

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on February 23, 2012, in Austin, Texas. The meeting was called to order by Chairman Houghton. The meeting opened at 9:02 a.m. with the following commissioners present:

Texas Transportation Commission:

Ted Houghton	Chairman
Bill Meadows	Commissioner
Jeff Austin III	Commissioner

Administrative Staff:

Phil Wilson, Executive Director
Bob Jackson, Office of General Counsel
Rose Walker, Chief Clerk
JoLynne Williams, Chief Minute Order Clerk

Registration sheets listing others in attendance are on file with the Texas Department of Transportation Chief Minute Order Clerk.

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 3:06 p.m. on February 15, 2012, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

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

Commissioner Austin made a motion, which was seconded, and the commission approved the minutes of the January 25 workshop and January 26, 2012, regular meeting, by a 3-0 vote.

ITEM 2. Resolutions

Recognize Technology Services Division Director Judy B. Skeen, P.E., upon her retirement from the department after 28 years of service

This item was presented by Executive Director, Phil Wilson. The commission received comments from Ms. Skeen.

ITEM 3. Congestion Relief Project Planning

Accept a report prepared by the Texas Transportation Institute identifying transportation projects that will significantly reduce levels of congestion on the state's most congested roadways, as required by the General Appropriations Act (MO)

This item was introduced by the Data Management Director for Transportation Planning and Programming Division Shannon Crum and the report was presented by

Bill Stockton, Executive Associate Director for the Texas Transportation Institute. The commission also received comments from Austin Chamber of Commerce and Central Texas Mobility Improvement Priorities Working Group representative Terry Mitchell; Transportation Advocacy Group, Houston Region, Vice Chair Jack Drake; Central Texas Regional Mobility Authority (CTRMA) Executive Director Mike Heiligenstein; CTRMA Chair Ray Wilkerson; and Deputy Executive Director John Barton. Appearing before the commission in favor of this agenda item, but not wishing to speak, were: Downtown Austin Transportation Management Association Executive Director Glenn Gadbois; Rider 42 Working Group member John Langmore; Pape-Dawson Engineers Vice President Tom Griebel; City of Austin Director of Transportation Robert Spillar; CAMPO Director Maureen McCoy; and City of Austin representative Gary W. Schatz. Also appearing, but not wishing to speak or indicate a “for” or “against” stance, was Don P Dixon.

112996
TPP

TPP Rider 42 to the appropriations to the Texas Department of Transportation (department) in the General Appropriations Act (House Bill 1, 82nd Legislature, Regular Session) requires the department to use \$300 million of Proposition 12 bond proceeds to acquire right of way, conduct feasibility studies and project planning, and outsource engineering work for the most congested roadway segments in each of the four most congested regions of the state (Dallas-Fort Worth, Houston, Austin and San Antonio metropolitan areas).

Rider 42 further requires that the Texas Transportation Institute (TTI) serve as a facilitator and project coordinator of studies conducted by the four most congested regions to: (1) determine which projects would have the greatest impacts considering such factors as congestion, economic benefits, user costs, safety and pavement quality; (2) identify funding options to support completion of the projects and suggest the best use of future revenues for the projects; (3) include implementation of best traffic and demand management practices; (4) ensure open and transparent public participation; and (5) make recommendations to the department at each major decision point for the projects.

The Mobility Investment Priorities Early Recommendations Report, which is set forth in Exhibit A, contains TTI’s initial recommendations to the Texas Transportation Commission (commission) for the use of the bond proceeds.

IT IS THEREFORE ORDERED that the Mobility Investment Priorities Early Recommendations Report, as set out in Exhibit A, is accepted by the commission.

IT IS FURTHER ORDERED that selection and authorization of projects to be funded from Proposition 12 bond proceeds shall be made in accordance with Minute Order 112823.

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

ITEM 4. Modernization

Adopt a new mission statement, values and goals for TxDOT (MO)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Chief Human Resources and Modernization Officer Dee Porter.

112997
ADM

The Texas Department of Transportation (department) has developed a proposed mission statement, values and goals (Exhibit A) as the primary strategic direction statements for the department.

The mission, values and goals statements present the department’s strategic focus in simpler terms to encourage broader adoption by employees and partners alike.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the statements set forth in Exhibit A are adopted as the department’s mission, values and goals.

IT IS FURTHER ORDERED that the executive director or his designee is directed to proceed with the development of the 2013-2017 Strategic Plan and present it to the commission for adoption at a later date.

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

ITEM 5. Discussion Item

a. Update on status of the SH 99 (Grand Parkway) procurement and discussion regarding the receipt of qualifications submittals from prospective proposers

This item was presented by the interim director of the Texas Turnpike Authority Ed Pensock.

b. Discuss immediate infrastructure needs due to drilling and other activities within the Barnett and Eagle Ford Shale areas

This item was presented by the Director of Research and Technology Implementation Rick Collins. The commission also received comments from Maintenance Division Director Toribio Garza.

ITEM 6. Aviation

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

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Aviation Division Director Dave Fulton. The commission also received comments from Edinburg Mayor Richard Garcia.

112998
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, January 19, 2012, and Wednesday, February 1, 2012, public hearings were 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 \$10,707,900.

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

ITEM 7. Public Transportation

a. Various Counties – Award federal §5311 funds, Nonurbanized Area Formula Program for FY 2012 (MO)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Public Transportation Division Director Eric Gleason.

112999
PTN

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

The United States Congress has passed a Continuing Resolution for a six-month period; the FTA has available funds for this period. As soon as authorizing legislation and 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 2012 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 2012 §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 2012 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 minute order clerk.

b. Various Counties – Award federal §5310 funds, Special Needs of Elderly Individuals and Individuals with Disabilities Program, and award transportation development credits for FY 2012 (MO)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Public Transportation Division Director Eric Gleason.

113000
PTN

Texas Transportation Commission (commission) takes special note of its designation by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, "Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities"

(49 U.S.C §5310), in a letter dated October 4, 2005; and further acknowledges that federal program regulations require the Texas Department of Transportation (department) to ensure that grant funds are distributed fairly and equitably within the state.

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

Awards to transit operators are calculated in accordance with the formula in Title 43, Texas Administrative Code, §31.31. 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:

- 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;
- Information technology will 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
- Transit vehicles will improve air quality by replacing older vehicles with newer models which meet current emission standards; and increase the value of the transportation assets by investing into the replacement of depreciated rolling stock.

The commission finds that the projects in Exhibit A are eligible for funding and awards a total of \$4,172,771 in federal Formula Grant funds for Special Needs of Elderly Individuals and Individuals with Disabilities and \$409,064 in TDC.

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

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

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the awards as described in Exhibit A, submit the necessary state application to FTA, and enter into the necessary contracts for the FY 2012 program of projects.

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

ITEM 8. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

a. Final Adoption

(1) Chapter 2 - Environmental Review of Transportation Projects (MO)

Repeal of §§2.1-2.20 (Environmental Review and Public Involvement for Transportation Projects), and §2.44 and §2.48 (Additional Requirements for Certain Types of Transportation Projects); New Subchapter A, General Provisions, New §§2.1-2.14, New Subchapter C, Environmental Review Process for Highway Projects, New §§2.41-2.52, New Subchapter D, Requirements for Classes of Projects, New §§2.81-2.86, New Subchapter E, Public Participation, New §§2.101-2.110, New Subchapter F, Requirements for Specific Types of Projects and Programs, New §§2.131-2.134

Commissioner Meadows made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Environmental Affairs Division Director Carlos Swonke. The commissioners also received comments from Williamson County Commissioner Valerie Covey; CTRMA Executive Director Mike Heiligenstein; and North Central Texas Council of Governments Director Michael Morris.

113001
ENV

The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of §§2.1-2.20, §2.44 and §2.48, and the simultaneous replacement of the repealed sections with new Subchapter A, General Provisions, §§2.1-2.14; new Subchapter C, Environmental Review Process for Highway Projects, §§2.41-2.52; new Subchapter D, Requirements for Classes of Projects, §§2.81-2.86; new Subchapter E, Public Participation, §§2.101-2.110; and new Subchapter F, Requirements for Specific

Types of Projects and Programs, §§2.131-2.134 all relating to the environmental review of transportation projects to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the repeal of §§2.1-2.20, §2.44 and §2.48 and new §§2.1-2.14, §§2.41-2.52, §§2.81-2.86, §§2.101-2.110, and §§2.131-2.134 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 through H are on file with minute order clerk.

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

New §9.150, Purpose, §9.151, Definitions, §9.152, General Rules for Design-Build Contracts, §9.153, Solicitation of Proposals, §9.154, Protest Procedures, and §9.155, Conflict of Interest and Ethics Policies (New Subchapter I, Design-Build Contracts)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Texas Turnpike Authority Division Interim Director Ed Pensock.

113002
TTA

The Texas Transportation Commission (commission) finds it necessary to adopt new §9.150, Purpose, §9.151, Definitions, §9.152, General Rules for Design-Build Contracts, §9.153, Solicitation of Proposals, §9.154, Protest Procedures, and §9.155, Conflict of Interest and Ethics Policies, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that new §§9.150 - 9.155 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

3) Chapter 15 - Financing and Construction of Transportation Projects (MO)
Amendments to §15.86, Conflict of Interest and §15.90, Reports and Audits, and New
§15.95, Toll Project Corporations (Transportation Corporations)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Finance Division Director Brian Ragland.

113003
FIN

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §15.86, Conflict of Interest and §15.90, Reports and Audits, and new §15.95, Toll Project Corporations, relating to Transportation Corporations, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §15.86 and §15.90 and new §15.95 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

b. Proposed Adoption

Chapter 6 - State Infrastructure Bank (MO)

Amendments to §§6.2 - 6.4 (General Provisions); Amendments to §6.12 and Repeal of §6.13 (Eligibility); Amendments to §§6.21 - 6.23, the Repeal of §6.24 and §6.25, and New §6.24 (Procedures); Amendments to §6.31 and §6.32 and Repeal of §6.33 (Department and Commission Action); Amendments to §§6.41 - 6.43, the Repeal of §§6.44 - 6.46, and New §6.44 and §6.45 (Financial Assistance Agreements)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Finance Division Director Brian Ragland.

113004
FIN

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§6.2 - 6.4, 6.12, 6.21 - 6.23, 6.31, 6.32, and 6.41 - 6.43; the repeal of §§6.13, 6.24, 6.25, 6.33, and 6.44 - 6.46; and new §§6.24, 6.44, and 6.45 all relating to the State Infrastructure Bank 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 §§6.2 - 6.4, 6.12, 6.21 - 6.23, 6.31, 6.32, and 6.41 - 6.43; the repeal of §§6.13, 6.24, 6.25, 6.33, and 6.44 - 6.46; and new §§6.24, 6.44, and 6.45 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

ITEM 9. Office of Compliance and Ethics Report

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

ITEM 10. Toll Road Projects

Cameron County – Approve the Cameron County Regional Mobility Authority’s connection of the SH 550 Project to a segment of the state highway system (MO)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Deputy Executive Director John A. Barton. The commission also received comments from Cameron County Regional Mobile Authority Vice Chairman John Wood.

113005
DED

In Minute Order 112013, dated October 29, 2009, the Texas Transportation Commission (commission) authorized the executive director of the Texas Department of Transportation (department) to negotiate and enter into a project development agreement with the Cameron County Regional Mobility Authority (CCRMA) that provides for a new limited-access toll facility on SH 550 from approximately 1.1 miles west of FM 1847 to approximately 0.7 miles east of FM 1847, and from approximately 0.7 miles north of FM 3248 to SH 48 at the new Port of Brownsville entrance (original project).

In Minute Order 112158, dated February 25, 2010, upon a request by the CCRMA to extend the limits of the original project described in Minute Order 112013, the commission authorized the executive director of the department to negotiate and enter into a project development agreement with the CCRMA that provides for a new limited-access toll facility along SH 550 from US 77/83 to SH 48 at the new Port of Brownsville entrance (extended project, and together with the original project, the project).

The department entered into a Project Development Agreement with the CCRMA effective March 8, 2010. The original project is currently under construction by the department pursuant to the Project Development Agreement.

In Minute Order 112755, dated July 28, 2011, the commission authorized the executive director of the department to negotiate and execute a pass-through toll agreement with the CCRMA with regard to the portion of the extended project from US 77/83 at SH 550 to approximately 0.53 miles east of Old Alice Road. The department has been negotiating a pass-through agreement with the CCRMA for this portion of the extended project.

Transportation Code, §370.187 provides that a regional mobility authority may not begin construction of a transportation project that will connect to the state highway system or to a department rail facility without the approval of the commission. Title 43, Texas Administrative Code (TAC) §26.31 et seq., prescribes the conditions for that approval. Title 43, TAC §11.58 provides that a public or private entity may not connect a regionally significant highway to a segment of the state highway system without the approval of the commission, and prescribes the conditions for that approval.

Pursuant to 43 TAC §26.31 and 43 TAC §11.58, the CCRMA has submitted a request to the executive director to connect the project to the state highway system in connection with the CCRMA's development and construction of the project.

Pursuant to 43 TAC §11.58(c), the CCRMA agrees to design and construct the portion of the project that comprises the connection to the state highway system in compliance with the standards prescribed in 43 TAC §11.58(d). The project is identified in a conforming transportation improvement program.

Pursuant to 43 TAC §26.32, the commission has determined that the project may be effectively integrated into the state's transportation system. The CCRMA has committed to complying with 43 TAC §26.33 and is fully capable of awarding and managing the construction contract for the project in a cost effective and timely manner, consistent with applicable federal and state laws and regulations. The construction of the project will provide for the expeditious completion of a critically needed project within the SH 550 corridor that will improve mobility in Cameron County.

IT IS THEREFORE ORDERED by the commission that the connection of the project to the state highway system is approved.

ITEM 11. Transportation Planning

Approve the Fiscal Year 2011 Annual Report on the Economically Disadvantaged Counties Program (MO)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Transportation Planning and Programming Division Director Jim Randall.

113006
TPP

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

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

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

The Texas Department of Transportation has completed the Fiscal Year 2011 Annual Report on the Economically Disadvantaged Counties Program, which is attached as Exhibit A.

IT IS THEREFORE ORDERED that the Fiscal Year 2011 Annual Report on the Economically Disadvantaged Counties Program, as shown in Exhibit A, is approved by the commission and shall be presented to the governor, the lieutenant governor, and the speaker of the house of representatives as required by Section 222.053(e), Transportation Code.

Note: Exhibit A is on file with minute order clerk

ITEM 12. Unified Transportation Program (UTP)

a. Authorize project selection process for the 2013 UTP (MO)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Finance Division Director Brian Ragland.

113007
FIN

Transportation Code, §201.602 requires the Texas Transportation Commission (commission) to annually conduct a public hearing on its highway project selection process and the relative importance of the various criteria on which the commission bases its project selection decisions.

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 commission has adopted rules located 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 commission conducted a public hearing regarding the project selection process on January 26, 2012, and written comments were accepted from January 6, 2012, through February 6, 2012.

Exhibit A contains a summary of the UTP funding categories, the various project selection methods and usual funding participation.

The commission is satisfied that the proposed highway project selection process set forth in Exhibit A is consistent with the department's goals to: (1) increase the safety of the transportation system; (2) maintain and preserve the existing transportation system; (3) provide congestion relief; (4) increase the accessibility and mobility of the transportation system; (5) support economic vitality; and (6) promote efficient system management and operation.

IT IS THEREFORE ORDERED by the commission that the executive director is hereby authorized to utilize the project selection process set forth in Exhibit A for developing the 2013 Unified Transportation Program.

Exhibit A is on file with minute order clerk.

b. Authorize a variance in the manner in which federal-aid highway construction funds are distributed to parts of the state versus the manner in which they are distributed by the federal government (MO)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Finance Division Director Brian Ragland.

113008
FIN

Transportation Code, §222.034 requires the Texas Transportation Commission (commission) to distribute federal-aid transportation funds to various parts of the state for a funding cycle through the selection of highway projects in a manner consistent with the federal formulas that determine the amount of federal-aid the state of Texas receives, unless the commission issues a minute order or ruling that identifies the variance and provides particular justification for the variance. A distribution under §222.034 does not include deductions made for the state infrastructure bank or other federal-aid funds reallocated by the federal government.

Transportation Code, §201.991 provides that the Texas Department of Transportation 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 commission has adopted rules located in Title 43, Texas Administrative Code, Chapter 16, which include provisions relating to the development of the UTP and the allocation of funds through that program. The commission also conducted a public hearing and adopted the project selection process for the 2013 UTP.

Exhibit A contains an individual evaluation of each federal-aid apportionment program, including particular justification for any variance from the federal-aid apportionment formula and the proposed distribution of the transportation funds through the 2013 UTP.

IT IS THEREFORE ORDERED by the commission that Exhibit A shall serve as the commission's identification and justification of variances, as required by Transportation Code, §222.034.

Exhibit A is on file with minute order clerk.

ITEM 13. Proposition 12 Bond Program

El Paso County - Designate a state spur along a new location from Schuster Avenue southwestward approximately 0.3 miles to US 85 (Paisano Drive) in the city of El Paso (Spur 73), authorize the funding of development by the department of the Spur 73 connector with the proceeds of general obligation bonds issued under Transportation Code, Section 222.004 (Proposition 12 bonds), and authorize the executive director to enter into a project development agreement with the Camino Real Regional Mobility Authority (CRRMA) for the CRRMA to design the project (MO)

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Transportation Planning and Programming Division Director Jim Randall.

113009
TPP

In EL PASO COUNTY, the El Paso District has requested the designation of STATE SPUR 73 (SS 73) along a new location from Schuster Avenue in the city of El Paso, Texas (city) southwestward to US 85 (Paisano Drive), a distance of approximately 0.3 mile.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended the designation of SS 73 on the state highway system (system).

Section 49-p, Article III, of the Texas Constitution (constitutional provision) provides that the Texas Legislature (legislature), by general law, may authorize the Texas Transportation Commission (commission) or its successor to issue general obligation bonds of the State of Texas in an aggregate amount not to exceed \$5 billion and to enter into related credit agreements to provide funding for highway improvement projects.

Pursuant to the constitutional provision, the legislature enacted Transportation Code, §222.004, the enabling legislation for general obligation bonds, notes and other public securities that may be issued by the commission to fund highway improvement projects (Proposition 12 bonds), and authorized the issuance of the first \$2 billion in Proposition 12 bonds. A list of highway improvement projects and related work to be funded with Proposition 12 bond proceeds was originally approved by the commission in Minute Order 112036, dated November 19, 2009, and was revised by subsequent commission minute orders.

In cooperation with the city, the University of Texas at El Paso and the El Paso Metropolitan Planning Organization, the department identified the SS 73 highway improvement project (SS 73 Project) to be funded with a portion of Proposition 12 bonds. The project involves the development of this connector for an estimated cost of \$4.2 million.

In Minute Order 110573, dated June 29, 2006, the commission authorized the creation of the Camino Real Regional Mobility Authority (CRRMA) for the city. Transportation Code, Chapter 370 authorizes a regional mobility authority to participate with the department in the development of a state highway project within its boundaries. The department proposes to develop the SS 73 Project with the CRRMA providing a portion of the work including the design of the project.

The commission finds that the designation of SS 73 will facilitate the flow of traffic, promote public safety, and maintain continuity, and it is necessary for the proper development and operation of the system. The commission further finds that monies from Proposition 12 bond proceeds are available for funding the SS 73 Project and that the proposed improvement of the system will provide for the expeditious completion of a critically needed project.

IT IS THEREFORE ORDERED by the commission that SS 73 is designated on the system along a new location from Schuster Avenue in El Paso, southwestward approximately 0.3 mile to US 85.

IT IS FURTHER ORDERED by the commission that development of the SS 73 Project is approved for funding with the proceeds of Proposition 12 bonds.

IT IS FURTHER ORDERED by the commission that the executive director or his designee is authorized to proceed in the most feasible manner to ensure that obligation of funds is assigned to the SS 73 Project for project development related activities, and the chief financial officer or his designee is authorized and directed to review the planned use of Proposition 12 bond proceeds prior to expenditure of funds to ensure compliance with the requirements for the use of proceeds of tax-exempt bonds. The SS 73 Project is authorized with DEVELOP authority without the need for further approval by the commission.

IT IS FURTHER ORDERED by the commission that pursuant to Transportation Code, Chapter 370, the Camino Real Regional Mobility Authority is authorized to participate with the department in the development of the SS 73 Project, and the executive director is authorized to enter into a project development agreement with the CRRMA that provides for such improvements to the state highway system.

ITEM 14. 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 3 – 0. This item was presented by Construction Division Deputy Director Darren Hazlett.

113010
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for maintenance of the State Highway System, which were publicly opened and read on February 7 and 8, 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 on file with minute order clerk.

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

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Construction Division Deputy Director Darren Hazlett.

113011
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for improvement of the State Highway System, which were publicly opened and read on February 7 and 8, 2012.

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 STP 2011(262)TE

(Ochiltree County), be and are hereby respectively awarded to the lowest bidder or rejected as indicated therein. The award or rejection of Project Number STP 2011(262)TE 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 on file with minute order clerk.

ITEM 15. Eminent Domain Proceedings

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

Commissioner Austin made a motion that the Texas Transportation Commission authorize the Texas Department of Transportation to use the power of eminent domain to acquire the properties described in the minute order set forth in the agenda for the current month for construction, reconstruction, maintenance, widening, straightening, or extending the highway facilities listed in the minute order as a part of the state highway system, and that the first record vote applies to all units of property to be condemned. The motion was seconded and the following minute order was approved by Chairman Houghton, Commissioner Meadows, and Commissioner Austin (a vote of 3 – 0). This item was presented by Right of Way Division Director John Campbell.

113012
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 - L. 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 - 3, 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
Denton	FM 2181	3	2054-02-017	22
Denton	FM 2181	2	2054-02-017	21
Nueces	SH 358	1	0617-01-172	58

CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Bell	IH 35	J	0015-04-083	88
Bell	IH 35	I	0015-04-083	1
Bell	IH 35	H	0015-04-083	71
Bell	IH 35	G	0015-04-083	73
Bell	IH 35	F	0015-04-083	84E
Bell	IH 35	E	0015-04-083	112

Bell	IH 35	D	0015-04-083	70
Harris	IH 610	B	0271-14-225	334
Harris	IH 610	A	0271-14-225	318
Maverick	FM 1021	C	1229-01-053	15
McLennan	IH 35	L	0015-01-221	106
McLennan	IH 35	K	0015-02-058	39

ITEM 16. Routine Minute Orders

Commissioner Austin made a motion, which was seconded and the commission approved the following minute orders by a vote of 3 – 0. This item was presented by Executive Director Phil Wilson.

(1) Administration – Acknowledge a donation from CG/LA Infrastructure, LLC, for a department employee’s travel expenses to attend and speak at the 5th Annual Global Infrastructure Leadership Forum in London, England, from February 19 – 26, 2012 (MO)

113013
GSD

This minute order acknowledges a donation of \$2,500 from CG/LA Infrastructure, LLC, for a Texas Department of Transportation (department) employee’s travel expenses to attend the 5th Annual Global Infrastructure Leadership Forum in London, England, from February 19 – 26, 2012.

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

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

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

The commission finds that the donation furthers the department’s responsibilities and that the donor is not a party to a contested case before the

department and has not been a party to a contested case before the department during the last 30 days.

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

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

IT IS THEREFORE ORDERED by the commission that the donation of \$2,500 from CG/LA Infrastructure, LLC, is acknowledged. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(2) Travel Information Division – Consider a donation from the Waco Convention and Visitors Bureau to provide food, beverages, admission and transportation to area attractions, from various sponsors, to the department as part of its hosting the 57th Annual Texas Travel Counselors Conference from April 16 – 19, 2012 (MO)

113014
GSD

This minute order considers a donation from the Waco Convention & Visitors Bureau to the Texas Department of Transportation (department) to provide food, beverages, admission, and transportation to area attractions from (various sponsors) as part of its hosting the 57th Annual Texas Travel Counselors Conference in Waco, Texas, from April 16 – 19, 2012. The estimated value of the donation is \$38,000.

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

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

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

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

the last 30 days.

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

IT IS THEREFORE ORDERED by the commission that the donation with an estimated value of \$38,000 by the Waco Convention & Visitors Bureau is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(3) Traffic Operations Division – Consider a donation for the cost associated with the fabrication and installation of two highway signs which designate segments of State Highway 359 and State Highway 285 as the Veterans of the Korean War Memorial Highway (MO)

113015
GSD

This minute order considers a donation from the Laredo Korean War Veterans Association for costs associated with the fabrication and installation of two highway signs designating a portion of highway as the Veterans of the Korean War Memorial Highway. This will include State Highway 359 between US 83 and State Highway 16 and State Highway 285 between State Highway 16 and the eastern boundary of the city of Falfurrias. The two signs will mark the beginning and ending points of the collective route. This amount is estimated to be \$3,266.

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 estimated at \$3,266 by the Laredo Korean War Veterans Association is approved for acceptance. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

(4) **Austin District** – Consider a donation from Steelwood/Persimmon, LLC, for the design and construction of a left and right turn lane on FM 1626 to their Platinum Onion Creek Development in Travis County (MO)

113016
GSD

This minute order considers a donation from Steelwood/Persimmon, LLC, for the cost of the design and construction of a left and right turn lane on Farm to Market Road 1626 to the Platinum Onion Creek Development in Travis County. The estimated value of the donation is \$169,405.

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 Steelwood/ Persimmon, LLC, estimated at \$169,405 is approved for acceptance. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

(5) Austin District – Consider a donation from Taylor Morrison of Texas, LTD, of the design and construction of a center turn lane and shoulder widening on RM 1826 at proposed Reunion Boulevard in Hays County (MO)

113017
GSD

This minute order considers a donation from Taylor Morrison of Texas, LTD, for the cost of the design and construction of a center turn lane and shoulder widening on Ranch to Market Road 1826 at proposed Reunion Boulevard in Hays County. The estimated value of the donation is \$548,936.

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 Taylor Morrison of Texas, LTD, estimated at \$548,936 is approved for acceptance. The executive director or the executive director’s designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

(6) Bryan District – Consider a donation from ReMax Select for the cost to design and construction of a raised curbed island and a deceleration right-turn lane from the SH 6 southbound frontage road to the new ReMax Select office building (MO)

113018
GSD

This minute order considers a donation from ReMax Select for the cost of the design and construction of a raised curbed island and a deceleration right-turn lane from the State Highway 6 southbound frontage road to the new ReMax Select office building in Brazos County. All design and construction work will be provided by the donor, its consultant or its contractor. The estimated value of the donation is \$40,000.

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 ReMax Select estimated at \$40,000 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) Bryan District – Consider a donation from Jewett Economic Development Corporation for installation of new large guide signs on I-45 in Leon County and adds “Jewett” to the wording of the signs (MO)

113019
GSD

This minute order considers a donation from Jewett Economic Development Corporation for installation of new large guide signs on Interstate 45 in Leon County and adds “Jewett” to the wording of the signs. The donation will also cover the actual costs to furnish and install the new signs along with the cost for all traffic control and contractor mobilization. The amount is estimated at \$30,000.

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 from Jewett Economic Development Corporation estimated at \$30,000 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.

(8) **Houston District** – Consider a donation from NNP-Telfair, LP, for the cost to design and construct three right turn lanes on US 59 in the vicinity of University Boulevard in Fort Bend County (MO)

113020
GSD

This minute order considers a donation from NNP-Telfair, LP, for the cost of the design and construction of three right-turn lanes on US 59 in the vicinity of University Boulevard in Fort Bend County. The estimated value of the donation is \$10,000.

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 NNP-Telfair, LP, estimated at \$10,000 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 acceptance of the donation.

(9) San Antonio District – Consider a donation from the 702 Group, LLC, of the design and construction associated with adding an approach to the existing signalized intersection of FM 78 at FM 3009 to a new commercial development (MO)

113021
GSD

This minute order considers a donation from the 702 Group, LLC, for the cost of the design and construction associated with adding an approach to the existing signalized intersection of FM 78 at FM 3009 to a new commercial development. All design and construction work will be provided by the donor, its consultant or its contractor. In addition, the donor will fund the state's direct and indirect costs to review, monitor and inspect the work that is on the state's right of way. The estimated value of the donation is \$60,000.

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 702 Group, LLC, estimated at \$60,000 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 acceptance of the donation.

b. Right of Way Dispositions and Donations

(1) Bastrop County – SH 71 at FM 20 in Bastrop - Consider the sale of surplus right of way to the abutting landowner (MO)

113022
ROW

In BASTROP COUNTY, on STATE HIGHWAY 71, the State of Texas acquired certain land for highway purposes by instruments recorded in Volume 96, Page 518; Volume 96, Page 521; and Volume 125, Page 117, Deed Records of Bastrop County, Texas.

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

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

Jason Alley is the abutting landowner and has requested that the surplus land be sold to him for \$197,904.

The commission finds \$197,904 to be a fair and reasonable value of the state’s rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state’s rights, title and interest in the surplus land to Jason Alley for \$197,904; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state’s rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

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

(2) Brazoria County - SH 288 from Harris County line to SH 332 in Lake Jackson - Consider the acceptance of two donations of land for a highway improvement project (2 MOs)

113023
ROW

In BRAZORIA COUNTY, on STATE HIGHWAY 288 from Harris County line to SH 332 in Lake Jackson, the Texas Department of Transportation (department) is acquiring the right of way for a highway improvement project.

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

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

THE CROSSING AT 288 Phase 3, Ltd. (owner) is the owner of the property described in Exhibits A and B. The owner wants to donate these properties, estimated at \$32,970 and \$38,655, to the department for construction of a highway improvement project.

The owner is not subject to department regulations or oversight, or interested in or likely to become interested in a contract, purchase, payment, or claim with or against the department.

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

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

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

113024
ROW

In BRAZORIA COUNTY, on STATE HIGHWAY 288 from Harris County line to SH 332 in Lake Jackson, the Texas Department of Transportation (department) is acquiring the right of way for a highway improvement project.

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

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

THE CROSSING AT 288 Phase 1, Ltd. (owner) is the owner of the property described in Exhibit A. The owner wants to donate this property, estimated at \$24,405, to the department for construction of a highway improvement project.

The owner is not subject to department regulations or oversight, or interested in or likely to become interested in a contract, purchase, payment, or claim with or against the department.

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

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

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

(3) Brazos County - FM 2154 at SH 6 southeast of College Station - Consider the sale of surplus right of way to Texas Municipal Power Agency (TMPA) (MO)

113025
ROW

In BRAZOS COUNTY, on FARM TO MARKET ROAD 2154, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 248, Page 48, Official Records of Brazos County, Texas.

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

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

Texas Municipal Power Agency has requested that the surplus land be sold to the agency for \$4,935.

The commission finds \$4,935 to be a fair and reasonable value of the state's rights, title and interest in the surplus land.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value is less than \$10,000. The commission authorizes the executive director to execute a proper instrument conveying all of the state's rights, title and interest in to Texas Municipal Power Agency for \$4,935; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

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

(4) Cameron County - US 77/83 at Ringgold Street in Brownsville - Consider the sale of surplus right of way to the University of Texas at Brownsville (UTB) (MO)

113026
ROW

In the city of Brownsville, CAMERON COUNTY, on US 77/83, the State of Texas acquired certain land for highway purposes by instruments recorded Volume 4471, Page 64, and Volume 5884, Page 48, Official Records of Cameron County, Texas.

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

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

The Board of Regents of the University of Texas System (UT) is the abutting landowner and has requested that the surplus land be sold to UT for \$64,033.

The commission finds \$64,033 to be a fair and reasonable value of the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to the Board of Regents of the University of Texas System for \$64,033; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land. Note:

Exhibit A on file with minute order clerk.

(5) El Paso County - I-10 at SL 375, southeast quadrant, in El Paso – Consider the exchange of right of way (MO)

113027
ROW

In the city of El Paso, EL PASO COUNTY, on INTERSTATE 10, the State of Texas acquired certain land for highway purposes by instrument recorded in Book 1320, Page 251, Deed Records of El Paso County, Texas.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for highway purposes, subject to an easement to be reserved for highway maintenance purposes.

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

JTC Stores, LLC, (JTC) is the owner of land needed for a state highway purpose on State Loop 375 (new land), described in Exhibit B. JTC has conveyed the new land to the state and has requested that the surplus land be conveyed to JTC. JTC will pay the state the \$9,368 difference in value between the values of the surplus land and the new land.

It is the opinion of the commission that it is proper and correct that the state convey the surplus land to JTC, subject to the easement to be reserved, in exchange and as consideration for the conveyance of the new land and the cash payment of \$9,368 to the state.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state’s rights, title and interest in the surplus land to JTC Stores, LLC, subject to the easement to be reserved, in exchange and as consideration for the conveyance of the new land and the cash payment of \$9,368 to the state; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state’s rights, title and interest, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

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

(6) Fort Bend County - US 59 at FM 762 in Rosenberg - Consider the exchange of drainage easements (MO)

113028
ROW

In the city of Rosenberg, FORT BEND COUNTY, on US 59, the State of Texas acquired an easement interest in certain land for highway drainage purposes by instrument recorded in Volume 518, Page 25, Deed Records of Fort Bend County, Texas.

A portion of the easement (surplus easement), described in Exhibit A, is no longer needed for highway purposes.

Fort Bend County Municipal Utility District No. 167 (district), a political subdivision of the State of Texas, is the fee owner of a tract of land in the vicinity of US

59, described in Exhibit B, and has granted to the state an easement interest in the tract for drainage purposes to serve US 59 (new easement). The district desires to exchange an interest in the new easement for a conveyance of the state's interest in the surplus easement. Based on appraisals for the two properties, the value of the surplus easement is \$577,854 and the value of the new easement is \$718,277. The difference in value will be donated to the state.

V.T.C.A., Transportation Code, Chapter 201, Subchapter D, authorizes the Texas Department of Transportation (department) to accept donations of real property for the purpose of carrying out its functions and duties.

V.T.C.A., Government Code, Chapter 575, requires the Texas Transportation Commission (commission) to accept by majority vote at an open meeting any gift or donation valued at over \$500, and the commission hereby finds that acceptance of the donation will provide a significant public benefit and will not influence or reasonably appear to influence the department in the performance of its duties.

An Agreement Concerning the Donation of Property to the Texas Department of Transportation (donation agreement) has been executed by the district and tendered to the department for acceptance under the provisions of Title 43, Texas Administrative Code, Chapter 1, Subchapter G, since the value of the new easement exceeds the value of the surplus easement by more than \$500.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission may recommend the conveyance and exchange of an interest in real property not needed for a highway purpose as whole or partial consideration for another interest in real property needed for a state highway purpose.

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

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

(7) McLennan County - SL 340 at FM 3400 in Waco - Consider the sale of surplus right of way to the abutting landowner (MO)

113029
ROW

In the city of Waco, McLENNAN COUNTY, on STATE HIGHWAY LOOP 340, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 1520, Page 851, Deed Records of McLennan County, Texas.

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

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

John Angerman is the abutting landowner and has requested that the surplus land be sold to him for \$504.

The commission finds \$504 to be a fair and reasonable value of the state's rights, title and interest in the surplus land.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land is no longer

needed for a state highway purpose and that the value is less than \$10,000. The commission authorizes the executive director to execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to John Angerman for \$504; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

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

(8) San Patricio County - SH 361 at Avenue A in Ingleside - Consider the quitclaim of surplus right of way to correct an error (MO)

113030
ROW

In the city of Ingleside, SAN PATRICIO COUNTY, on STATE HIGHWAY 361, the State of Texas acquired certain land for highway purposes by various instruments recorded in the Deed Records of San Patricio County, Texas.

A portion of the land (surplus land), described in Exhibit A, was not intended to be acquired and is not needed for highway purposes.

Ingleside I Limited, a Texas limited partnership, f/k/a Ingleside Limited I, a Texas limited partnership, is the abutting landowner and has requested that the surplus land be quitclaimed to the partnership.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend that surplus land be quitclaimed to resolve an error in an instrument that conveyed an interest in real property to the state for a highway right of way.

The commission finds that an error in the legal description resulted in the acquisition of real property not intended to be included and not needed for a highway purpose.

NOW, THEREFORE, the commission finds that the surplus land was acquired in error and is not needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument quitclaiming all of the state's rights, title and interest in the surplus land to Ingleside I Limited, a Texas limited partnership, f/k/a Ingleside Limited I, a Texas limited partnership, to correct the error.

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

c. Highway Designations

El Paso County - Extend the designation of FM 3380 along a new location from SH 20 southwestward approximately 0.6 miles in the Tornillo Community (MO)

113031
TPP

In EL PASO COUNTY, the El Paso District has requested to extend the designation of FARM TO MARKET ROAD 3380 (FM 3380) from its present terminus at State Highway 20, southwestward to a new terminus south of El Paso in the Tornillo Community, a distance of approximately 0.6 miles.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended extending the designation of FM 3380 on the state highway system.

The Texas Transportation Commission (commission) finds that extending the designation of FM 3380 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 the designation of FM 3380 is extended from its present terminus at SH 20 southwestward to a new terminus in the Tornillo Community, a distance of approximately 0.6 miles.

d. Release of Access Rights

(1) Brazoria County – SH 288, north of FM 518, in Pearland - Consider the designation of two locations on the highway at which access will be permitted to the abutting property (MO)

113032
DES

In BRAZORIA COUNTY, on STATE HIGHWAY 288, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 1077, Page 126, Brazoria County Deed Records, with denial of access to the abutting remainder properties as described in the instrument.

The Crossing at 288 Phase 3, Ltd., the current owner of the abutting property Tract 12AAC and The Crossing at 288 Phase 2, Ltd., the current owner of the abutting property Tract 12AC, have requested that access to and from the northbound frontage road of SH 288 be permitted along their west property lines as new access points, described in Exhibits A1 and A2.

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 will not compromise the mobility, safety or operation of the existing state highway facility, and designates the new access points as locations where ingress and egress are permitted to and from the northbound frontage road of SH 288.

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

Note: Exhibits A1 and A2 are on file with minute order clerk.

(2) Hill County - Authorize the new designation of access control along I-35 in the city of Hillsboro in order to change both the denial of access line and permitted access lines for the property owned by the heirs of W.G. Middleton, from the existing locations to new adjacent locations along the property (MO)

113033
DES

In HILL COUNTY, on INTERSTATE HIGHWAY 35, a designated controlled-access highway, access onto the right of way was denied to the abutting property as described by metes and bounds pursuant to the terms as conveyed by Judgment, Cause Number 5638, County Court of Hill County, Texas to the State of Texas, as recorded in Volume 473, Page 35, Deed Records of Hill County, Texas.

W.G. Middleton was the original owner of said abutting property that contained 211.91 acres out of the John B. Williams Survey, Abstract Number 974. Following his death, Brenda Beasley, et al., inherited 50 acres known as Tract I, and the remainder of said 211.91 acres, known as Tract II, was inherited by William Scott Middleton, et al. The existing access along Tract I became impaired due to the reconstruction of I-35 thus prompting the need to change the existing access to a new location. The current owners of both abutting Tracts along the common right-of-way line of I-35 have requested the existing denial of access line along Tract II be released to permit access at this location and a denial of access be designated along Tract I. The new designation of denial of access line will be along Tract I as described in Exhibit A-1. The existing access denial line along Tract II will be released and will be the new designation of permitted access as described in Exhibit A-2.

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 permitted access line will not compromise the mobility, safety and operation of the state highway facility and authorizes designation of the access denial line to its new location as described in Exhibit A-1 and the designation of permitted access as described in Exhibit A-2.

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

Note: Exhibits A1 and A2 are on file with minute order clerk.

e. Finance

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

113034
FIN

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

Pursuant to a Master Resolution and a First Supplemental Resolution, each adopted on March 30, 2006, and Second, Fourth and Fifth Supplemental Resolutions adopted on October 26, 2006, August 23, 2007, and August 29, 2008, respectively, the commission issued six series of bonds under Transportation Code, Section 222.003 and other applicable law.

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

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

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

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

113035
FIN

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

Pursuant to a Master Resolution, a First Supplemental Resolution and a Second Supplemental Resolution each adopted on May 4, 2005, a Third Supplemental Resolution adopted on May 25, 2006, a Fourth Supplemental Resolution and Fifth Supplemental Resolution each adopted on September 28, 2006, a Sixth Supplemental Resolution adopted on May 24, 2007, a Seventh Supplemental Resolution adopted on September 27, 2007, and an Eighth Supplemental Resolution adopted on December 18, 2008, and amended, restated and adopted on April 30, 2009, the commission issued eight series of bonds under Transportation Code, Chapter 201 and other applicable law. The bonds are secured by and payable from a pledge of and lien on all or part of the moneys in the Mobility Fund, and a full faith and credit pledge of the state, and which bonds were issued in the name and on behalf of the state to (i) pay all or part of the costs of constructing, reconstructing, acquiring, and expanding State highways, including any necessary design and acquisition of rights of way, in the manner and

locations determined by the commission that, according to conclusive findings of the commission, have an expected useful life, without material repair, of not less than 10 years; (ii) provide participation by the state in the payment of part of the costs of constructing and providing publicly owned toll roads and other public transportation projects that are determined by the commission to be in the best interests of the state in its major goal of improving the mobility of the residents of the state; and (iii) pay the costs of issuance.

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

IT IS THEREFORE ORDERED by the commission that the annual report of financial information and operating data, in the form of the remarketing memorandum attached as Exhibit A, is accepted, with such changes as the Chief Financial Officer executing the same may approve.

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

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

113036
FIN

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

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

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

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

Note: Attachment 1 is on file with minute order clerk.

d. Speed Zones

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

113037
TRF

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

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

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

Exhibit A lists construction speed zones in effect when signs are displayed within construction projects. The completion and/or acceptance of each project shall cancel the provision of this minute order applying to said project and any remaining construction speed zone signs shall be removed.

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

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

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

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

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

ITEM 17. Executive Session Pursuant to Government Code, Chapter 551

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

The commission did not meet in executive session.

There were no comments in the Open Comment Period.

The regular meeting of the Texas Transportation Commission was adjourned at 10:49 a.m.

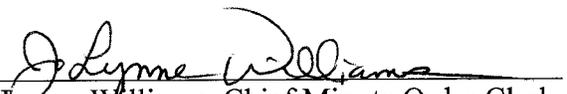
APPROVED:



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 February 23, 2012, in Austin, Texas.



Jolynne Williams, Chief Minute Order Clerk
Texas Department of Transportation