

These are the minutes of the regular meeting of the Texas Transportation Commission held on August 29, 2013, Austin, Texas. The meeting was called to order at 9:00 am by Chairman Houghton with the following commissioners present:

Texas Transportation Commission:

Ted Houghton	Chairman
Fred Underwood	Commissioner
*Jeff Austin III	Commissioner
Jeff Moseley	Commissioner
Victor Vandergriff	Commissioner

*Commissioner Austin left at 11:10 am.

Administrative Staff:

Phil Wilson, Executive Director
 Jeff Graham, General Counsel
 Rose Guajardo Walker, Chief Clerk
 Kristen Webb, Assistant Chief Clerk

Registration sheets listing others in attendance are on file with the Texas Department of Transportation Assistant Chief 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 4:04 p.m. on August 21, 2013, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

ITEM 1. Safety Briefing

This item was presented by Deputy Executive Director John Barton.

ITEM 2. Approval of Minutes of the July 25, 2013, meeting of the Texas Transportation Commission

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

ITEM 3. Resolution

a. Recognize Carolyn Icard, Executive Assistant to the Commission, for her 27 years of service to the department

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

b. Recognize Herbert Bickley, P.E., Abilene District Engineer, for his 30 years of service to the department

This item was presented by Executive Director Phil Wilson. The commission also received comments Herbert Bickley.

A resolution was presented to Mirabel P. Chavez for her 31 years of service to the department. The commission also received comments from 35W Coalition President Russell Laughlin. A resolution was read from the 35W Coalition.

ITEM 4. Advisory Committees Appointments

a. Appoint members to the Border Trade Advisory Committee (MO)

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Federal Affairs Division Director Coby Chase.

113662
FED

Transportation Code, Section 201.114(b), requires the Texas Transportation Commission (commission) to appoint members to the Border Trade Advisory Committee (committee) to assist the commission in defining and developing a strategy and making recommendations for addressing the highest priority border trade transportation challenges.

The Texas Department of Transportation's (department) administrative rules governing advisory committees, Title 43, Texas Administrative Code, Section 1.84, provide that the committee members serve staggered three-year terms.

The commission has determined that the individuals or positions listed below fulfill the statutory requirements to serve as members of the committee and shall serve the terms specified:

Terms expiring August 31, 2016

Julia Araujo Director of Operations, B&M Bridge, Brownsville & Matamoros Bridge Company, or designee

Rigo Villarreal, Superintendent, McAllen-Hidalgo & Anzalduas International Bridges, or designee

Ed Drusina, Commissioner, International Boundary and Water Commission, Lake Falcon Dam Crossing, Lake Amistad Dam Crossing, Fort Hancock-El Porvenir Bridge, Fabens-Caseta Bridge, Bridge of the Americas, or designee

Pete Sepulveda, Jr., County Administrator, Cameron County, Veterans

International Bridge at Los Tomates, Free Trade Bridge at Los Indios, Gateway International Bridge, or designee

Michael O'Toole Bridge Division, Project Development Section Director, TxDOT, Presidio Bridge, or designee

Sam F. Vale, President, Starr-Camargo Bridge Company, Rio Grande City-Camargo Bridge, or designee

Julie Ramirez, Bridge Manager, B&P Bridge Company of Weslaco, Progreso International Bridge

Eddie Romero, Bridge Director, City of El Paso, Ysleta-Zaragoza Bridge, Good Neighbor Bridge, Paso del Norte Bridge, or designee

Juan Guerra, Bridge Director, City of Pharr Pharr-Reynosa International Bridge on the Rise, or designee

Ivan Jaime, Director of Border Policies and Community Affairs, Union Pacific Railroad, or designee

Rolando Pablos, CEO Borderplex Alliance, El Paso, or designee.

IT IS THEREFORE ORDERED by the commission that the individuals or positions named above are appointed to the Border Trade Advisory Committee for the terms specified.

b. Appoint members to the Aviation Advisory Committee (MO)

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Aviation Division Director Dave Fulton. The commission also received comments from Michael Schnell.

113663
AVN

Transportation Code §21.003, requires the Texas Transportation Commission (commission) to appoint a six-member Aviation Advisory Committee (committee) to advise the commission and the Texas Department of Transportation (department) on aviation matters.

Transportation Code §21.003, further provides that each member of the committee must have five years of successful experience as an aircraft pilot, an aircraft facilities manager or a fixed-base operator.

The department's administrative rules governing advisory committees (Title 43, TAC, §§1.80-1.85) provide that committee members serve three-year terms.

The terms of two members expire on August 31, 2013; therefore, it is necessary for the commission to reappoint one member and appoint a new member for terms to expire on August 31, 2016.

The commission has determined that the individuals listed below fulfill the statutory requirements to serve as members of the committee:

Peter Huff

McKinney, Texas

Michael Schnell

Spearman, Texas

IT IS THEREFORE ORDERED by the commission that the individuals identified above are hereby appointed for three-year terms as members of the Aviation Advisory Committee with terms effective September 1, 2013, and expiring on August 31, 2016.

c. Create the I-20 East Texas Corridor Advisory Committee and designate the entities that may appoint members to the committee (MO)

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Director of Planning Marc Williams.

113664
 TPP

Title 43, Texas Administrative Code, §1.86 provides that the Texas Transportation Commission (commission) may create an advisory committee to assist the Texas Department of Transportation (department) in the transportation planning process for any corridor.

The purpose of an advisory committee is to facilitate and achieve support and consensus from affected communities, governmental entities, and other interested parties in the planning of transportation improvements in the corridor for which it is created and in the establishment of development plans for that corridor. An advisory committee's advice and recommendations will provide the department with an enhanced understanding of public, business, and private concerns about the corridor for which it is created, facilitating the department's communications and project development objectives and resulting in greater cooperation between the department and all affected parties during project planning and development. An advisory committee may be composed of members of the following groups as deemed appropriate by the commission: affected property owners and owners of business establishments; technical experts; representatives of local governmental entities; members of the general public; economic development officials; chambers of commerce officials; members of the environmental community; department staff; and professional consultants representing the department.

The department has recommended the creation of the I-20 East Texas Corridor Advisory Committee (committee) to advise the department on the transportation planning process for the corridor located between the city of Dallas and the Texas/Louisiana state line. The entities identified in Exhibit A have been selected to participate on the committee because they represent a geographic distribution across the corridor area and reflect a diverse cross-section of the widely varying stakeholder groups needed to help the department identify and reach consensus on corridor needs and potential transportation solutions.

IT IS THEREFORE ORDERED by the commission that the I-20 East Texas Corridor Advisory Committee is created and each entity identified in Exhibit A will appoint a representative of the entity to serve as a member of the committee.

IT IS FURTHER ORDERED that changes to committee membership are delegated to the department's executive director or designee.

Note: Exhibit A is on file with the assistant chief clerk.

The Chair took up item 9b.

ITEM 9. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:
b. Proposed Adoption
(1) Chapter 1 - Management (MO)
Amendments to §1.82, §§1.85 - 1.87 (Advisory Committees)

Commissioner Moseley made a motion, which was seconded, and the

commission approved the following minute order by a vote of 5 – 0. This item was presented by General Counsel Jeff Graham.

113665
OGC

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §1.82, and §§1.85 - 1.87, relating to advisory committees, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §1.82, and §§1.85-1.87 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 assistant chief clerk.

(2) Chapter 15 - Financing and Construction of Transportation Projects (MO)
New §§15.180 - 15.196, New Subchapter O, County Transportation Infrastructure Fund Grant Program

Commissioner Moseley made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Design Division Director Mark Marek.

113666
DES

The Texas Transportation Commission (commission) finds it necessary to propose new §§15.180 - 15.196, new Subchapter O, County Transportation Infrastructure Fund Grant Program, relating to the financing and construction of transportation projects to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that new §§15.180 - 15.196 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 assistant chief clerk.

(3) Chapter 25 - Traffic Operations (MO)

Amendments to §25.27, Variable Speed Limits (Procedures for Establishing Speed Zones)

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

113667
TRF

The Texas Transportation Commission (commission) finds it necessary to propose new §25.27, Variable Speed Limits, relating to procedures for establishing speed zones to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that new §25.27 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 the assistant chief clerk.

(4) Chapter 25 - Traffic Operations (MO)

Amendments to §25.975, Crash Record Statistical Analysis, and §25.977 Reporting by Investigating Officers (Crash Records Information System)

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

113668
TRF

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §25.975, Crash Record Statistical Analysis, and §25.977, Reporting by Investigating Officers, relating to the crash records information system, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §25.975 and §25.977 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 assistant chief clerk.

ITEM 5. Discussion

a. Update on staff recommendations to address the safety challenges in the areas of the state with growing energy exploration and production

This item was presented by Deputy Executive Director John Barton. The commission also received comments from TxDOT State Legislative Affairs Office Director Jerry Haddican, state Representative Joe Pickett, state Representative Geanie Morrison, state Representative Charles “Doc” Anderson, state Representative Joe Deshotel, Dimmit County Commissioner Mike Uriegas, Peggy Schulze Van Cleve of La Salle and Dimmit Counties, Holly Van Cleve Fries of La Salle and Dimmit Counties, Obie Ehlert of La Salle County, Durell J. Johnson of La Salle County, Pamela Fitzsimons Howard with San Predro Ranch and County Judges and Commissioners Association of Texas General Counsel Jim Allison.

b. Report on the status of a comprehensive plan to engage stakeholders and municipalities regarding the possible delegation of responsibility of certain state highways in municipalities

This item was presented by Deputy Executive Director John Barton. The commission also received comments from TxDOT General Counsel Jeff Graham, TxDOT State Legislative Affairs Office Director Jerry Haddican, County Judges and Commissioners Association of Texas General Counsel Jim Allison, City of Midland Mayor Wes Perry, Dallas County Judge Clay Jenkins, City of Port Arthur Mayor Deloris Prince, City of Port Arthur City Manager Floyd Johnson, City of Fort Worth Mayor Betsy Price, City of Arlington Mayor Pro Tem Kathryn Wileman, City of San Antonio Director of Intergovernmental Relations Jeff Coyle, City of San Antonio Interim Director of Public Works Anthony Chukwudolue, City of Denton Mayor Pro Tem Pete Kamp, Victoria County Judge Don Pozzi, City of Amarillo Paul Harpole, Randall County Judge Ernie Houdashell, Midland County Commissioner Robin Donnelly, City of Odessa Mayor David Turner, MOTRAN Chairman J.D. Faircloth, City of Waco City Manager Larry Groth, City of Mesquite Mayor John Monaco, City of Tyler City Manager Mark McDaniel, City of San Angelo Director of Operations Shane Kelton, Parker County Judge Mark Riley, Texas Conference of Urban Counties Executive Director Donald Lee and North Central Texas Council of Governments Director of Transportation Michael Morris,

The commission stood in recess at 1:20 p.m. and reconvened at 1:27 p.m.

c. Presentation on activities of the Texas Technology Task Force (Report)

This item was presented by Research and Technology Implementation Office Director Shannon Crum. The commission also received comments from University of Texas at Austin Professor C. Michael Walton, David Ferdman with the Texas Technology Task Force, North Central Texas Council of Governments Director of Transportation Michael Morris and economist John Hokenyos.

d. Update on the SH 288 Toll Lanes Project in Harris County from US 59 to the Harris/Brazoria County Line and the procurement effort

This item was deferred.

ITEM 6. Aviation

a. Approve the Aviation Capital Improvement Program (MO)

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

113669
AVN

Pursuant to Transportation Code, §§21.108-21.111 and Title 43, Texas Administrative Code, §30.209, the Texas Department of Transportation (department) prepares an Aviation Facilities Development Program identifying the aviation facility requirements, locations, timing, eligibility for funding, and the investment necessary for a statewide system of airports that will provide for the state's air transportation needs.

There continues to be a need for the construction, rehabilitation and upgrading of the state airport system.

As an element of the Aviation Facility Development Program, the department is required to prepare and update a multiyear Aviation Capital Improvement Program (CIP) at least annually. In July, the draft FY 2014-2016 Aviation CIP was submitted to the sponsors of airports included in the Texas airport system for review.

The Texas Aviation Advisory Committee recommended approval of the FY 2014-2016 CIP at its August meeting.

Comments received have been evaluated and, when appropriate, have been addressed in the CIP.

IT IS THEREFORE ORDERED by the commission that the attached FY 2014-2016 Capital Improvement Program (Exhibit A) is hereby adopted and the executive director is authorized to proceed with the development of the airport facilities included in the Capital Improvement Program.

Note: Exhibit A is on file with the assistant chief clerk.

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

Commissioner Underwood made a motion, which was seconded, and the

commission approved the following minute order by a vote of 4 – 0. This item was presented by Aviation Division Director Dave Fulton.

113670
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, July 18, 2013, and Monday, July 29, 2013 public hearings were held. No comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$7,177,971.

Note: Exhibit A is on file with the assistant chief clerk.

c. Various Counties - Approve the Routine Airport Maintenance Program (MO)

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

113671
AVN

The Texas Department of Transportation (department) is authorized under Texas Transportation Code, Chapter 21 and Chapter 22, to assist in the development and maintenance of airports in the state.

The Routine Airport Maintenance Program (RAMP) provides financial assistance for publicly owned or operated general aviation, reliever and non-hub commercial service airports included in the Texas Airport System Plan.

Due to the success of this program, the department requests continuation of the program by providing funds for airport maintenance and small capital improvements on a 50-50 basis up to a maximum of \$50,000 in state funds for Fiscal Year 2014.

A public hearing regarding the funding of RAMP was held on July 18, 2013, and no comments were received.

IT IS THEREFORE ORDERED by the commission that the airports listed in Exhibit A be awarded grants in accordance with RAMP and that the executive director, or the director's designee, is authorized to enter into any necessary grant agreements with the appropriate local government agencies necessary to carry out the directives of this minute order.

Note: Exhibit A is on file with the assistant chief clerk.

ITEM 7. Public Transportation

a. Various Counties - Award federal and state funds for public transportation planning projects (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 Public Transportation Division Director Eric Gleason.

113672
PTN

The Texas Transportation Commission (commission) takes special note of its designation by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, Rural Transportation Assistance Program (RTAP) (49 U.S.C. §5311(b)(3)), in a letter dated October 4, 2005, and further acknowledges that federal program regulations require the Texas Department of Transportation (department) to ensure that these grant funds are distributed fairly and equitably within the state.

The commission desires to award federal RTAP and state funds to support regional transportation planning activities and projects. 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 authorized to distribute funds as described in Exhibit A, submit the necessary state application to the FTA, and enter into the necessary contracts in accordance with the priorities established in this minute order.

Note: Exhibit A is on file with the assistant chief clerk.

b. Parker, Palo Pinto and Val Verde Counties - Award federal §5310, Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities grant program funds, to Public Transit Services and City of Del Rio (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 Public Transportation Division Director Eric Gleason.

113673
PTN

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

Public Transit Services and the City of Del Rio have requested financial assistance to continue existing transit services to the senior and disabled populations in their respective areas.

Title 43, Texas Administrative Code §31.31 establishes a process by which projects may be evaluated and funds distributed.

The commission finds that the projects identified in Exhibit A are eligible for funding and awards a total of \$71,010 in federal §5310 program funds. 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 identified in Exhibit A, notify the entities in writing, and enter into the necessary contracts.

Note: Exhibit A is on file with the assistant chief clerk.

c. Various Counties - Award transportation development credits to various transit agencies for public transportation projects (MO)

Commissioner Moseley 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 Houston Galveston Area Council Metropolitan Planning Organization Director Alan C. Clark.

113674
PTN

The Texas Transportation Commission (commission) desires to award 3,818,655 Transportation Development Credits (TDC) to various transit providers to be used as local match for federally funded capital and operating projects. Title 43, Texas Administrative Code (TAC), §5.111 allows any MPO to transfer TDC allocated to it under §5.105 of the subchapter to the commission. The Houston-Galveston Area Council (H-GAC) has requested the transfer of 3,158,845 previously allocated TDC back to the commission to award to transit projects as identified by H-GAC's Transportation Policy Committee as critical and time sensitive.

The commission recognizes that state and federal law permits the substitution of TDC as the required non-federal match for projects. Title 43, Texas Administrative Code (TAC), §5.109 establishes a process by which TDC may be awarded at the discretion of the commission.

In making this award, the commission has considered the potential of the projects to expand the availability of funding for public transportation projects and finds that the projects meet the established program goals set forth in 43 TAC §5.102 to maximize the use of available federal funds, particularly in situations in which federal funds otherwise would be unused because of the inability to provide the non-federal share; and to support public transit.

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

IT IS THEREFORE ORDERED by the commission that the executive director or the directors designee is directed to proceed with the awards as described in Exhibit A, and enter into the necessary contracts in accordance with the priorities established in this minute order.

Note: Exhibit A is on file with the assistant chief clerk.

ITEM 8. Unified Transportation Program (UTP)
Approve the 2014 UTP (MO)

Commissioner Moseley made a motion, which was seconded, and the commission approved the following minute order by a vote of 3 – 0. Commissioner Vandergriff abstained from voting on this item. This item was presented by Director of Planning Marc Williams. The commission also received comments from Montgomery County Commissioner, Precinct 2, Craig Doyal.

113675
 TPP

Transportation Code, §201.991 provides that the Texas Department of Transportation (department) shall develop a Unified Transportation Program (UTP) covering a period of 10 years to guide the development of and authorize construction of transportation projects. Transportation Code, §201.602 requires the Texas Transportation Commission (commission) to annually conduct a public hearing on its highway project selection process and the relative importance of the various criteria on which the commission bases its project selection decisions.

Transportation Code, §222.034 requires the commission to distribute federal aid transportation funds to various parts of the state for a funding cycle through the selection of highway projects in a manner that is consistent with federal formulas that determine the amount of federal aid the state of Texas receives, unless the commission issues a minute order or ruling identifying the variance and providing a particular justification for the variance. The commission has adopted rules located in Title 43, Texas Administrative Code, Chapter 16, governing the planning and development of transportation projects, which include guidance regarding public involvement related to the project selection process and the development of the UTP. These rules also require the commission to adopt the UTP not later than August 31 of each year.

The department conducted a public meeting across the state via WebEx on July 18, 2013, and a public hearing on August 6, 2013, to receive comments and testimony concerning the development of the 2014 UTP and the project selection process.

The 2014 UTP, which is attached as Exhibit A, authorizes funding for each of the twelve funding categories established by the rules and outlines the various project selection methods and usual funding participation. The 2014 UTP lists the projects that the department intends to develop and let during the 10-year period (with the exception of projects in category 1 – preventative maintenance and rehabilitation), and references for each listed project the funding category to which it is assigned. If a funding category is an allocation program, the listing is for informational purposes only and contains those projects reasonably expected to be selected for development or letting during the applicable period. Projects listed that have been authorized by previous legislative

action or prior actions of the commission are still approved and their inclusion in the UTP in no way modifies that prior approval.

The remaining funding levels and projects listed for aviation, public transportation, rail, and state waterways and coastal waters are authorized by separate minute orders and this UTP does not supersede those prior actions.

The 2014 UTP also contains an individual evaluation of each federal aid apportionment program, including particular justification for any variance from the federal aid formula and the proposed distribution of the transportation funds through the UTP.

IT IS THEREFORE ORDERED by the commission that the 2014 UTP, including the project selection process, as shown in Exhibit A, is hereby approved and supersedes the previously-approved 2013 UTP for fiscal years 2014-2022.

IT IS FURTHER ORDERED that the information contained in the 2014 UTP shall serve as the commission's identification and justification of variances, as required by Transportation Code, §222.034.

IT IS FURTHER ORDERED that the executive director is hereby authorized to develop the projects listed in the UTP to the level of authority indicated to include any necessary agreements, right of way acquisitions, utility adjustments, and relocation assistance, subject to the policies of the department and all applicable federal and state laws governing the acquisition of real property.

IT IS FURTHER ORDERED that pursuant to Transportation Code, §222.052, the commission may accept financial contributions from political subdivisions of the state for development of projects in the 2014 UTP.

Note: Exhibit A is on file with the assistant chief clerk.

ITEM 9. Promulgation of Administrative Rules Under Title 43, Texas
Administrative Code, and the Administrative Procedure Act, Government Code,
Chapter 2001:
a. Final Adoption
(1) Chapter 4 - Employment Practices (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 Chief Procurement and Deputy Administrative Officer Lauren Garduno.

113676
ADM

The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of §§4.60-4.63 and new §4.61, Tuition Assistance Program, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the repeal of §§4.60-4.63 and new §4.61 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: A - C are on file with the assistant chief clerk.

(2) Chapter 28 - Oversize and Overweight Vehicles and Loads (MO)

New §28.60, Purpose, §28.61, Definition, and §28.62, District's Powers and Duties, §28.63, Permit Eligibility, §28.64, Permit Issuance Requirements and Procedures, §28.65, Permit Weight Limits for Axles, §28.66, Movement Requirements and Restrictions, and §28.67, Records (New Subchapter F, Port Freeport Permits)

Commissioner Moseley 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 Maintenance Division Director Howard Holland.

113677
MNT

The Texas Transportation Commission (commission) finds it necessary to adopt new §§28.60 - 28.67 relating to Port Freeport Permits to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that new §§28.60 - 28.67 are adopted and are authorized for filing with the Office of the Secretary of State.

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

Note: Exhibits A and B are on file with the assistant chief clerk.

ITEM 10. Office of Compliance and Ethics

Office of Compliance and Ethics Report

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

ITEM 11. Audit Plan

Approve the Audit Plan for Fiscal Year 2014 and determine whether adequate resources have been dedicated to the internal audit program (MO)

Commissioner Vandergriff 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 Audit Executive Benito Ybarra.

113678
AUD

The Texas Internal Auditing Act, Government Code, Chapter 2102, requires the internal auditor to create an annual audit plan that is prepared using risk assessment techniques and that identifies the individual audits to be conducted during the year. The audit plan must be approved by the state agency's governing board. In addition, the governing board must periodically review the resources dedicated to the internal audit program and determine if adequate resources exist to ensure that risks identified in the annual risk assessment are adequately covered within a reasonable time frame.

The Audit Office developed an Audit Plan for Fiscal Year (FY) 2014, which is set forth in Exhibit A. This audit plan was prepared by completing a risk assessment of the department's functions; obtaining input from the Office of Compliance and Ethics, Federal Highway Administration, members of the department's administration and management team, and the Texas Transportation Commission (Commission). This audit plan identifies the audits to be conducted and the resources available to the Audit Office for FY 2014. The Audit Office considers its resources for FY 2014 to be adequate to address the risks that warrant audit coverage.

The Audit Plan for FY 2014 is being presented to the Commission for approval and a determination that adequate resources exist to ensure that the risks identified are adequately covered.

IT IS THEREFORE ORDERED by the commission that the Audit Plan for FY 2014, as shown in Exhibit A, is hereby approved.

FURTHER, the commission finds that adequate resources have been dedicated to the internal audit program in order to ensure that the risks identified in the annual risk assessment are covered within a reasonable time frame.

Note: Exhibit A is on file with the assistant chief clerk.

ITEM 12. Design-Build Agreements

Bexar County - Approve the selection of the proposer who submitted the best value proposal to design and construct the Loop 1604 Project, providing for the expansion of a non-tolled expressway from SH 16 (Bandera Road) to FM 471 (Culebra Road), and, at the department's option to design and construct portions of Loop 1604 further south at SH 151, and authorize the executive director of the department to execute a Design-Build contract with the selected proposer (MO)

Commissioner Moseley 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.

113679
SPD

Transportation Code, Chapter 223, Subchapter F, 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 a construction cost estimate of \$50 million or more to the department.

The Loop 1604 base scope is an approximately \$80 to \$90 million scope in northwest San Antonio between State Highway 16 (Bandera Road) and Farm to Market 471 (Culebra Rd). The project will include the expansion of Loop 1604 to a four lane non toll expressway section from SH 16 (Bandera Road) to FM 471 and add interchanges at Shaenfield Road, New Guilbeau Road and Braun Road with an option through the SH 151 interchange. The total Loop 1604 project, including the option, is an approximately \$130 million project.

On May 31, 2012, by Minute Order 113116, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) to develop, design, construct and potentially maintain Loop 1604 from SH 16 (Bandera Road) to south of Wiseman Boulevard in Bexar County. The department issued the RFQ on January 18, 2013, which shortened the project limits to run from SH 16 (Bandera Road) to FM 471 (Culebra Road), with an option to include the SH 151 Interchange. These project limits, including the option, are within the limits authorized by Minute Order 113116. The project includes the expansion of Loop 1604 to a four lane non-toll expressway section with overpasses at Braun Road, New Guilbeau Road, and Shaenfield Road. Thirteen proposer teams responded to the RFQ. On March 21, 2013, following the department's evaluation of those submissions, four teams were determined to be best qualified to be on the short list of proposer teams that were requested to submit detailed proposals to design and construct the project.

Transportation Code § 223.246 and 43 TAC § 9.153(d) provide that, if authorized by the commission, the department will issue a request for proposals (RFP) from all private entities qualified for the short list. On April 25, 2013, by Minute Order 113557, the department was authorized to issue an RFP and on April 26, 2013, the department issued an RFP for the Loop 1604 Western Extension Project base scope, from SH 16 (Bandera Road) to FM 471 (Culebra Road), and the option scope, which included, in the department's sole discretion, the option to potentially design and construct portions of Loop 1604 further south through the SH 151 interchange.

On July 30, 2013 proposals were received from J.D. Abrams, L.P., Williams Brothers Construction Co., Inc. and Zachry Construction Corporation. From July 31, 2013 until August 28, 2013, the department evaluated those proposals.

The proposals were evaluated in the following categories: (1) Pass/Fail and Responsiveness; (2) Technical Score; and (3) Price Score. The proposals were first evaluated on the basis of certain pass/fail and responsiveness criteria set forth in the RFP. Next, the project development plans in the technical proposals were evaluated in the categories of technical solutions, project management plan (including safety and health plan), and quality management plan, using qualitative ratings of: meets minimum, fair, good, very good, and excellent. The technical proposals were assigned adjectival ratings and numerical scores for each evaluation subfactor. Points were assigned to the technical proposals based on those ratings and the weightings of the individual evaluation factors, with the sum of those points resulting in a total evaluation score, which was multiplied by a defined percentage to arrive at the Technical Score. To arrive at the Price Score, the Base Price Value was determined for each proposer,

which is the sum, for each proposer, of the design-build price for the base scope and the alternative technical concept price adjustments for the base scope. The lowest Base Price Value of all proposers was then divided by the Base Price Value for a particular proposer, with the result being multiplied by a defined percentage to arrive at the Base Price Score. The Option Price Value was then determined for each proposer, which is the sum, for each proposer, of the design-build price for the option scope and the alternative technical concept price adjustments for the option scope. The lowest Option Price Value of all proposers was then divided by the Option Price Value for a particular proposer, with the result being multiplied by a defined percentage to arrive at the Option Price Score. The final Price Score was determined by adding the Base Price Score and the Option Price Score. The price scores were determined without knowing which prices were submitted by which proposer.

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

The evaluation and scoring of each proposal under the Technical Score and Price Score categories, as well as the Pass/Fail review, resulted in the proposals being ranked in descending order as follows: Williams Brothers Construction Co., Inc., J.D. Abrams, L.P., and Zachry Construction Corporation. The proposal submitted by Williams Brothers Construction Co., Inc. was accordingly determined to provide the apparent best value.

IT IS THEREFORE ORDERED by the commission that the determination that the proposal submitted by Williams Brothers Construction Co., Inc. provides the apparent best value to the department is approved, and the department is authorized and directed to commence and complete negotiations with Williams Brothers Construction Co., Inc. necessary to finalize the design-build contract to design and construct the Loop 1604 Western Extension Project from FM 471 (Culebra Road) to SH 16 (Bandera Road) in San Antonio and, at the department's sole option, to potentially design and construct portions of Loop 1604 further south through the SH 151 interchange, and to modify the design-build contract as necessary as a result of such negotiations.

IT IS FURTHER ORDERED that the design-build contract is awarded to Williams Brothers Construction Co., Inc. subject to, and effective upon the occurrence of, all of the following: (1) the successful conclusion of negotiations; (2) the issuance of a Notice of Intent to Award by the department; and (3) the mutual execution and delivery of the design-build contract, by the executive director of the department and the proposer.

ITEM 13. Toll Roads

a. Dallas and Tarrant Counties - Authorize the department to issue a request for proposals for the development, financing, construction, and operation of the SH 183 Managed Lanes Project in Dallas and Tarrant Counties, comprised of SH 183 from SH 121 to I-35E, including the proposed interchanges with Loop 12, SH 114, and Spur 482, SH 114 from International Parkway to Loop 12, and Loop 12 from SH 183 to I-35E.

and approve a stipulated amount as payment for the work product of unsuccessful proposers (MO)

Commissioner Vandergriff 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.

113680
SPD

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

Transportation Code, § 223.203 prescribes requirements for a solicited proposal and requires the department to publish a request for qualifications (RFQ) in the *Texas Register* that includes the criteria that will be used to evaluate any received qualifications statements, the relative weight given to the criteria, and a deadline by which qualifications statements must be received.

On January 31, 2013, by Minute Order 113427, the Texas Transportation Commission (commission) authorized the department to issue a RFQ for the development of State Highway 183 from SH 121 to Interstate 35E and any additional connecting facilities that are necessary for connectivity and financing purposes, subject to certain conditions which have been met. The department issued the RFQ on February 20, 2013.

Transportation Code §223.201(f), as amended by SB 1730, 83rd Session 2013, authorizes the department to enter into a CDA for the development, financing, construction, and operation of the SH 183 Managed Lanes Project in Dallas and Tarrant Counties, comprised of SH 183 from SH 121 to I-35E, including the proposed interchanges with Loop 12, SH 114, and Spur 482, SH 114 from International Parkway to Loop 12, and Loop 12 from SH 183 to I-35E (SH 183 Managed Lanes Project). On June 27, 2013, by Minute Order 113619, the commission approved the department's determination to exercise its option to develop, finance, construct and operate the SH 183 Managed Lanes Project.

Transportation Code, § 223.203 and 43 TAC § 27.4 provide that, if authorized by the commission, the department will issue a request for proposals (RFP) from all private entities qualified for the short list. The department intends to issue an RFP for the SH 183 Managed Lanes Project and request detailed proposals from the 4 short-listed teams to develop, finance, construct, and operate the project.

Transportation Code, § 223.203(m) and 43 TAC § 27.4(f) authorize the department to pay an unsuccessful private entity who submits a detailed proposal that is responsive to the requirements of the RFP a stipulated amount in exchange for the work product contained in that proposal. The stipulated amount must be stated in the RFP and may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. Payment for this work product would allow the department to use the work

product for the benefit of the SH 183 Managed Lanes Project or other department projects without further payment to the unsuccessful proposer.

IT IS THEREFORE ORDERED that the department is authorized and directed to issue an RFP to develop, finance, construct, and operate the SH 183 Managed Lanes Project.

IT IS FURTHER ORDERED that the department is authorized to pay each proposer who submits a responsive, but unsuccessful, proposal for the SH 183 Managed Lanes Project an amount based upon the value of the work product provided in the proposal that can, as determined by the department, be used by the department in the performance of its functions, up to a maximum amount per proposer of \$1,000,000.

IT IS FURTHER ORDERED that payment for work product may only be paid to the extent that the work product submitted meets the minimum criteria and other conditions of payment identified by the department in the SH 183 Managed Lane Project procurement documents.

Note: Exhibits A and B are on file with the assistant chief clerk.

b. Various Counties - Consider the approval of a tolling services agreement with the North Texas Tollway Authority (NTTA) for the North Tarrant Express (NTE) Segments 3A and 3B Project (MO)

Commissioner Moseley made a motion, which was seconded, and the commission approved the following minute order by a vote of 3 – 0. Commissioner Vandergriff abstained from voting. This item was presented by Strategic Projects Division Deputy Director Katie Nees.

113681
SPD

Transportation Code, §228.002 authorizes the Texas Department of Transportation (department) to enter into an agreement with a public entity to permit the entity, independently or jointly with the department, to operate a department toll project.

Transportation Code, §366.038 requires a regional tollway authority, including the North Texas Tollway Authority (NTTA) to provide, for reasonable compensation, tolling services for a toll project in the boundaries of the authority, regardless of whether the toll project is developed, financed, constructed, and operated under an agreement, including a comprehensive development agreement, with the authority or another entity.

On June 23, 2009, the department entered into comprehensive development agreements for the design, development, financing, construction, maintenance, repair, operation, extension, and expansion of the North Tarrant Express (NTE) project.

The North Tarrant Express is a multi-phased, multi-segment project dedicated to improving mobility along north Interstate 35W, northeast Interstate 820 and State Highway 121/183 Airport Freeway through a regionally supported managed lane system in Tarrant County. The I-35W portion of the project, from I-30 to SH 170 is divided into three segments. Segment 3A consists of 6.5 miles of I-35W from north of I-30 to south of I-820; and Segment 3B consists of 3.6 miles of I-35W from north of I-

820 to US 81/287. Segment 3C, consisting of 5.0 miles of I-35W from US 81/287 to SH 170, is still under development.

In Minute Order 113159, the Texas Transportation Commission (commission) authorized the executive director of the department to enter into a Facility Agreement with an affiliate of NTE Mobility Partners (Developer) to develop, design, construct, finance, maintain and operate the NTE Segments 3A and 3B Managed Lanes Project. Pursuant to the Facility Agreement, the Developer will enter into an agreement with the department for the provision of tolling services for the NTE Segments 3A and 3B Managed Lanes Project on or prior to financial close. The department intends to concurrently enter into an agreement with the NTTA for the provision of those services.

By Minute Order 113559, dated April 25, 2013, the commission approved a term sheet to serve as the basis for an agreement under which the NTTA will provide tolling services and marketing for the NTE Segments 3A and 3B Managed Lanes Project, and authorized and directed the department to negotiate a tolling services agreement with the NTTA. The department and the NTTA have negotiated a tolling services agreement under which the NTTA will provide transaction processing, back office, toll collection, and marketing services for an initial term of 10 years, with 5-year renewal terms through the end of the term of the Facility Agreement.

IT IS THEREFORE ORDERED by the commission that the tolling services agreement is approved, and the executive director of the department is authorized to execute the agreement with the North Texas Tollway Authority under which the NTTA will provide tolling services and marketing for the North Tarrant Express Segments 3A and 3B Managed Lanes Project.

Note: Exhibit A is on file with the assistant chief clerk.

c. Various Counties - Amend the policy concerning free passage on toll projects on the state highway system to address recent legislative changes (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 Toll Operations Division Director Doug Woodall.

113682
TOD

Free passage on toll projects on the state highway system is governed by the Transportation Code, the administrative rules of the Texas Department of Transportation (department), and applicable trust agreements and bond indentures.

Transportation Code, §228.054(a) provides that the operator of a vehicle, other than an authorized emergency vehicle, as defined by Transportation Code, §541.201, that is driven or towed through a toll collection facility shall pay the proper toll. Section 228.054(e) further provides that the department may waive the requirement of the payment of a toll or may authorize the payment of a reduced toll for any vehicle or class of vehicles. In Minute Order 110911, dated April 26, 2007, the Texas Transportation Commission (commission) adopted a policy defining the circumstances under which free passage on department toll projects shall be provided (free passage policy).

Transportation Code, §372.053 provides that a toll project entity, including the department, may establish a discount program for certain veterans. In Minute Order

113247, dated August 30, 2012, the commission amended the free passage policy to authorize free passage for vehicles registered under Transportation Code, §504.202 (disabled veterans) and Transportation Code, §504.315(g) (Purple Heart recipients), and to vehicles registered by a person who has received the Medal of Honor.

The 83rd Texas Legislature recently expanded the definition of “authorized emergency vehicle” in Transportation Code, §541.201 and modified the eligibility requirements for the veteran’s discount program authorized by Transportation Code, §372.053.

Section 502(b) of the Indenture of Trust (CTTS indenture) for the Central Texas Turnpike System (CTTS) provides that the commission shall not grant free passage or reduced tolls within a class, except that, in its discretion, it may:

- reduce tolls through the use of commutation or other tickets or privileges based upon frequency or volume if the reduction is expected to result in an increase in revenues;
- grant free passage or reduce tolls for operational, emergency, or safety reasons;
- grant free passage to members, officers and employees of the department acting in the discharge of their official duties related to the state highway system;
- grant free passage for use by the Army, Air Force, Navy, Coast Guard, Marine Corps, or militia or any branch thereof in time of war or other emergency;
- grant free passage to public safety officers of the United States, the State and its agencies and political subdivisions when any of them (1) are acting in the discharge of their official duties, (2) can provide proper identification, (3) are using marked public safety vehicles, and (4) are traveling under flashing lights and sirens; and
- grant temporary free access for agents and contractors of the department acting on behalf of the department in connection with the construction, improvement, maintenance or operation of the toll system.

The department has determined that expanding the circumstances under which free passage may be granted to authorized emergency vehicles on the CTTS as a result of the expanded list of authorized emergency vehicles set forth in Transportation Code, §541.201 will enhance the overall safety of the traveling public. Further, it has been determined that the amount of additional emergency vehicle traffic on the CTTS is de minimis, and that providing free passage would have no material effect on CTTS revenues.

Section 502(b) of the CTTS indenture is narrowly written and does not permit free or discounted use of toll projects as authorized in Transportation Code, §372.053. However, providing such free or discounted use of toll projects is possible under the CTTS indenture if the department pays to the appropriate indenture account the cost of tolls not paid by those veterans. The commission has determined that the expenditure of public funds to pay the cost of tolls not paid by veterans is a public purpose as established by the Texas Legislature under Transportation Code, §372.053.

IT IS THEREFORE ORDERED by the commission that the free passage policy is amended to include the expanded list of authorized emergency vehicles set forth in Transportation Code, §541.201.

IT IS FURTHER ORDERED that, effective September 1, 2013, the free passage policy is amended to provide that free passage shall be granted to vehicles registered under Transportation Code, §504.315(f) (recipients of the Air Force Cross or Distinguished Service Cross, the Army Distinguished Service Cross, the Navy Cross or the Medal of Honor (Legion of Valor)). Although no longer specifically required under Transportation Code, §372.053, free passage will continue to be granted to vehicles registered by recipients of the Medal of Honor under Transportation Code, §504.315(e).

IT IS FURTHER ORDERED that the department shall pay to the appropriate indenture account from lawfully available funds the cost of tolls not paid by persons operating vehicles registered under Transportation Code §§504.315 (e) and (f).

ITEM 14. Finance

Brazoria County - SH 36 - Authorize the department to enter into an amendment to the original pass-through toll agreement with Brazoria County that eliminates Segment 3 - FM 1495 Port of Freeport entrance, and reduces the pass-through toll reimbursement amount and the financial terms of the project.

Commissioner Moseley 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 Innovative Financing and Debt Management Office Director Benjamin Asher.

113683
DMO

The Texas Transportation Commission (commission) by Minute Order 112016, dated October 29, 2009, approved execution of a pass-through toll agreement with Brazoria County (county) for the construction of improvements to SH 36 – Segments 1-3 (project). A Pass-Through Toll Agreement for Payment of Pass-Through Tolls (agreement) between the county and the Texas Department of Transportation (department) was executed on October 19, 2010. The agreement authorized \$29.406 million of total reimbursement through pass-through toll payments by the department.

The county and department now seek to modify the terms of the agreement by removing Segment 3 from the project and shortening the project length to 6.312 miles. The parties have agreed that:

- (1) total reimbursement will be reduced from \$29.406 million to \$15.697 million;
- (2) the minimum annual reimbursement amount will be reduced from \$1.4 million to \$784,850;
- (3) the vehicle reimbursement rate per vehicle mile will be reduced from \$.055 to \$.03; and
- (4) the maximum reimbursement amount per year will be reduced from \$2.9 million to \$1,569,700.

The department also agrees to provide to the county \$1,384,711.61 of Category 1 funds as direct participation in the actual cost of the project. All other terms of the agreement not amended by this minute order will remain the same.

The commission finds that the agreement between the county and the department, as amended by the proposed terms, is in the best interest of the state.

NOW, THEREFORE, IT IS ORDERED that the executive director or his designee is authorized to execute an amendment to the Pass-Through Toll Agreement with Brazoria County in accordance with the proposal described in this minute order and such other terms the department determines are necessary.

ITEM 15. Contracts

a. Award or reject contracts for maintenance, highway and building construction
(1) Highway Maintenance and Department Building Construction
(see attached itemized list) (MO)

Commissioner Moseley 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.

113684
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 August 6 and 7, 2013, as shown on Exhibit A.

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 assistant chief clerk.

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

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

113685
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 August 6 and 7, 2013, as shown on Exhibit A.

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

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

The department recommends that the commission respectively award to the lowest bidder or reject, as indicated, those highway and transportation enhancement building construction contracts identified on attached Exhibit A to this order.

IT IS THEREFORE ORDERED by the commission that the contracts described in Exhibit A, 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 assistant chief clerk.

ITEM 16. Eminent Domain Proceedings

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

Commissioner Vandergriff made a motion that the Texas Transportation Commission authorize the Texas Department of Transportation to use the power of eminent domain to acquire the properties described in the minute order set forth in the agenda for the current month for construction, reconstruction, maintenance, widening, straightening, or extending the highway facilities listed in the minute order as a part of the state highway system, and that the first record vote applies to all units of property to be condemned. The motion was seconded and the following minute order was approved by Commissioner Houghton, Commissioner Underwood, Commissioner Moseley and Commissioner Vandergriff (a vote of 4 – 0). This item was presented by Right of Way Division Director John Campbell.

113686
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 - K. 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 - 21, in accordance with Transportation Code, Sections 203.002 and 203.003.

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

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

IT IS FURTHER ORDERED that the executive director is hereby authorized to

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

NON-CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Collin	US 75	19	0047-14-071	33
Dallas	SL 12	2	0581-02-115	63
Delta	SH 24	4	0136-03-060	39
Delta	SH 24	18	0136-03-060	40
Denton	FM 2499	9	2681-01-018	17
Harris	FM 1960	17	1685-01-096	1412
Harris	FM 1960	6	1685-01-096	1411
Harris	SH 6	13	1685-05-103	1306
Harris	SH 6	10	1685-05-103	1308
Harris	SH 99	21	3510-06-006	370
Harris	US 290	12	0050-08-090	815
Harris	US 290	11	0050-08-096	739
Harris	US 290	16	0050-08-096	740
Harris	US 290	15	0050-08-096	702
Harris	US 290	7	0050-08-096	728
Harris	US 290	20	0050-08-096	731
McLennan	FM 1637	14	0833-03-040	51
Montgomery	FM 1488	1	0523-10-037	4
Rockwall	FM 740	5	1014-03-058	44
Rockwall	FM 740	3	1014-03-058	48
Rockwall	FM 740	8	1014-03-058	52

CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Harris	FM 1960	G	1685-01-096	1410
Harris	FM 1960	J	1685-01-096	1416
Harris	SH 6	B	1685-05-103	1302
Harris	US 290	H	0050-09-087	509
Harris	US 290	I	0050-09-087	501
McLennan	IH 35	K	0015-01-220	85AC
McLennan	IH 35	C	0015-01-233	163
McLennan	IH 35	A	0015-01-233	143
McLennan	IH 35	D	0015-01-233	164
McLennan	IH 35	F	0015-01-233	165
Travis	FM 973	E	1200-03-049	54

Note: Exhibits A - K and 1 - 21 are on file with the assistant chief clerk.

ITEM 17. Routine Minute Orders

Commissioner Moseley made a motion, which was seconded, and the commission approved the following minute orders by a vote of 4 – 0. The items were presented by Executive Director Phil Wilson.

a. Donations to the Department

(1) Tyler District - Consider a donation from Luminant Mining Company, LLC for sufficient funding to construct a new segment of highway parallel to FM 2658 in Rusk County which will then be conveyed to the state in exchange for an approximately 2.82 mile length of highway currently designated as FM 2658 (MO)

113687
CSO

Luminant Mining Company, LLC (donor) would like to donate sufficient funding, property and services to provide for land acquisition and exchange of right of way, utility relocation, environmental assessments, schematics, plan specifications and estimates, and construction and construction engineering necessary to construct a new segment of replacement highway parallel to Farm to Market 2658 in Rusk County, approximately 2.54 miles in length, as more particularly described in Exhibit A (new right of way). The estimated donation is \$7,134,000. The donor has further agreed that upon completion of the realignment and construction of the new replacement highway facility for a portion of FM 2658, it will convey to the state the new right of way. Upon acceptance of the new right of way, the Texas Department of Transportation (department) will abandon an approximately 2.82 miles length of highway currently designated as FM 2658 as more particularly described in Exhibit B (existing right of way). In essence, this series of transactions will provide for the construction of a new segment of highway on property owned by the donor and the ultimate exchange of that segment for a parallel segment of highway currently owned by the department. As a result, the department will receive a new highway segment meeting all current specifications, and the donor will be able to pursue mining operations under the existing highway segment.

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.

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

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

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

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

It is the opinion of the commission that upon completion and acceptance of the new right of way, the existing right of way described in Exhibit B (surplus land) will no longer be needed for highway purposes, will be surplus, and should be removed from the state system of highways. It would then be proper and correct that the state convey and release its rights, title and interest in the surplus land including all coal and lignite rights, title and interest to the donor in exchange and as consideration for the conveyance of the new right of way to the state.

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

IT IS FURTHER ORDERED by the commission that the executive director is authorized to tender the following proposal to Luminant Mining Company, LLC (donor).

Provided that the donor at its sole expense completes construction of the new right of way to the satisfaction of the department, conveys the new right of way described in Exhibit A to the state, and pays the cash difference between the value of the existing right of way and the value of the new right of way, if any, then the commission will recommend the conveyance of the existing right of way to the donor in accordance with Transportation Code, Chapter 202, Subchapter B.

IT IS FURTHER ORDERED, in consideration of the foregoing premises and in accordance with Transportation Code, Chapter 202, Subchapter B, the commission hereby finds that if and when the donor satisfactorily complies with all the conditions of this minute order, the designation of the surplus land as part of the state system is then cancelled and the surplus land is no longer needed for highway or public transportation

purposes and recommends, subject to approval by the attorney general, that the governor of Texas execute proper instruments conveying and releasing all of the state's rights, title and interest in the surplus land described in Exhibit B including all coal and lignite rights, title and interest to the donor in exchange and as consideration for the conveyance to the state of the new right of way.

Note: Exhibits A and B are on file with the assistant chief clerk.

(2) Various Districts - Consider the acceptance of donations made to the department to include: (a) donations in any form, including realty, personalty, money, materials, or services, which are made to the department for the purpose of carrying out its functions and duties; and (b) donations from landowners, with 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 (See attached itemized list) (MO)

113688
CSO

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

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

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

The commission finds that the donations further the department's responsibilities and that none of the donors are a party to a contested case before the department nor have been a party to a contested case before the department during the last 30 days.

The commission also finds that none of the donors are subject to department regulation or oversight, and that these donations will not influence or reasonably appear to influence the department in the performance of its duties.

The commission also finds that none of the donors are interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department.

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

IT IS THEREFORE ORDERED by the commission that the donations identified on the attached Exhibit A are 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 donations.

Note: Exhibit A is on file with the assistant chief clerk.

b. Right of Way Dispositions and Donations

(1) Dallas County - SH 161 at North Beltline Road in Irving - Consider the exchange of right of way (MO)

113689
ROW

In the city of Irving, DALLAS COUNTY, on STATE HIGHWAY 161, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 80236, Page 1004, Deed Records of Dallas 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 exchange of surplus land as partial or full consideration for other land needed for a state highway purpose.

The cities of Fort Worth and Dallas have conveyed to the state land needed for a state highway purpose (new land), described in Exhibit B. The cities have requested that the surplus land be conveyed to the cities in exchange and as consideration for the new land. It is the opinion of the commission that it is proper and correct that the state convey the surplus land to the cities in exchange and as consideration for the conveyance of the new land to the state.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to the cities of Fort Worth and Dallas in exchange and as consideration for the conveyance of the new land to the state; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interest, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A is on file with the assistant chief clerk.

(2) Dallas County - I-635 at County Line Road in Coppell - Consider the sale of surplus right of way to the cities of Dallas and Fort Worth (MO)

113690
ROW

In the city of Coppell, DALLAS COUNTY, on INTERSTATE 635, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 80236, Page 1004, Deed Records of Dallas County, Texas, and in Volume 7030, Page 1530, Deed Records of Tarrant County, Texas.

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

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

The cities of Fort Worth and Dallas have requested to purchase the surplus land for \$148,575.

The commission finds \$148,575 to be a fair and reasonable value of the state's right, 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 right, title and interest in the surplus land to the cities of Fort Worth and Dallas for \$148,575; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's right, title and interest, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A is on file with the assistant chief clerk.

(3) Denton County - FM 423 north of Panther Creek Parkway in Little Elm - Consider the sale of a surplus drainage easement (MO)

113691
ROW

In the city of Little Elm, DENTON COUNTY, Texas, on FARM TO MARKET ROAD 423, the state of Texas acquired an easement interest in certain land by instrument recorded in Volume 460, Page 21, Deed Records of Denton County, Texas.

The easement (surplus easement), 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 easements.

Arapaho East, Inc., is the underlying fee owner and has requested to purchase the surplus easement for \$86,132.

The commission finds \$86,132 to be a fair and reasonable value for the state's rights and interest in the surplus easement.

NOW, THEREFORE, the commission finds that the surplus easement is no longer needed for a state highway purpose and recommends, subject to approval of the attorney general, that the governor of Texas execute a proper instrument releasing the state's right and interest in the surplus easement to Arapaho East, Inc., for \$86,132.

Note: Exhibit A is on file with the assistant chief clerk.

(4) Denton County - I-35W at Eagle Parkway - consider the sale of surplus right of way to the abutting landowner (MO)

113692
ROW

In DENTON COUNTY, on INTERSTATE HIGHWAY 35W, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 517, Page 204, Deed Records of Denton 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.

AIL Investment, L.P., is the abutting landowner and has requested to purchase the surplus land for \$20,038.

The commission finds \$20,038 to be a fair and reasonable value of the state's right, 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 right, title and interest in the surplus land to the AIL Investment, L.P., for \$20,038; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's right, title and interest, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A is on file with the assistant chief clerk.

(5) Hidalgo County - US 281 at Trenton Road in Edinburg - Consider the sale of surplus right of way to the city (MO)

113693
ROW

In the city of Edinburg, HIDALGO COUNTY, on US 281, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 1343, Page 995, Deed Records of Hidalgo 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 a governmental entity with the authority to condemn the property.

The city of Edinburg has requested to purchase the surplus land for \$145,146.

The commission finds \$145,146 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 right, title and interest in the surplus land to the city of Edinburg, Texas, for \$145,146; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's right, title and interest, if any, in and to all of the oil, gas, sulphur and

other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A is on file with the assistant chief clerk.

(6) Tarrant County - I-35W at the Trinity River in Fort Worth - Consider the exchange of right of way (MO)

113694
ROW

In the city of Fort Worth, TARRANT COUNTY, on INTERSTATE HIGHWAY 35W, the state of Texas acquired certain land by various instruments.

An easement interest in portions of the land (surplus easements), 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 exchange of an interest in real property not needed for a highway purpose as whole or partial consideration of other land needed for a state highway purpose.

Tarrant Regional Water District (TRWD) will grant to the state easements needed for a state highway purpose (new easements), described in Exhibit B, and desires to make a partial donation to the state of the difference in value.

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

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

An Agreement Concerning the Donation of Property to the Texas Department of Transportation (donation agreement) has been executed by TRWD and tendered to the department for acceptance under the provisions of Title 43, Texas Administrative Code, Chapter 1, Subchapter G, since the value of the new easements provided by TRWD, which is \$926,757, exceeds the value of the surplus easements, which is \$726,308, resulting in a difference in value of \$200,449.

TRWD will execute and deliver an appropriate document under the terms of the donation agreement to grant the new easements to the state and has requested that the state's right and interest in the surplus easements be granted to TRWD.

It is the opinion of the commission that it is proper and correct that the state grant its right and interest in the surplus easements to TRWD in exchange and as consideration for the partial donation and the grant of the new easements to the state.

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

FURTHER, in consideration of the foregoing premises and in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that

the surplus easements are no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument granting the state's right and interest in the surplus easements to Tarrant Regional Water District, in exchange and as consideration for the grant of the new easements and donation to the state.

Note: Exhibits and B are on file with the assistant chief clerk.

c. Easement Acquisition

Starr County - Authorize acquisition of a conservation easement on or fee simple title to approximately 4.88 acres of land along an intermittent tributary of the Rio Grande for compensatory mitigation purposes (MO)

113695
ENV

The Texas Department of Transportation (department) is preparing to widen the existing channel of an intermittent tributary to the Rio Grande, Arroyo Roma, from US 83 to the Rio Grande, in Starr County, Texas (CSJ 0038-07-058) (project). The purpose of the project is to prevent the upper reaches of Arroyo Roma, which passes through downtown Roma, from flooding US 83.

The U.S. Army Corps of Engineers is requiring, as a condition of its permit authorizing the project, compensatory mitigation of impacts to jurisdictional waters of the United States in the form of preservation and planting of approximately 4.58 acres along Arroyo Roma. The parcels comprising the 4.58-acre mitigation area, plus an approximately 0.3-acre remainder, are described in Exhibit A (properties).

In accordance with Texas Transportation Code, Chapter 203, Subchapter D, Section 203.052, and 43 Texas Administrative Code §2.13(d)(3), the Texas Transportation Commission finds and determines that the acquisition of a conservation easement on or fee simple title to the properties is necessary or convenient to mitigate adverse environmental effects that directly result from the project.

IT IS THEREFORE ORDERED that the executive director is hereby authorized to proceed to acquire a conservation easement on or fee simple title to the properties for mitigation purposes.

Note: Exhibit A is on file with the assistant chief clerk.

d. Highway Redesignation

Webb County - Redesignate a segment of Loop 20 in the city of Laredo as State Spur 259 (MO)

113696
TPP

In WEBB COUNTY, the Laredo District has requested the redesignation of a segment of State Loop 20 (SL 20) in the city of Laredo from SH 359 southward to SL 20 as State Spur 259 (SS 259), a distance of approximately 0.2 mile.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director of the Texas Department of Transportation has recommended that a segment of SL 20 be redesignated as SS 259 on the state highway system.

The Texas Transportation Commission (commission) finds that the redesignation 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 a segment of SL 20 is redesignated as SS 259 from SH 359 southward to SL 20, a distance of approximately 0.2 mile, as shown in Exhibit A.

Note: Exhibit A is on file with the assistant chief clerk.

e. Release of Access

(1) Dallas County - I-20, eastbound frontage road at Hampton Road in Dallas - Consider the designation of a location on the highway at which access will be permitted to the abutting property (MO)

113697
DES

In DALLAS COUNTY, on INTERSTATE 20, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 74043, Page 234, Deed Records of Dallas County, Texas, with denial of access to the abutting remainder property as described in the instrument.

Lowe's Home Centers, Inc., the current owner of the abutting property, has requested that access to and from the eastbound frontage road of I-20 be permitted along this northern property line at a new access point, described in Exhibit A. After the Texas Department of Transportation (department) reviewed an engineering study of traffic at this location, it was agreed by the parties that constructing a right-turn deceleration lane at the new access point is necessary for the safety and mobility of traffic along the frontage road. 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; provided that a right-turn deceleration lane and driveway are first constructed at the new access point in compliance with the department's applicable procedures, standards, criteria, and specifications, and at the abutting property owner's expense.

IT IS ORDERED by the commission that the new access point is designated as a location where ingress and egress are permitted to and from the eastbound frontage road of I-20, to be effective upon the department's written acknowledgment that the improvements described above were satisfactorily completed.

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 assistant chief clerk.

(2) Dallas County - I-35E, southbound frontage road at Loop 12 in Dallas - Consider the designation of a location on the highway at which access will be permitted to the abutting property (MO)

113698
DES

In DALLAS COUNTY, on Interstate 35E, a designated controlled-access highway, the state of Texas acquired certain land for highway purposes by instrument 201300155803 recorded in Volume 734, Page 7, Deed Records of Dallas County, Texas, with denial of access to the abutting remainder property as described in the instrument.

QuikTrip Corporation, the current owner of the abutting property, has requested that access to and from the southbound frontage road of I-35E be permitted along the eastern 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 southbound frontage road of I-35E.

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.

f. Finance

(1) Travis and Williamson Counties Approval of the Central Texas Turnpike System (CTTS) annual operating, maintenance and capital budgets (MO)

113699
TOD

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

In TRAVIS AND WILLIAMSON COUNTIES, pursuant to Minute Order 108873, dated April 25, 2002, STATE HIGHWAY 130 has been designated as a toll project and a controlled access state highway from I-35 North of Georgetown to the intersection US 183 and SH 130 at SH 45 Southeast.

In TRAVIS AND WILLIAMSON COUNTIES, pursuant to Minute Order 108896, dated May 30, 2002, STATE HIGHWAY 45 NORTH has been designated as a

toll project and a controlled access state highway from west of US 183 to SH 130 / SH45 North Interchange.

In TRAVIS AND WILLIAMSON COUNTIES, pursuant to Minute Order 108896, dated May 30, 2002, LOOP 1 has been designated as a toll project and a controlled access state highway from the intersection of existing Loop 1 and FM 734 (Parmer Lane) in Austin to the Loop 1 / SH 45North Interchange.

In TRAVIS COUNTY, pursuant to Minute Order 113243, dated August 30, 2012, STATE HIGHWAY 45 SOUTHEAST has been designated as a turnpike project and a controlled access state highway from I-35 at FM 1327 south of Austin to the SH 130 / US 183 interchange.

In 2002 the commission issued \$2,199,993,782 in obligations to finance a portion of the costs of the Central Texas Turnpike System (system), a toll project composed initially of the SH 130, SH 45, and Loop 1 project elements (2002 Project), pursuant to an Indenture of Trust, dated July 15, 2002 (indenture), and four supplemental indentures. The indenture prescribes the terms, provisions and covenants related to the issuance of toll revenue bonds and obligations to finance a portion of the costs of the 2002 Project. In 2009 the commission issued \$149,275,000 in refunding bonds, pursuant to the indenture and a fifth supplemental indenture.

Pursuant to Section 702 of the indenture, the commission has covenanted that on or before August 31 in each fiscal year, it will adopt an annual operating, maintenance and capital budget for the system for the ensuing fiscal year and provide copies of such budgets to the Trustee and the U.S. Department of Transportation.

The Texas Department of Transportation has completed these budgets to include SH 45 North, Loop 1, SH 130 and SH 45 Southeast with no cash collections, and they are attached as Exhibit A. In accordance with Section 702 of the indenture, the budgets were provided to the General Engineering Consultant for review and comment prior to adoption by the commission.

IT IS THEREFORE ORDERED by the commission that the annual operating, maintenance and capital budgets for the system are adopted for FY 2014.

IT IS FURTHER ORDERED that the executive director is hereby authorized to make necessary adjustments to spending levels in accordance with the indenture as may be necessary in the operations of the system.

Note: Exhibit A is on file with the assistant chief clerk.

(2) Annual review and approval of the investment policy and investment strategies applicable to all funds of the commission not otherwise required to be invested by the comptroller (MO)

113700
DMO

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

Government Code, §2256.005 requires the commission to adopt a written investment policy regarding the investment of its funds and funds under its control, including a separate written investment strategy for each of the funds or group of funds

under its control, and to designate one or more officers or employees of the Texas Department of Transportation (department) as investment officer to be responsible for the investment of funds consistent with the investment policy.

In Minute Order 108970, dated July 25, 2002, the commission approved and adopted a written investment policy applicable to funds of the commission relating to the Central Texas Turnpike System held by Bank One, N.A., (in such capacity with its successors, currently Bank of New York Mellon), as Trustee under the Indenture of Trust dated July 15, 2002, between the commission and the trustee.

Government Code, §2256.005(e) and Section 17.0 of the investment policy require the commission to review the investment policy and investment strategy on an annual basis, and to approve by order any modifications to the investment policy and investment strategy. The investment policy and investment strategies of the commission have been reviewed and revised annually by minute order since 2003, to update the investment policy and strategies and to make them applicable to all funds under the control of the commission and not otherwise required to be invested by the Comptroller of Public Accounts (comptroller) including the Texas Mobility Fund and Central Texas Turnpike System.

The investment policy and investment strategies are attached as Exhibit A.

IT IS THEREFORE ORDERED by the commission that the investment policy and investment strategies applicable to all funds of the commission not otherwise required to be invested by the comptroller, attached as Exhibit A, have been reviewed and are hereby approved in accordance with Government Code Section §2256.005(e) and Section 17.0 of the investment policy.

IT IS FURTHER ORDERED by the commission that the Innovative Financing/Debt Management Officer or the Deputy Director of the Innovative Financing/Debt Management Office are hereby authorized to execute and deliver a delegation memorandum, substantially in the form attached to the investment policy, as and when needed for the purpose of designating certain employees of the department to act as investment officers for the department in accordance with Section 5.0 of the investment policy.

Note: Exhibit A is on file with the assistant chief clerk.

(3) Annual review of debt management policy and derivative management policy for financing programs of the department, and authorization for department personnel to execute certain derivative transactions for financing programs of the department (MO)

113701
DMO

Pursuant to various provisions of Texas law, the Texas Transportation Commission (commission) is authorized to issue and incur obligations for transportation and other projects.

To ensure that all financings undertaken by the commission and/or the Texas Department of Transportation (department) are effected in accordance with the highest standards of industry, law and government practice and to confirm the intent of the commission and the department to adhere to sound financial management practices, the commission initially reviewed and adopted a Debt Management Policy through Minute Order 110656 on August 24, 2006. The policy requires an annual review and, if

necessary, amendment. The amended policy is attached hereto as Exhibit A for consideration.

The Debt Management Policy establishes parameters within which to administer the commission's financing programs, and such parameters focus on acceptable levels of risk, minimizing interest costs, optimizing future flexibility, and achieving and maintaining the best possible credit ratings.

Pursuant to Chapter 1371, Texas Government Code, and other applicable Texas law, the commission is authorized to execute credit agreements including interest rate swap and other similar agreements.

To establish responsibilities, objectives and guidelines for the use of interest rate swap and other similar products in order to efficiently and prudently manage the commission's asset/liability profile for each financing program the commission initially reviewed and adopted a Derivative Management Policy, also pursuant to Minute Order 110656 on August 24, 2006. The policy also requires annual review and, if necessary, amendment. The amended policy is attached hereto as Exhibit B for consideration.

IT IS THEREFORE ORDERED by the commission that the Debt Management Policy and Derivative Management Policy have been reviewed and are hereby approved.

Note: Exhibits A and B are on file with the assistant chief clerk.

(4) Adopt the 2014 Operating Budget (MO)

113702
FIN

The General Appropriations Act of the 83rd Legislature, Regular Session, has appropriated funds for the operations of the Texas Department of Transportation (department) for Fiscal Year 2014.

The funds appropriated are necessary to effectively operate the activities of the department in accordance with the guidelines set forth in the General Appropriations Act.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that a cash operating budget of \$11,025,564,018 be authorized for the operations of the department for Fiscal Year 2014; and the executive director is hereby ordered to administer this cash operating budget in the most feasible and economical manner within the guidelines prescribed by the 83rd Legislature, Regular Session.

IT IS FURTHER ORDERED that the executive director is hereby authorized to make necessary adjustments to spending levels in accordance with the General Appropriations Act or other legislation as may be necessary in the operations of the department.

g. Speed Zones

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

113703
TRF

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

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

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

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

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

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

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

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

Note: Exhibits A - C are on file with the assistant chief clerk.

18. Executive Session Pursuant to Government Code, Chapter 551

Section 551.071 - Consultation with and advice from legal counsel regarding any item on this agenda

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 department. No action will be taken. Each speaker will be allowed a maximum of three minutes. Speakers must be signed up prior to the beginning of the open comment period.

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

The regular meeting of the Texas Transportation Commission was adjourned at 2:38 p.m.

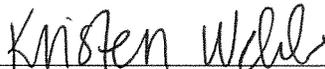
APPROVED:



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 August 29, 2013, in Austin, Texas.



Kristen Webb, Assistant Chief Clerk
Texas Department of Transportation