

These are the minutes of the regular meeting of the Texas Transportation Commission held on May 31, 2012, in Austin, Texas. The meeting was called to order by Chairman Houghton at 9:01 a.m. with the following commissioners present:

Texas Transportation Commission:

Ted Houghton	Chairman
Ned Holmes	Commissioner
Fred Underwood	Commissioner
Jeff Austin III	Commissioner

Administrative Staff:

Phil Wilson, Executive Director
Bob Jackson, General Counsel
Rose Walker, Chief Clerk
Kristen Webb, Chief Minute Order Clerk

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

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 4:33 pm on May 23, 2012, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

ITEM 1. Safety Briefing

This item was presented by Occupational Safety Division Director Jerral Wyer.

ITEM 2. Approval of Minutes of the April 26 regular meeting of the Texas Transportation Commission

Commissioner Underwood made a motion, which was seconded, and the commission approved the minutes of the April 26 regular meeting.

ITEM 3. Resolution

a. Recognize Maintenance Division Director Toribio Garza, Jr., P.E., upon his retirement from the department after 26 years of service.

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

b. Recognize General Services Division Director Scott D. Burford upon his retirement from the department after 31 years of service.

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

ITEM 4. Discussion Item

a. Discussion on strategies for engaging the public in establishing and developing mobility investment priorities

This item was introduced by Data Management Director Shannon Crum and presented by Texas Transportation Institute’s Senior Research Engineer Tim Lomax.

b. Legislative Appropriations Request Report

Update and discussion regarding the development of the Texas Department of Transportation's Fiscal Year 2014-2015 Legislative Appropriations Request (LAR)

This item was presented by Chief Financial Officer James Bass.

ITEM 5. Aviation

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

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

113106
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, April 19, 2012, a public hearing was held. No comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director’s designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$10,154,400.

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

ITEM 6. Public Transportation

a. Various Counties - Award federal §5311(f) and §5316 funds for the FY 2012 coordinated call for projects, and award transportation development credits (MO)

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

also received comments from LULAC Project Amistad Chief Executive Officer Xavier Bañales.

113107
PTN

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

Title 43, Texas Administrative Code, Sections §31.17 and §31.36 establishes the process by which program proposals shall be evaluated and funds distributed. On August 5, 2011, the department published a Notice of Request for Proposal for projects in the Texas Register. Project criteria included project planning and coordination; demonstration of need; benefits of the project; and project management.

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

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

The commission finds that the projects in Exhibit A are eligible for funding and awards a total of \$9,487,239 in federal program funds and 604,466 in TDC.

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

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

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

b. Various Counties - Award state funds to Concho Valley Transit District to provide funds for the completion of their multimodal transit facility (MO)

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

113108
PTN

The Texas Transportation Commission (commission) desires to award state funds to Concho Valley Transit District (CVTD) for the completion of their multimodal facility which has been previously funded by the Texas Department of Transportation (department).

Transportation Code, Chapter 455 requires the department to assist political subdivisions of this state to obtain federal aid to establish or maintain public transportation systems.

Transportation Code, Chapter 456 requires 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 hereby authorized to proceed with an award not to exceed \$15,000 in state funds to CVTD for the completion of their multimodal facility to accommodate floor plan changes necessary for intercity carriers and enter into the necessary contracts in accordance with the priorities established in this minute order.

c. Various Counties - Award federal and state funds to Southwest Area Regional Transit District (MO)

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

113109
PTN

Transportation Code, Chapter 455 assigns a broad spectrum of public transportation roles and missions to the Texas Department of Transportation. Transportation Code, Chapter 456 authorizes the Texas Transportation Commission (commission) to administer public transportation programs.

The board of directors of Community Council of Southwest Texas (CCSWT), a rural transit district, has passed a resolution splitting off their transportation responsibilities to a stand-alone transit district. The transit district will continue to serve the counties of Edwards, Real, Kinney, Uvalde, Maverick, Zavala, Dimmit, and La Salle.

IT IS THEREFORE ORDERED by the commission that the executive director, or the director's designee, is hereby authorized to proceed with the awards not to exceed the balance amounts as shown in Exhibit A to Southwest Area Regional Transit District and enter into the necessary contracts.

IT IS FURTHER ORDERED by the commission that the executive director or the director's designee is authorized to direct the transfer of CCSWT assets funded by TxDOT and retitle the assets to Southwest Area Regional Transit District with a

TxDOT secured interest. The executive director or the director’s designee is also authorized to notify the recipients in writing and enter into any necessary contracts and agreements with the local recipients.

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

ITEM 7. Promulgation of Administrative Rules

a. Final 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 Holmes made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Finance Division Director Brian Ragland.

113110
FIN

The Texas Transportation Commission (commission) finds it necessary to adopt 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 adopted 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 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-F are on file with minute order clerk.

b. Proposed Adoption

(1) Chapter 4 - Employment Practices

Repeal of §4.16, Veterans Employment Preference (Job Application Procedures)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Chief People Officer Dee Porter.

113111
HRD

The Texas Transportation Commission (commission) finds it necessary to propose the repeal of §4.16, Veterans Employment Preference, relating to Job Application Procedures, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the repeal of §4.16 is proposed for adoption and is authorized for publication in the Texas Register for the purpose of receiving public comments.

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

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

(2) Chapter 15 - Financing and Construction of Transportation Projects (MO)
Amendments to §15.90, Reports and Audits (Transportation Corporations)

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

113112
FIN

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §15.90, Reports and Audits, relating to Transportation Corporations, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §15.90 are proposed for adoption and are authorized for publication in the Texas Register for the purpose of receiving public comments.

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

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

c. Rule Review

In accordance with Government Code, §2001.039, Readoption of Title 43 Texas Administrative Code Chapter 1, Management, and Chapter 11, Design (MO)

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

113113
OGC

Government Code, §2001.039 requires state agencies to readopt their rules every four years and, prior to readopting, to consider whether the reason for adopting each rule continues to exist.

During April and May 2012, the Texas Department of Transportation reviewed Title 43 Texas Administrative Code, Part 1, Chapter 1, Management and Chapter 11, Design. The Notice of Intent to review was published in the Texas Register on April 13, 2012 (37 TexReg 2702).

No comments were received regarding this rule review.

The Texas Transportation Commission (commission) finds that the reasons for adopting these rules continue to exist.

IT IS THEREFORE ORDERED by the commission that the reviewed rules are readopted and that the executive director provide for filing with the Office of the Secretary of State, Texas Register Division, a notice readopting these rules.

ITEM 8. Office of Compliance and Ethics Report

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

ITEM 9. Ethics Policy

Consider amendments for clarification of the employee ethics policy (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Director of the Office of Compliance and Ethics Suzanne Mann.

113114
OCE

On December 13, 2007, the Texas Transportation Commission (commission) adopted an ethics policy to set uniform standards of conduct for all Texas Department of Transportation (department) employees.

In March of 2008, the commission amended the ethics policy to reflect current business practices regarding gifts.

This minute order revises the ethics policy to clarify certain provisions and to remove references to divisions that no longer exist within the department.

IT IS THEREFORE ORDERED by the commission that the revised ethics policy attached as Exhibit A is adopted.

IT IS FURTHER ORDERED that the executive director or his designee is directed to provide a copy of this policy to each employee of the department.

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

ITEM 10. Design Build Projects

a. Nueces and Kleberg Counties - Authorize the department to issue a request for qualifications for the development, design, construction, and, potentially maintenance of the project for the US 77 Project from the north portion of Kingsville in Kleberg County, and continuing north along the existing US 77 facility, south of the city of Driscoll in Nueces County (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Strategic Projects Division Director Ed Pensock. The commission also received comments from Precinct 3 Commissioner David Garza and Cameron County Regional Mobility Authority Vice Chairman John Wood.

113115
SPD

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

The US 77 project will upgrade US 77 between Kingsville and Driscoll from a four lane divided facility with at grade intersections to a full interstate standard facility with overpasses, and is intended to improve safety and mobility as well as foster economic development throughout South Texas. The total project is approximately 12 miles in length and is part of the overall US 77 upgrade from Corpus Christi to Harlingen. In some portions of the facility, only resurfacing of existing travel lanes will be required, while in other portions, four new main travel lanes and a frontage road will be required. The estimated construction cost of the US 77 project is \$60 million.

The project begins at E. Corral Avenue in the northern portion of Kingsville in Kleberg County, and continues north along the existing US 77 facility to south of the city of Driscoll in Nueces County. The project will create a fully access controlled facility meeting interstate standards. US 77 from I-37 to SH 44 in Robstown was dually designated as US 77 and I-69 in December 2011. Improvements are in process for US 77 south of Robstown to upgrade to interstate standards.

The development and completion of the US 77 project can be expedited through the use of a design-build contract, and the employment of innovative methods for the development and construction of projects that are available with a design-build contract. Completion of the project will improve mobility along the US 77 corridor.

Transportation Code, §223.245 prescribes requirements for the procurement of a project to be developed under a design-build contract, and requires the department to publish a notice advertising the issuance of a request for qualifications in the Texas

Register and on the department’s internet website that includes the criteria that will be used to evaluate qualification statements, the relative weight given to the criteria, and the deadline by which qualification statements must be received.

IT IS THERFORE ORDERED by the Texas Transportation Commission (commission) that the department is authorized to publish in the Texas Register and in one or more newspapers of general circulation, and to post on the department’s internet website, a request for qualifications to develop, design, construct, and potentially maintain the US 77 project between E. Corral Avenue in Kingsville to south of Driscoll to interstate standards.

IT IS FURTHER ORDERED that authorization to issue a request for proposals for the US 77 project is conditioned on commission approval of the project’s inclusion in the Unified Transportation Program and commission authorization of the project with CONSTRUCT authority.

b. Bexar County - Authorize the department to issue a request for qualifications for the development, design, construction, and potentially maintenance for the Loop 1604 Project, preliminary limits from SH 16 (Bandera Road) to south of Wiseman Boulevard (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Strategic Projects Division Director Ed Pensock.

113116
SPD

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

Loop 1604 is an approximately \$146 million project in northwest San Antonio between SH 16 (Bandera Road) and Wiseman Boulevard. The Loop 1604 project is located in the rapidly growing area of Bexar County with heavy congestion consisting of an average ADT of 77,000 (2010).

The preliminary project limits are from SH 16 (Bandera Road) to south of Wiseman Boulevard. The project limits and funding are anticipated to be approved by the San Antonio-Bexar County MPO and the Transportation Commission in July 2012. The project will include the expansion of Loop 1604 to a four lane non toll expressway section with overpasses at Braun Road, New Guilbeau Road, Shaenfield Road and Wiseman Boulevard. The estimated construction cost of the project is approximately \$146 million.

Loop 1604 is a highly congested, demand-critical and mobility constrained transportation corridor in the region. The development and completion of the project can be expedited through the use of a design-build contract, and the employment of innovative methods for the development and construction of projects that are available

with a design-build contract. Development of the project is a crucial element to responding to traffic congestion throughout the San Antonio/Bexar County area.

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

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the department is authorized to publish in the Texas Register and in one or more newspapers of general circulation, and to post on the department's internet website, a request for qualifications to develop, design, construct, and potentially maintain the Loop 1604 in Bexar County, providing for the expansion of a non-toll expressway from SH 16 (Bandera Road) to south of Wiseman Boulevard.

ITEM 11. Toll Road Projects

a. Harris and Montgomery Counties - Authorize additional funding of \$1.5 million to Grand Parkway Association to conduct environmental studies and additional work to support the development of Segments E, F-1, F-2 and G of SH 99 (Grand Parkway) from south of I-10 West in Harris County to east of US 59 North in Montgomery County (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Strategic Projects Division Director Ed Pensock.

113117
SPD

The Texas Transportation Commission (commission) authorized funding of \$8 million by Minute Order 107844, dated May 27, 1999, to the Grand Parkway Association (association) for selecting and approving consultants to conduct major investment studies, environmental studies and schematic design for the development of Segments E, F-1, F-2 and G of the Grand Parkway, from I-10 West to US 59 North, a distance of approximately 52 miles.

Minute Order 110046, dated April 28, 2005, and Minute Order 111006, dated July 26, 2007, authorized additional funding to the association of \$2.5 million and \$1.0 million, respectively, for an aggregate \$11.5 million in funding to date for studies for Segments E, F-1, F-2 and G of the Grand Parkway.

The association has completed the tasks assigned and has received approvals of the Record of Decisions from the Federal Highway Administration for SH 99 Segments E, F-1, F-2 and G.

The approved funding by the commission was insufficient for the association to complete the additional studies for Segments E, F-1, F-2 and G.

The association and the Texas Department of Transportation (department) have determined \$1.5 million in funding is necessary to develop the project from the current status through right-of-way acquisition, environmental re-evaluation, final engineering, design changes and construction for Segments E, F-1, F-2 and G.

The commission finds it necessary to increase funding to the association in order to expedite the timely construction of Segments E, F-1, F-2 and G of the Grand Parkway, which is essential to the transportation needs of the citizens of Texas.

IT IS THEREFORE ORDERED by the commission to provide the needed additional funding of \$1,500,000 in order to complete additional environmental studies and support the department in project development and procurement activities for Segments E, F-1, F-2 and G of the Grand Parkway, from south of I-10 West to east of US 59 North, a distance of approximately 52 miles.

IT IS FURTHER ORDERED by the commission that the association is hereby authorized to proceed with the additional work and to continue the project development activities.

b. Various Counties - Approval to exceed the dollar limit and contract term restrictions in 43 TAC §9.39(b)(1) for the procurement under indefinite deliverable contracts of the services of right-of-way acquisition, procurement engineering, and general engineering consultants for projects developed under comprehensive development agreements, design-build agreements, or other innovatively funded or developed methods (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Strategic Projects Division Director Ed Pensock.

113118
SPD

Title 43, Texas Administrative Code, §9.39(b)(1) provides that for an indefinite deliverable engineering or land surveying services contract, the total of the contract work authorizations shall not exceed \$5 million in a division, metropolitan district, or border district of the Texas Department of Transportation (“the department”), or \$2 million in a district of the department other than a metropolitan or border district, unless approved by the Texas Transportation Commission (“the commission”) prior to publication of the notice of intent. Section 9.39(b)(1) further provides that the contract period in which initial work authorizations may be issued may not be longer than two years from the date of contract execution, unless approved by the commission prior to publication of the notice of intent.

The department is currently in various stages of planning, procurement and negotiation with respect to multiple projects that would be developed under Public-Private Partnership (PPP) agreements, including comprehensive development agreements (CDA), design-build agreements and other innovative delivery methods. In connection with these efforts, the department intends to rely on firms employing professional engineers, land surveyors and other professionals to perform various roles within the project development process, such as drafting technical provisions, assisting with right of way (“ROW”) acquisition and utility relocation, and overseeing compliance with the terms and conditions of PPP agreements during implementation.

The department intends to issue notices of intent to solicit the services of firms employing professional engineers, land surveyors and other professionals under indefinite deliverable contracts, and to issue work authorizations to one or more of

those firms to provide various services related to PPP agreements. More specifically, the department intends to enter into two indefinite deliverable contracts for the provision of ROW acquisition oversight including land surveying, one each for the Dallas-Fort Worth and Houston areas; four indefinite deliverable contracts for the provision of general engineering consultant (“GEC”) services, one for the Houston area, two for the Dallas-Fort Worth area, and one for the South/Central area; and two indefinite deliverable contracts for statewide PPP procurement engineering (“PcE”) consultants. Higher dollar limits and longer potential terms are essential to allow these professionals to oversee the various PPP projects efficiently.

IT IS THEREFORE ORDERED by the commission that the department is authorized to proceed with a solicitation for no more than eight indefinite deliverable contracts limited to the provision of GEC, PcE and ROW acquisition oversight services for PPP projects, that each of the above-described contracts shall be for no more than \$30 million, that initial work authorizations may be issued up to but no later than six years after a contract is executed, and that all work authorizations must be executed by the executive director or the executive director’s designee not below the level of Deputy Executive Director.

ITEM 12. State Infrastructure Bank

Delta and Lamar Counties - Sulphur River Regional Mobility Authority – Consider granting final approval of an application from the Sulphur River Regional Mobility Authority to borrow, in two loans, an aggregate amount of \$4,428,039 from the state infrastructure bank (SIB) to pay for costs of right-of-way acquisition and utility relocation relating to the widening of SH 24 from FM 904 to FM 64 (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Finance Division Director Brian Ragland.

113119
FIN

On April 26, 2012, by Minute Order 113089, the Texas Transportation Commission (commission) granted preliminary approval of an application for financial assistance from the Sulphur River Regional Mobility Authority (RMA) to borrow an aggregate not to exceed \$4.5 million, in one or more loans, to pay the costs of right-of-way acquisition and utility relocation for the widening of State Highway 24 from Farm to Market 904 to Farm to Market 64 (project).

The RMA and the Texas Department of Transportation (department) have entered into a Master Advance Funding Agreement (MAFA) and Local Project Advance Funding Agreement (together with the MAFA, the AFA), pursuant to which the department will perform the work for the project, including right-of-way acquisition and utility relocation, and the RMA will pay 100% of the costs of right-of-way acquisition and utility relocation for the project.

The RMA intends to meet its payment obligations under the AFA by borrowing funds in two loans from the SIB and entering into an Interlocal Cooperative Agreement (interlocal agreement) with Delta County, Lamar County, the City of Cooper, the City of Paris, and the Paris Economic Development Corporation (participants). The RMA

will make payments due on the SIB loans with funds provided to the RMA pursuant to the interlocal agreement by all participants with the exception of Delta County. Delta County will pay for its portion of the costs of right-of-way acquisition and utility relocation for the project by contributing cash upfront to the RMA that the RMA will provide to the department pursuant to the terms of the AFA.

Pursuant to the commission's preliminary approval, the executive director implemented and completed negotiations and other actions authorized and required by commission rules, and also hereby determines that the requirement to submit any information or data that was not submitted by the RMA is waived as permitted by commission rules either because the information or data is not relevant or the department already possesses the information or data. The executive director affirms that the necessary social, economic, and environmental impact studies have been completed, and that the department has approved those studies. The executive director recommends that the commission grant final approval of the SIB application for financial assistance.

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

Based on departmental review and analysis of the application, the commission makes the following findings: (1) the RMA has pledged repayment of the SIB loans with contract revenues to be received by the RMA pursuant to the interlocal agreement to assure likely repayment of the financial assistance; (2) the project is consistent with the Statewide Transportation Plan; (3) the project will improve the efficiency of the state's transportation systems; (4) the project will expand the availability of funding for transportation projects or reduce state costs; and (5) the application shows that the project and the applicant are likely to have sufficient revenues to assure repayment of the financial assistance.

IT IS THEREFORE ORDERED by the commission that the application for SIB financial assistance submitted by the RMA to borrow an aggregate amount up to \$4,428,039 from the State Infrastructure Bank is granted final approval. The executive director or his authorized representative is directed and authorized to enter into the financial assistance agreements as negotiated with the RMA. The loans will be repaid over a period of no more than 20 years at 3.68 percent interest per annum. The final maturity date will be June 29, 2032.

ITEM 13. Contested Case

Freestone County - Lamar Advantage Outdoor Company, LP v. Texas Department of Transportation - Consider action on administrative law judge proposal for decision concerning cancellation of an outdoor advertising permit, final order (MO)

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by TxDOT Attorney Rich O'Connell.

113120
OGC

On May 31, 2012 the Texas Department of Transportation considered the staff's proposed cancellation of Outdoor Advertising Permit Number 81694, held by Lamar Advantage Outdoor Company, LP (Lamar). Lamar requested an administrative hearing and the matter was referred to the State Office of Administrative Hearings. The proposal for decision concluded that the permit should not be canceled. Under the Administrative Procedure Act and the Texas Transportation Commission's (commission) rules, the matter is now appropriate for entry of a final order by the commission.

IT IS THEREFORE ORDERED that the commission issues the attached order in the case of Lamar Advantage Outdoor Company, LP v. Texas Department of Transportation, Docket No. 601-11-7915, and directs that the department staff's proposed cancellation of Permit Number 81694 is withdrawn.

ITEM 14. Contracts

Award or reject contracts for maintenance, highway and building construction

a. Highway Maintenance and Department Building Construction (MO)

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

113121
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 May 2 and 3, 2012.

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

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

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

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

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

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

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

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

b. Highway and Transportation Enhancement Building Construction (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Construction Division Director John Obr. The commission also received comments from Parker County Judge Mark Riley.

113122
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 May 2 and 3, 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 be and are hereby respectively awarded to the lowest bidder or rejected as indicated therein.

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

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

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

ITEM 15. Eminent Domain

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 Commissioner Houghton, Commissioner Holmes, Commissioner Underwood, and Commissioner Austin (a vote of 4 – 0). This item was presented by Right of Way Division Director John Campbell.

113123
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 - OOO. 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 - 17, 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
Cass	US 59	15	0062-04-047	115
El Paso	SL 375	9	2552-03-046	11
El Paso	SL 375	14	2552-03-046	16
El Paso	SL 375	13	2552-03-046	15
El Paso	SL 375	12	2552-03-046	14
El Paso	SL 375	10	2552-03-046	12
El Paso	SL 375	8	2552-03-046	10
El Paso	SL 375	7	2552-03-046	9
El Paso	SL 375	6	2552-03-046	8
El Paso	SL 375	5	2552-03-046	7
El Paso	SL 375	4	2552-03-046	6
El Paso	SL 375	3	2552-03-046	5
El Paso	SL 375	2	2552-03-046	4
El Paso	SL 375	11	2552-03-046	13,13E,13TE
Jefferson	FM 365	1	0932-01-099	5
Jefferson	FM 365	17	0932-01-099	30
Nueces	SH 358	16	0617-01-172	65

CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Angelina	US 59	E	0176-02-112	25
Bell	IH 35	Z	0015-04-083	4
Bell	IH 35	BB	0015-04-083	34
Bell	IH 35	Y	0015-04-083	2
Bell	IH 35	AA	0015-04-083	21
Bell	IH 35	J	0015-14-123	105
Bell	IH 35	KKK	0015-14-123	107
Bell	IH 35	U	0015-14-123	35
Bell	IH 35	S	0015-14-123	87
Bell	IH 35	R	0015-14-123	10

CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Bell	IH 35	G	0015-14-123	108
Bell	IH 35	H	0015-14-123	56
Bell	IH 35	I	0015-14-123	102
Bell	IH 35	Q	0015-14-123	19
Bell	IH 35	P	0015-14-123	96
Bell	IH 35	JJJ	0015-14-123	17
Bell	IH 35	LLL	0015-14-124	12
Bell	IH 35	V	0015-14-124	30
Bell	IH 35	MMM	0015-14-124	13
Bell	IH 35	OOO	0015-14-124	17
Bell	IH 35	NNN	0015-14-124	16
Bell	IH 35	F	0015-14-124	20
Dallas	SH 121	D	0364-02-020	11
Denton	IH 35E	M	0196-01-097	7
Falls	IH 35	X	0015-03-038	27
Harris	IH 45	T	0500-03-546	211
Harris	IH 610	K	0271-14-225	304
Harris	IH 610	W	0271-14-225	309
Harris	IH 610	L	0271-14-225	311
Harris	IH 610	N	0271-14-225	305
Harris	IH 610	O	0271-14-225	307
McLennan	IH 35	PP	0015-01-220	47
McLennan	IH 35	JJ	0015-01-220	82E,82AC
McLennan	IH 35	HH	0015-01-220	80,80E
McLennan	IH 35	DD	0015-01-220	22
McLennan	IH 35	GG	0015-01-220	79,79E
McLennan	IH 35	FF	0015-01-220	78,78E
McLennan	IH 35	EE	0015-01-220	49
McLennan	IH 35	CC	0015-01-220	20
McLennan	IH 35	II	0015-01-220	81E
McLennan	IH 35	CCC	0015-01-221	151
McLennan	IH 35	VV	0015-01-221	144
McLennan	IH 35	RR	0015-01-221	140
McLennan	IH 35	QQ	0015-01-221	139
McLennan	IH 35	OO	0015-01-221	138
McLennan	IH 35	NN	0015-01-221	116
McLennan	IH 35	MM	0015-01-221	102
McLennan	IH 35	LL	0015-01-221	101
McLennan	IH 35	KK	0015-01-221	100
McLennan	IH 35	TT	0015-01-221	142
McLennan	IH 35	EEE	0015-01-221	153
McLennan	IH 35	UU	0015-01-221	143
McLennan	IH 35	WW	0015-01-221	145
McLennan	IH 35	XX	0015-01-221	146
McLennan	IH 35	YY	0015-01-221	147
McLennan	IH 35	ZZ	0015-01-221	148
McLennan	IH 35	AAA	0015-01-221	149

CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
McLennan	IH 35	BBB	0015-01-221	150
McLennan	IH 35	SS	0015-01-221	141
McLennan	IH 35	DDD	0015-01-221	152
McLennan	IH 35	FFF	0015-01-221	154
McLennan	IH 35	GGG	0015-01-221	155
McLennan	IH 35	HHH	0015-01-221	156
Rockwall	IH 30	C	0009-12-077	11
Shelby	SL 500	B	3315-01-017	4
Shelby	SL 500	A	3315-01-017	21
Tarrant	SH 121	III	0364-01-134	117B

Note: Exhibits A-000 and 1-17 are on file with minute order clerk.

ITEM 16. Routine Minute Orders

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

a. Donations to the Department

(1) Austin District - Consider a donation from the Lower Colorado River Authority (LCRA) for the design, survey and construction of a deceleration lane and shoulder widening on SH 261 at the Black Rock Park entrance in Llano County (MO)

113124
GSD

This minute order considers a donation from the Lower Colorado River Authority (LCRA) for the design, survey and construction of a deceleration lane and shoulder widening on State Highway 261 at the Black Rock Park entrance in Llano County. All preliminary engineering and construction work will be provided by the donor or its consultant. The State will waive all state direct and indirect costs. The estimated value of the donation is \$36,500.

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 the LCRA estimated at \$36,500 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.

(2) Bryan District - Consider a donation from Mueller, Inc., for the design and construction of a deceleration right-turn lane from the SH 6 northbound frontage road to the new Mueller, Inc., facility (MO)

113125
GSD

This minute order considers a donation from Mueller, Inc., for the design and construction of a deceleration right-turn lane from the State Highway 6 northbound frontage road to the new Mueller, Inc. facility. All design and construction work will be provided by the donor, its consultant or its contractor. The donor will pay for all of the department's direct and indirect costs associated with the review and oversight of this work. The estimated value of the donation, including direct and indirect costs is \$20,000.

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 Mueller, Inc. estimated at \$20,000 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.

(3) Houston District - Consider a donation from HEB Grocery Company, LP, for the design and construction of a right-turn lane from US 290 to the new donor’s facility and commercial development (MO)

113126
GSD

This minute order considers a donation from HEB Grocery Company, LP, for the design and construction of a right-turn lane from US 290 to the new HEB grocery store and commercial development. All design and construction work will be provided by the donor, its consultant or its contractor. The donor will pay for all of the department’s direct and indirect costs associated with the review and oversight of this work. The estimated value of the donation, including direct and indirect costs is \$85,000.

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 HEB Grocery Company, LP, estimated at \$85,000 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.

(4) **Houston District - Consider a donation from Lamar Consolidated Independent School District (LCISD) for the design and construction of a right-turn lane from FM 1093 to the new LCISD Building at the secondary access drive of the Satellite Transportation Center (MO)**

113127
GSD

This minute order considers a donation from Lamar Consolidated Independent School District (LCISD), for the design and construction of a right-turn lane from Farm to Market 1093 to the new LCISD building at the secondary access drive of the Satellite Transportation Center. All design and construction work will be provided by the donor, its consultant or its contractor. The donor will pay for all of the department’s direct and indirect costs associated with the review and oversight of this work. The estimated value of the donation, including direct and indirect costs is \$200,000.

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 LCISD, estimated at \$200,000 is approved for acceptance. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(5) Rail Division - Consider a donation from BNSF Railway for 17,700 linear feet of 133 pound surplus rail to be used to construct a new interchange track and extend sidings on the South Orient Railroad (MO)

113128
GSD

This minute order considers a donation from BNSF Railway for 17,700 linear feet of 133 pound surplus rail to be used to construct a new interchange track and extend sidings on the South Orient Railroad. The estimated value of the donation is \$200,000.

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 BNSF Railway estimated at \$200,000 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.

b. Right of Way Dispositions and Donations

(1) Burnet County - US 281 north of SH 71 - Consider the quitclaim of surplus right of way to the county (MO)

113129
ROW

In BURNET COUNTY, on US 281, the State of Texas used certain land acquired in the county’s name for highway purposes.

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

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the quitclaim to a county or municipality any interest in property acquired and held by the county or municipality in its own name for use by the state.

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

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument quitclaiming all of the state’s rights and interest in the surplus land to Burnet County, Texas.

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

(2) Galveston County - FM 646 from FM 517 to SH 6 - Consider the acceptance of a donation of land for a highway improvement project (MO)

113130
ROW

In GALVESTON COUNTY, on FARM TO MARKET ROAD 646 from Farm to Market 517 to State Highway 6, the Texas Department of Transportation (department) is acquiring the right of way for a highway improvement project.

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

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

The City of Santa Fe, Texas (owner) is the owner of the property described in Exhibit A and wants to donate this property, estimated at \$5,455, 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) Hays County - I-35 at FM 3407 in San Marcos - Consider the sale of surplus right of way to an abutting landowner (MO)

113131
ROW

In the city of San Marcos, HAYS COUNTY, on INTERSTATE-35, the State of Texas acquired certain land for highway purposes by instruments recorded in Volume 170, Page 320, Deed Records of Hays County, Texas, and in Volume F, Page 470A, Court Judgment, Hays County, Texas.

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

Falcon International Bank is the abutting landowner and has requested that the surplus land be sold to the bank for \$178,472.

The commission finds \$178,472 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 Falcon International Bank for \$178,472; 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) Leon County - FM 39 northwest of Jewett - Consider the amendment of MO 110207, passed August 25, 2005 (MO)

113132
ROW

In LEON COUNTY, on FARM TO MARKET ROAD 39, the State of Texas acquired certain land for highway purposes by various instruments.

The Texas Transportation Commission (commission) approved Minute Order 110207 on August 25, 2005, authorizing the conveyance and release of surplus land, described in Exhibit A, to Texas Westmoreland Coal Co. (TWCC) in exchange for needed land. The minute order erroneously provided for the reservation and retention of coal and lignite rights, title and interest from the conveyance and release of the surplus land to TWCC. This provision is being corrected by this minute order, so that the state will not be reserving and retaining the coal and lignite rights.

NOW, THEREFORE, IT IS ORDERED that Minute Order 110207 be amended only with respect to the provision for the exception of coal and lignite rights, title and interest in the conveyance and release of the surplus land, and all other provisions of Minute Order 110207 are to remain unchanged.

FURTHER, the commission recommends, subject to approval by the attorney general, that the governor of Texas execute proper instruments conveying and releasing all of the state’s rights, title and interest in the surplus land to Texas Westmoreland Coal Co.; 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, except for coal and lignite rights, titles and interests, in, on, under and that may be produced from the surplus land.

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

(5) Lubbock County - US 62/82 west of University Avenue in Lubbock - Consider the sale of surplus right of way to the abutting landowners (MO)

113133
ROW

In the city of Lubbock, LUBBOCK COUNTY, on US 62/82, the State of Texas acquired certain land for state highway purposes by instrument recorded in Volume 6729, Page 1, Real Property Records of Lubbock County, Texas.

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

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

Hoile Lee Shakespeare and Susan Michael Shakespeare are the abutting landowners and have requested that the surplus land be sold to them for \$19,367.

The commission finds \$19,367 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Hoile Lee Shakespeare and Susan Michael Shakespeare, for \$19,367; 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.

(6) Navarro County - FM 2859, old alignment at Richland Chambers Lake - Consider the sale of surplus right of way to the abutting landowners with reservation of an easement interest (MO)

113134
ROW

In NAVARRO COUNTY, on FARM TO MARKET ROAD 2859, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 715, Page 221, Official Public Records of Navarro County, Texas.

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

An easement interest over the surplus land is needed for highway drainage purposes (drainage easement) and is reserved to the state.

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

James R. Duncan and wife, Jacqueline D. Duncan, are the abutting landowners and have requested that the surplus land be sold to them for \$1,880, subject to the drainage easement.

The commission finds \$1,880 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 James R. Duncan and wife, Jacqueline D. Duncan for \$1,880, subject to the drainage easement; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

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

(7) Polk County - Recreation Road 5 at FM 1988 at Lake Livingston Reservoir – Consider removal from the system, transfer of control, jurisdiction and maintenance to the county and transfer of a surplus right of way easement to the county (MO)

113135
ROW

In POLK COUNTY, on RECREATION ROAD 5, the State of Texas acquired an easement interest in certain land by instrument recorded in Volume 269, Page 509, Deed Records of Polk County, Texas.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that RE 5, shown on Exhibit A, be removed from the state highway system and that control, jurisdiction and maintenance be transferred to the county.

The easement (surplus easement) is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may waive payment for real property transferred to a governmental entity if the estimated cost of future maintenance on the property equals or exceeds the fair value of the property.

The fair value of the surplus easement has been determined to be \$61,890, and the state’s costs for maintenance over 20 years is estimated to be \$65,700.

The county has requested that the surplus easement be transferred to the county and that control, jurisdiction and maintenance be transferred to the county.

The commission finds \$61,890 to be a fair and reasonable value of the state’s rights, title and interest in the surplus easement.

IT IS THEREFORE ORDERED by the commission that RE 5, a distance of 0.9 mile, is removed from the state highway system and transferred to the county for control, jurisdiction and maintenance.

FURTHER, the commission finds that the surplus easement is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument transferring the state’s rights and interest in the surplus easement to Polk County, Texas, in consideration of the savings to the state of future maintenance costs.

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

(8) Throckmorton County - US 380, 4 miles east of Throckmorton - Consider the quitclaim of a surplus right of way easement to honor a reversionary clause (MO)

113136
ROW

In THROCKMORTON COUNTY, on US 380, the State of Texas acquired an easement interest in certain land for highway purposes by instrument recorded in Volume 61, Page 379, of the Deed Records of Throckmorton County, Texas.

The instrument conveying the easement to the state for use as a roadside park contained a clause to the effect that if the park is abandoned, the easement reverts to the grantor or grantor’s heirs.

The easement (surplus easement), shown on Exhibit A, is no longer needed for highway purposes.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the quitclaim of the state’s interest to comply with a reversionary clause contained in the instrument that originally conveyed the interest to the state.

The commission finds that it is proper and correct that the state quitclaim its rights and interest in the surplus easement to comply with the reversionary clause contained in the instrument of conveyance to the state.

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

NOW, THEREFORE, the commission finds that the surplus easement is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument quitclaiming the state's rights and interest in the surplus easement to Hettie Thomas, her heirs, successors or assigns and that the service fee be waived.

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

c. Release of Access Rights

Fort Bend County - I-10, immediately east of FM 1463 in Katy - Consider the designation of a location on the highway at which access will be permitted to the abutting property (MO)

113137
DES

In FORT BEND COUNTY, on INTERSTATE HIGHWAY 10, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 453, Page 251, Fort Bend County Deed Records with denial of access to the abutting remainder property as described in the instrument.

Landmark Industries, a Texas general partnership, the current owner of the abutting property, has requested access to and from the westbound frontage road of I-10 be permitted along their south property line at a new access point, described in Exhibit A.

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

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

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

NOW, THEREFORE, the commission finds that the new access point will not compromise the mobility, safety or operation of the existing state highway facility, and designates the new access point as a location where ingress and egress are permitted to and from the westbound frontage road of I-10.

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

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

d. Highway Designations

(1) Polk County - Designate FM 3488 on a new location along existing local routes from US 59 in the city of Corrigan to approximately 0.6 mile north of CR 111 (MO)

113138
TPP

In POLK COUNTY, the Lufkin District has partnered with local officials to make improvements to an existing route and has requested the designation of FARM TO MARKET ROAD 3488 (FM 3488) along a new location from US 59 in the city of Corrigan westward approximately 0.5 mile along Plant Road to Industrial Road, then northward approximately 0.5 mile along Industrial Road to its terminus, a total distance of approximately 1.0 mile.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director of the Texas Department of Transportation (department) has recommended the designation of FM 3488 on the state highway system.

The Texas Transportation Commission (commission) finds that the designation of FM 3488 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 executive director is hereby directed to tender the following proposal to Polk County and the city of Corrigan:

Provided that:

The facility is planned, designed and constructed in accordance with the department’s Roadway Design Manual and meets the following specifications:

- a. The facility includes a 100-foot wide right-of-way along the entire 5,500 foot length of roadway.
- b. Utility installations within the right-of-way comply with the department’s ROW Utility Manual.
- c. The cross section is at least 28 feet and includes two 12-foot wide driving lanes and 2-foot wide shoulders on both sides.
- d. The facility has a 40 mile per hour design speed that incorporates super-elevation at the 90-degree termination just south of the plant entrance.
- e. The facility has a pavement design consisting of a minimum 10-inch depth treated subgrade, with either hydrated lime or Portland cement, a minimum 10-inch thick limestone or crushed concrete flexible base, an asphaltic prime coat (MC-30), a one course surface treatment, and a 2-inch thick hot-mix asphalt surface, meeting the department’s current Pavement Design Guide.
- f. The facility provides the necessary driveway culverts with safety end treatments.
- g. The facility includes open road ditches at slopes acceptable to the department.

The department will:

- a. Review the route improvements, and
- b. Issue final approval for the facility if department specifications are met.

IT IS FURTHER ORDERED that the executive director is hereby authorized to enter into any necessary agreements with the city and the county containing terms consistent with the provisions of this order.

IT IS FURTHER ORDERED that this order shall become operative upon acceptance by the city of Corrigan and Polk County; and if such acceptance is not received by the department within 90 days of the date of this order, the order shall be null and void.

IT IS FURTHER ORDERED that, upon issuance of final approval for the facility, FM 3488 is designated along a new location on the state highway system from US 59 along Plant Road, westward approximately 0.5 mile to Industrial Road, then northward approximately 0.5 mile along Industrial Road to its terminus, a total distance of approximately 1.0 mile.

(2) Williamson County - Redesignate a segment of RM 2338 as State Spur 158 in the City of Georgetown (MO)

113139
TPP

In WILLIAMSON COUNTY, the Austin District has requested the redesignation of a segment of RANCH TO MARKET ROAD 2338 (RM 2338) from the southbound frontage road of I-35 in the city of Georgetown southeastward to STATE HIGHWAY SPUR 158 (SS 158) as SS 158, a distance of approximately 0.2 mile, as shown in Exhibit A.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended the redesignation of RM 2338 as SS 158.

The Texas Transportation Commission (commission) finds that the redesignation of RM 2338 as SS 158 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 RM 2338 be redesignated as SS 158 from the southbound frontage road of I-35 southeastward approximately 0.2 mile to the existing terminus of SS 158.

e. Reports

Accept the annual Inspection Report for the Central Texas Turnpike System (MO)

113140
TOD

In TRAVIS and WILLIAMSON COUNTIES, STATE HIGHWAY 45N has been designated a toll project and a controlled-access state highway from west of US 183 to SH 130.

In TRAVIS and WILLIAMSON COUNTIES, STATE HIGHWAY LOOP 1 has been designated a toll project and a controlled-access state highway from FM 734 (Parmer Lane) in Austin to the intersection of Loop 1 and SH 45N.

The Texas Transportation Commission (commission) has issued toll revenue bonds and other obligations to finance a portion of the costs of the 2002 Project of the Central Texas Turnpike System (system), a toll project composed of the SH 130, SH 45N, and Loop 1 project elements, and has entered into an Indenture of Trust dated July

15, 2002, with Bank One, National Association, as Trustee to secure the revenue bonds and other obligations issued for the 2002 Project.

In Section 707 of the Indenture of Trust, the commission covenants that it shall cause the general engineering consultant to make an inspection of the system at least once in the fiscal year following the substantial completion of the 2002 Project and in each fiscal year thereafter.

Following each inspection and on or before the 90th day prior to the end of each fiscal year, the general engineering consultant shall submit to the commission a report concerning the inspection, setting forth (a) their findings as to whether the system has been maintained in good repair, working order and condition; (b) their advice and recommendations as to the proper maintenance, repair and operation of the system during the ensuing fiscal year; and (c) an estimate of the amount of money necessary for such purposes, including their recommendations, as to the total amounts and classifications of items and amounts that should be provided for in the annual operating budget, the annual maintenance budget and annual capital budget for the next ensuing fiscal year.

Section 707 of the Indenture of Trust requires copies of the report to be filed with the U.S. Department of Transportation and the Trustee.

The commission has previously engaged PBS&J to serve as general engineering consultant in accordance with the Indenture of Trust. The FY 2012 Central Texas Turnpike Project Annual Inspection Report, attached as Exhibit A, has been prepared by Atkins North America, Inc. (formerly PBS&J) in accordance with Section 707 of the Indenture of Trust.

IT IS THEREFORE ORDERED by the commission that the general engineering consultant's FY 2012 Central Texas Turnpike Project Annual Inspection Report attached as Exhibit A is accepted.

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

f. Speed Zones

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

113141
TOD

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

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

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

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

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

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

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

The department, in consultation with the Texas Commission on Environmental Quality, has also determined that the environmental speed limits on the segments of Farm to Market Road 1093 established by Minute Order 109064, dated October 31, 2002 and listed in Exhibit D, are no longer necessary.

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

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

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

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

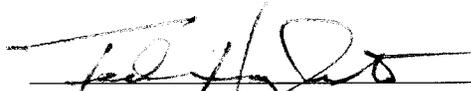
The commission received comments from Transportation Advocacy Group Executive Director Jim Frederichs in the Open Comment Period.

ITEM 17. Executive Session Pursuant to Government Code, Chapter 551 Section 551.071 - Consultation with and advice from legal counsel regarding any item on this agenda

The commission did not meet in executive session.

The regular meeting of the Texas Transportation Commission was adjourned at 10:34 p.m.

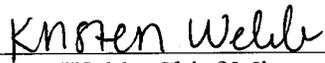
APPROVED:



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 May 31, 2012, in Austin, Texas.



Kristen Webb, Chief Minute Order Clerk
Texas Department of Transportation