding allocations based on funds transfer requests in multiple categories and address the reconciliation of category 5 (Congestion Mitigation and Air Quality Improvement) and

category 7 (Metropolitan Mobility and Rehabilitation). In addition, this minute order updates project specific program lists, revises the tiered projects exhibit, and includes other minor revisions or technical corrections.

IT IS THEREFORE ORDERED by the commission that the updates to the 2013 UTP, as shown in Exhibit A, are hereby approved.

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

**ITEM 12. Contracts**

Award or reject contracts for maintenance, highway and building construction

**a. Highway Maintenance and Department 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 5 – 0. This item was presented by Construction Division Director John Obr.

113402  
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 December 4 and 5, 2012.

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

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

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

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

If a contractual requirement of award is not satisfied within the prescribed time limit, including any extension of time allowed by the executive director or the director's designee, by reason of the action or inaction of the successful low bidder on any contract, including, but not limited to, disadvantaged business/historically underutilized business participation, the contract is automatically in default and the executive director is authorized and directed to retain and deposit the related contract proposal guaranty to the credit of the State Highway Fund and to readvertise that project for competitive bids at the earliest practical subsequent date.

If a condition of award is not satisfied, including, but not limited to, reason of nonconcurrence of the Federal Highway Administration, the failure of a third party to

fund or concur, or failure to meet other conditions in the contract or an exhibit to this order, the respective award is voided and the department will return the bid guaranty.

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

**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 5 – 0. This item was presented by Construction Division Director John Obr. Jose M. Yañez representing J.M. Yañez Construction registered a position but did not wish to speak.

113403  
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 December 4 and 5, 2012, and the further deferral of Ft. Worth District, Tarrant County, Job Number 3201, Project Number HP 2008(345), deferred at the November 15, 2012, Commission meeting as shown on Exhibit A.

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, with the exception of Project Number HP 2008(345) (Tarrant County), be and are hereby respectively awarded to the lowest bidder or rejected as indicated therein. The award or rejection of Project Number HP 2008(345) is hereby deferred to a later date.

If a contractual requirement of award is not satisfied within the prescribed time limit, including any extension of time allowed by the executive director or the director's designee, by reason of the action or inaction of the successful low bidder on any contract, including, but not limited to, disadvantaged business/historically underutilized business participation, the contract is automatically in default and the executive director is authorized and directed to retain and deposit the related contract proposal guaranty to the credit of the State Highway Fund and to readvertise that project for competitive bids at the earliest practical subsequent date.

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

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

**ITEM 13. 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 Moseley 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 Commissioner Houghton, Commissioner Underwood, Commissioner Meadows, Commissioner Austin and Commissioner Moseley (a vote of 5 – 0). This item was presented by Right of Way Division Director John Campbell.

113404  
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 - S. 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 as 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 - 10, 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

| COUNTY      | HIGHWAY | EXHIBIT | ROW CSJ NO. | PARCEL |
|-------------|---------|---------|-------------|--------|
| Collin      | US 75   | 2       | 0047-14-071 | 6      |
| Collin      | US 75   | 9       | 0047-14-071 | 7      |
| Denton      | FM 720  | 7       | 1567-01-034 | 50     |
| Denton      | FM 720  | 1       | 1567-01-034 | 47     |
| Denton      | FM 720  | 3       | 1567-01-034 | 46     |
| Denton      | FM 720  | 4       | 1567-01-034 | 31     |
| Denton      | FM 720  | 8       | 1567-01-034 | 12     |
| Harris      | US 290  | 5       | 0050-09-084 | 656    |
| McLennan    | US 84   | 10      | 0055-08-112 | 18E    |
| Nacogdoches | SH 21   | 6       | 0118-08-065 | 2      |

#### CONTROLLED ACCESS

| COUNTY   | HIGHWAY | EXHIBIT | ROW CSJ NO. | PARCEL   |
|----------|---------|---------|-------------|----------|
| Bell     | IH 35   | H       | 0015-04-083 | 5        |
| Bell     | IH 35   | S       | 0015-04-083 | 54       |
| Bell     | IH 35   | R       | 0015-04-083 | 55       |
| Bell     | IH 35   | Q       | 0015-04-083 | 134AC    |
| Bell     | IH 35   | P       | 0015-04-083 | 135      |
| Bell     | IH 35   | I       | 0015-14-123 | 62,62E   |
| Denton   | IH 35E  | A       | 0196-02-110 | 16       |
| Harris   | IH 45   | B       | 0500-03-546 | 307A     |
| McLennan | IH 35   | O       | 0015-01-221 | 99AC     |
| McLennan | IH 35   | M       | 0015-02-058 | 136,136E |
| McLennan | IH 35   | N       | 0015-02-058 | 133      |
| McLennan | US 84   | E       | 0055-08-112 | 7        |
| McLennan | US 84   | D       | 0055-08-112 | 16       |
| McLennan | US 84   | F       | 0055-08-112 | 2        |
| McLennan | US 84   | G       | 0055-08-112 | 9        |

|          |        |   |             |        |
|----------|--------|---|-------------|--------|
| McLennan | US 84  | L | 0055-08-112 | 11,11E |
| McLennan | US 84  | C | 0055-08-112 | 12,12E |
| Tarrant  | IH 35W | K | 0014-16-266 | 853    |
| Tarrant  | IH 35W | J | 0014-16-266 | 852    |

Note: Exhibits A - S and 1 - 10 are on file with the minute order clerk.

**ITEM 14. Routine Minute Orders**

Commissioner Austin 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 Executive Director Phil Wilson.

**a. Donations to the Department**

**(1) Project Management Office - Consider a donation from the Association for the Advancement of Cost Engineers (AACE) for a department employee’s travel expenses to attend the 2013 Winter Workshop in Lake Tahoe, Nevada on February 20-25, 2013 (MO)**

113405  
CSO

This minute order considers a donation from the Association for the Advancement of Cost Engineers (AACE) for a Texas Department of Transportation (department) employee’s travel expenses to attend the 2013 Winter Workshop in Lake Tahoe, Nevada on February 20 - 25, 2013. The amount is estimated to be \$1,360.25.

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.

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 from the Association for the Advancement of Cost Engineers estimated at \$1,360.25 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.

(2) **Austin District** - Consider a donation from The Lookout Development Group, Inc., for the ROW, design and construction of a right turn deceleration lane and left turn lane on RM 1431 at the proposed Crystal Falls West development (Phase 1) and upon build-out of the development, a right turn deceleration lane on RM 1431 at Nameless Road (Phase 2) (MO)

113406  
CSO

This minute order considers a donation from the Lookout Development Group, Inc., for the right of way, design and construction of a right turn deceleration lane and left turn lane on Ranch to Market Road 1431 at the proposed Crystal Falls West development (Phase 1 = \$1,292,984 + ROW value of \$38,350) and upon build-out of the development, a right turn deceleration lane on RM 1431 at Nameless Road (Phase 2 = \$417,909 + ROW value of \$8,000). All design and construction work will be provided by the donor, its consultant or its contractor. In addition, the donor will pay the department's direct and indirect costs to review, monitor and inspect the work that is on the state right of way. The estimated value of the donation is \$1,757,243.

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.

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 by the Lookout Development Group, Inc., estimated at \$1,757,243 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 acknowledgement of the donation.

**(3) Austin District - Consider a donation from Masonwood 71, Ltd, for the design and construction of a right turn deceleration lane on SH 71 at the proposed Bella Colinas development (MO)**

113407  
CSO

This minute order considers a donation from Masonwood 71, Ltd., for the design and construction of right turn deceleration lane on State Highway 71 at the proposed Bella Colinas development. All design and construction work will be provided by the donor, its consultant or its contractor. In addition, the donor will pay the Texas Department of Transportation's (department) direct and indirect costs to review, monitor and inspect the work that is on the state right of way. The estimated value of the donation is \$51,071.

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 by Mastonwood 71, Ltd., estimated at \$51,071.00 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 acknowledgement of the donation.

**(4) Bryan District - Consider a donation from College Station Marketplace, LP, for the design and construction of a deceleration right-turn lane from the SH 6 southbound frontage road onto Arrington Road to access the new commercial subdivision of Tower Point (MO)**

113408  
CSO

This minute order considers a donation from College Station Marketplace, LP, for the design and construction of a deceleration right turn lane from the State Highway 6 southbound frontage road onto Arrington Road to access the new commercial subdivision of Tower Point. All design and construction work will be provided by the donor, its consultant or its contractor. In addition, the donor will pay the department's direct and indirect costs associated with the review and oversight of this work. The estimated value of the donation is \$70,000.

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.

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 by College Station Marketplace, LP, estimated at \$70,000 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 acknowledgement of the donation.

**(5) Houston District - Consider a donation from 5P Development, for the design and construction of two (2) deceleration turn lanes from FM 1960 at Deerbrook Park Boulevard to the donor's development in Harris County (MO)**

113409  
CSO

This minute order considers a donation from 5P Development, for the design and construction of two (2) deceleration turn lanes from Farm to Market 1960 at Deerbrook Park Boulevard to the donor's 5P Development in Harris County. All design and construction work will be provided by the donor, its consultant or its contractor. In addition, the donor will pay the department's direct and indirect costs to review, monitor and inspect the work that is on the state right of way. The estimated value of the donation is \$75,000.

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.

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 by 5P Development, estimated at \$75,000 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 acknowledgement of the donation.

**(6) Houston District - Consider a donation from LaTour Partners, for the design and construction of a deceleration lane from BW 8 at Vista Road to the Vista Commercial Park Development in Harris County (MO)**

113410  
CSO

This minute order considers a donation from LaTour Partners, for the design and construction of a deceleration lane from BW 8 at Vista Road to the Vista Commercial Park Development in Harris County. All design and construction work will be provided by the donor, its consultant or its contractor. In addition, the donor will pay the department's direct and indirect costs to review, monitor and inspect the work that is on the state right of way. The estimated value of the donation is \$35,000.

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.

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 by LaTour Partners, estimated at \$35,000 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 acknowledgement of the donation.

(7) Laredo District - Consider a donation from Kickapoo Traditional Tribe of Texas for the costs associated with the construction of a traffic signal at the intersection of FM 1021 and Tierra Soberana Blvd., in Eagle Pass, Texas (MO)

113411  
CSO

This minute order considers a donation from Kickapoo Traditional Tribe of Texas, for costs associated with the construction of a traffic signal at the intersection of Farm to Market 1021 and Tierra Soberana Boulevard, in Eagle Pass, Texas. The design and construction of the traffic signal will be done by the Texas Department of Transportation (department). The amount is estimated to be \$139,824.55.

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 by Kickapoo Traditional Tribe of Texas, estimated at \$139,824.55 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 acknowledgement of the donation.

(8) Odessa District - Consider a donation from Western National Bank to offset department direct and indirect costs for the installation of a traffic signal at the intersection of SP 558 (Faudree Road) and Eastridge Drive in the City of Odessa (MO)

113412  
CSO

This minute order considers a donation from Western National Bank to offset the Texas Department of Transportation's (department) direct and indirect costs associated with the installation of traffic signal at the intersection of Spur 558 (Faudree Road) and Eastridge Drive in the city of Odessa, Texas. The design and construction of the traffic signal will be done by department. The amount is estimated to be \$20,000.00.

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 by Western National Bank, estimated at \$20,000.00 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 acknowledgement of the donation.

**(9) Yoakum District - Consider a donation from Walmart, for the design and construction of a storm sewer system and the revised signing and striping associated with the driveways for the proposed Walmart on BU59T across from the Teakwood Drive intersection in Victoria, Texas (MO)**

113413  
CSO

This minute order considers a donation from Walmart, for the design and construction of a storm sewer system and the revised signing and striping associated with the driveways for the proposed Walmart on Business 59T across from the Teakwood Drive intersection in Victoria, Texas.

All design and construction work will be provided by the donor, its consultant or contractor. The estimated value of the donation is \$272,707.

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.

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 by Walmart, estimated at \$272,707 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 acknowledgement of the donation.

**b. Right of Way Dispositions and Donations**

**Denton County - SH 121 at Blair Oaks Road in The Colony - Consider the exchange of drainage easements (MO)**

113414  
ROW

In the city of The Colony, DENTON COUNTY, Texas, on STATE HIGHWAY 121, the State of Texas acquired an easement interest in certain land for highway drainage purposes by instrument recorded in Volume 338, Page 523, Deed Records of Denton 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 exchange of a surplus easement as partial or full consideration for other land needed by the state for highway purposes.

Memorial 121 Land, Ltd., a Texas limited partnership (owner), is the property owner and has granted to the state the easement needed for highway drainage purposes (new easement), described in Exhibit B. Owner is the owner of the fee underlying the surplus easement and has requested that the surplus easement be released to owner. Owner will pay to the state the \$5,393 difference in value between the value of the surplus easement and that of the new easement.

It is the opinion of the commission that it is proper and correct that the state release its interest in the surplus easement in exchange and as full consideration for the new easement and the cash payment of \$5,393 to the state.

NOW, THEREFORE, the commission finds that the surplus easement 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 partially releasing the state's rights and interest in the surplus easement to Memorial 121 Land, Ltd., a Texas limited partnership, in exchange and as consideration for the new easement and the cash payment of \$5,393 to the state.

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

**(c) Highway Designations**

**Erath County** - Designate a segment of County Road 351 in the city of Dublin as SH 167 (MO)

113415  
TPP

In ERATH COUNTY, the Fort Worth District has requested the designation of STATE HIGHWAY 167 (SH 167) along existing County Road 351 (CR 351) from US 67 approximately 0.9 miles north of Farm to Market 219 westward to the proposed SH 267 Relief Route in the city of Dublin, a distance of approximately 230 feet.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director of the Texas Department of Transportation has recommended the designation of SH 167 on the state highway system.

The Texas Transportation Commission (commission) finds that the designation of SH 167 will facilitate the flow of traffic, promote public safety, and 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 SH 167 be designated along an existing segment of CR 351 in the city of Dublin, a distance of approximately 230 feet, as shown in Exhibit A.

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

**d. Redesignation of Access Rights**

**Williamson County** - Authorize the re-designation of access control along SH 45, approximately 4600 feet west of McNeil Road (O'Connor Road) to McNeil Road, in order to move the access points on SH 45 for the property owned by Robinson Ranch, et. al, from their original locations to new locations (MO)

113416  
DES

In WILLIAMSON COUNTY, on State Highway 45, a designated controlled-access highway, access was permitted to the abutting property owner as described by metes and bounds and recorded in Williamson County Clerk's File Number 2003027707 of the Official Public Records of Williamson County, Texas.

Robinson Ranch, et al, the current owner of the abutting property, has requested a redesignation of the control of access along their property line. The original access points, as shown in Exhibit B and attached hereto (original access points shown in blue), will become controlled whereby access is denied. Access will be permitted at the

new access points as shown in Exhibit B (new access points shown in green), and described in Exhibit A (Legal Description and Survey).

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 points are necessary for the mobility, safety and operation of the state highway facility and authorizes re-designation of permitted access along SH 45 from its original access locations to the locations described in Exhibit A.

IT IS FURTHER ORDERED by the commission that the executive director or his designee is hereby authorized to enter into any necessary agreements with Robinson Ranch, et al containing terms consistent with the provisions of this order.

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

**e. Public Transportation**

**(1) Galveston County - Award Federal §5310 Funds, Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program (MO)**

113417  
PTN

The Texas Transportation Commission (commission) takes special note of its designation by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, "Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities grant program" (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 113230, on August 30, 2012, approving the FY 2012 program of projects for the §5310 program. An award originally listed in the exhibit for Galveston County Transit District should have been to the city of Galveston.

The FY 2012 program of projects for the Houston District is revised as shown in Exhibit A to reflect a change for one of the funding recipients in the Houston District. To clarify the public record, the entire Houston District program of projects is shown in the minute order, including the one revised project.

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 revised projects in Exhibit A are eligible for funding and awards a total of \$657,098 in federal funds and 96,193 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 revised project list for the Houston District as shown in Exhibit A, notify the entities in writing, and enter into the necessary contracts for the FY 2012 program of projects.

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

**(2) Montgomery County - Award transportation development credits to the City of Conroe (MO)**

113418  
PTN

The Texas Transportation Commission (commission) desires to award 2,772,438 Transportation Development Credits (TDC) to seven transit agencies listed in Exhibit A to be used as the local match for federally funded capital and planning projects.

In August 2012, the commission awarded TDC to various projects. Since that time, a local decision has changed the administrating transit system for one of the

projects. To clarify the public record, the commission rescinds and withdraws Minute Order 112964 dated January 26, 2012.

The commission recognizes that state and federal law permits the substitution of TDC as the required non-federal match for capital projects. Title 43, Texas Administrative Code (TAC), §5.107 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;
- Planning will reduce congestion and improve air quality by coordinating the planning of multimodal transportation projects that reduce the need for single occupant vehicle travel;
- Facilities and shelter/access improvements 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.

The commission finds that the projects listed in Exhibit A are eligible to receive TDC and satisfy the criteria of 43 TAC §5.107, as described above.

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 Minute Order 112964, dated January 26, 2012, is rescinded and withdrawn.

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, and enter into the necessary contracts in accordance with the priorities established in this minute order.

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

#### **f. Reports**

##### **(1) Travis and Williamson Counties Accept the Report of Actual Traffic and Revenue for the Central Texas Turnpike System (CTTS) (MO)**

113419  
TOD

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 bonds and obligations, with approximately \$2,149,548,463 outstanding, to finance or refinance a portion of the costs of the Central Texas Turnpike System (system), pursuant to an Indenture of Trust and six supplemental indentures. The Indenture of Trust dated July 15, 2002 (Indenture), prescribes the terms, provisions and covenants related to the issuance of

turnpike revenue bonds and obligations to finance a portion of the costs of the 2002 Project.

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

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

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

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

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

## (2) Report on Environmental Review of Projects

### g. Speed Zones

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

113420  
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 the 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.

The department, in consultation with the Texas Commission on Environmental Quality, has also determined that the environmental speed limits on the segments of Farm to Market Road 1942 established by Minute Order 109064, dated October 31, 2002 and listed in Exhibit D, are no longer necessary.

IT IS THEREFORE ORDERED by the commission that the reasonable and safe prima facie maximum speed limits determined in accordance with the department's

"Procedures for Establishing Speed Zones" and shown on the attached Exhibits A and B are declared as tabulated in those exhibits.

The executive director is directed to implement this order for control and enforcement purposes by the erection of appropriate signs showing the prima facie maximum speed limits.

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

Note: Exhibits A - D are on file with the minute order clerk.

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

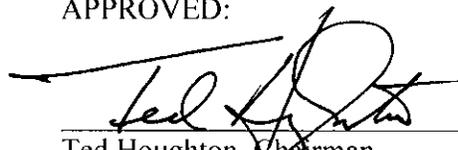
The commission did not receive any comments during the open comment period.

**ITEM 15. Executive Session Pursuant to Government Code, Chapter 551 Section 551.071 - Consultation with and advice from legal counsel regarding any item on this agenda**

The commission did not meet in executive session.

The regular meeting of the Texas Transportation Commission was adjourned at 11:49 a.m.

APPROVED:

  
\_\_\_\_\_  
Ted Houghton, Chairman  
Texas Transportation Commission

xxx

I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on December 13, 2012, in Austin, Texas.

  
\_\_\_\_\_  
Kristen Welch

December 13, 2012

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Kristen Webb, Chief Minute Order Clerk  
Texas Department of Transportation