

These are the minutes of the regular meeting of the Texas Transportation Commission held on April 25, 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

Administrative Staff:

Phil Wilson, Executive Director
 Joanne Wright, Deputy 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 4:44 p.m. on April 17, 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 Occupational Safety Division Director Jerral Wyer. The commission also received comments from Deputy Executive Director John Barton.

ITEM 2. Approval of Minutes of the March 28, 2013 meeting and April 4, 2013 special 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 4 – 0.

ITEM 3. Aviation

a. Discussion Item - Provide update on the award of funds to continue safe operation of air traffic control towers impacted by recent federal action

This item was presented by Aviation Division Director Dave Fulton. The commission also received comments from Federal Affairs Division Director Coby Chase.

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.

113546
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, March 21, 2013, a public hearing was held. No comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$11,367,090.

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

ITEM 4. Public Transportation

a. Various Counties - Approve Designated Recipient Status Regarding Federal Grants for Public Transportation under 49 U.S.C. §5310, Formula Grant for the Enhanced Mobility of Seniors and Individuals with Disabilities 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 Public Transportation Division Director Eric Gleason.

113547
PTN

The Texas Transportation Commission (commission) desires for the Texas Department of Transportation (department) to assume the role of designated recipient in the urbanized areas of Austin and Laredo 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) to support the continued development of public transportation services for seniors and people with disabilities.

Moving Ahead for Progress in the 21st Century, also known as MAP-21, is the most recent federal transportation authorizing legislation, and it amended §5310. Among the amendments was a provision that apportions funding directly to urbanized areas with a population of 200,000 or more. Federal transportation statutes require the selection of a designated recipient in order to act as local administrator for the program, and transportation policy boards from two Metropolitan Planning Organizations (MPOs) have requested that the department assume the role of designated recipient, for a limited time frame.

Prior to MAP-21, the department acted on the governor's behalf as designated recipient for the §5310 program statewide, including all urbanized areas over 200,000 in population.

On February 11, 2013, the transportation policy board for the Capital Area MPO (CAMPO, representing the Austin urbanized area), met and voted to request that the department assume the role of designated recipient for the §5310 program for the Austin urbanized area.

On March 22, 2013, the transportation policy board for the Laredo MPO (representing the Laredo urbanized area), met and voted to request that the department assume the role of designated recipient for the §5310 program for the Laredo urbanized area.

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 that the executive director or his designee is authorized to communicate to the FTA and to CAMPO and Laredo MPO that the department is accepting the status of designated recipient for the §5310 program for the Austin and Laredo urbanized areas, according to the boundaries described in this minute order.

b. Various Counties - Award federal §5310 funds, Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program for FY 2013 for the Austin and Laredo Urbanized Areas (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.

113548
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.

The FTA published in the *Federal Register* a comprehensive list of apportionments and allocations for transit assistance programs for the first six months of FY 2013. The department has accepted to act as the designated recipient for §5310 program for the Austin and Laredo urbanized areas for a limited time frame.

Awards to transit operators are calculated in accordance with the formula in Title 43, Texas Administrative Code, §31.31. Projects are selected at the district office level following a consultation process with all local parties, including any existing Metropolitan Planning Organizations, and a local planning, and development process. Projects also meet the requirements of inclusion in a coordinated transportation plan as

required 49 U.S.C. §5310 and administered through the provisions of Transportation Code, Chapter 461.

The commission finds that the revised projects in Exhibit A are eligible for funding and awards a total of \$301,584 in federal 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 described in Exhibit A, submit the necessary state application to FTA, and enter into the necessary contracts for the FY 2013 program of projects for the Austin and Laredo urbanized areas.

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

c. Various Counties - Award federal and state funds to North East Texas Regional Mobility Authority (NET RMA) to support continuation of coordinated regional public transportation planning for FY 2013 (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.

113549
PTN

The Texas Transportation Commission (commission) was designated by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, Statewide and Nonmetropolitan Transportation Planning Program (49 U.S.C. §5304) in a letter dated October 4, 2005, and is required to ensure that these grant funds are distributed and utilized in accordance with guidance from FTA.

Under §5304, FTA provides the Texas Department of Transportation (department) with funds to be used for planning and coordination projects.

The commission desires to award up to \$33,100 of §5304 federal funds and state matching funds to North East Texas Regional Mobility Authority (NET RMA) to support a regionally coordinated transportation planning project to complete a plan for a regional call center for East Texas Planning Region 6.

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 above to NET RMA, submit the necessary state application to the FTA, and enter into the necessary contracts in accordance with the priorities established in this minute order.

d. Various Counties - Rescind Minute Order 113235, dated August 30, 2012, and Award Federal Funds and Transportation Development Credits to Agencies Receiving Veterans Transportation and Community Living Initiative Awards (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.

113550
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, Bus and Bus Facilities Program (49 U.S.C. §5309), 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.

FTA announced awards for the Veterans Transportation and Community Living Initiative program in the Federal Register on July 25, 2012. The department received an award for a project in east Texas and the Dallas Area Rapid Transit (DART) authority received an award directly.

In August 2012, the commission awarded funds and Transportation Development Credits (TDC) to the East Texas Council of Governments and DART. Since that time, a local decision has changed the administering transit systems for the east Texas project to the North East Texas Regional Mobility Authority (NET RMA). To clarify the public record, the commission rescinds and withdraws Minute Order 113235 dated August 30, 2012

In making the TDC 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 for 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.

The commission finds that the projects are eligible for funding and desires to award \$230,992 of federal §5309 funds and 46,198 in TDC to NET RMA; and TDC in the amount of 247,960 to DART.

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

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

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

e. Hood and Somervell Counties - Award Unexpended Balance of funding from Texas' portion of the American Recovery and Reinvestment Act (ARRA) and state funds to The Transit System (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.

113551
PTN

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act (ARRA). The ARRA created an economic stimulus package that provides \$64.1 billion nationwide for infrastructure projects, including \$1.5 billion for surface transportation grants to be administered by the Secretary of Transportation. Texas' share of the funding for transit is approximately \$372 million.

The Texas Transportation Commission (commission) has been designated by the governor as the administering agency for the Federal Transit Administration (FTA) program under 49 USC §5311, and has the authority to award approximately \$50 million of ARRA nonurbanized (rural) transit funds.

In Minute Order 111716, dated February 26, 2009, the commission approved the funding of approximately \$33 million in public transit projects. In Minute Orders 111778 dated April 30, 2009, and 111920 dated August 27, 2009, the commission approved the funding of additional public transit projects. In Minute Orders 112115, 112341, 112392, 112512, 112597, 112714, 112888 and 112962 dated January 28, 2010, July 29, 2010, August 26, 2010, December 16, 2010, February 24, 2011, June 30, 2011, October 27, 2011 and January 26, 2012 respectively, the commission approved a list of public transit projects with revised funding.

This agenda item will allow the commission to award the unexpended balance of Federal ARRA funds of \$20,469 and up to \$39,531 in state funds to The Transit System, Inc. for a facility rehabilitation project.

The department has continued to monitor the progress of ARRA projects to ensure that they comply with the criteria identified in the prior minute orders, the ARRA, and the project selection requirements established by FTA. No other previously approved public transit projects are affected. All projects are subject to federal and state laws, including the provisions of the ARRA.

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is authorized to distribute funds as described above to The Transit System Inc., submit the necessary state application to the FTA, and enter into the necessary contracts in accordance with the priorities established in this minute order.

ITEM 5. Unified Transportation Program (UTP)
Approve updates to the 2013 UTP (MO)

Commissioner Moseley made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Director of Planning Marc Williams.

113552
TPP

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

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

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

The 2013 UTP was approved by the commission on April 26, 2012, in Minute Order 113074 and revisions to the 2013 UTP were approved by the commission on June 28, 2012, in Minute Order 113162; August 30, 2012, in Minute Order 113250; October 25, 2012, in Minute Order 113319; December 13, 2012, in Minute Order 113401; January 31, 2013 in Minute Order 113444; and March 28, 2013 in Minute Order 113526.

On March 21, 2013, the department conducted public meetings across the state via WebEx, and a public hearing was held on April 9, 2013 to receive comments and testimony concerning the proposed updates to the 2013 UTP.

The updates to the 2013 UTP, as shown in Exhibit A, include revised funding allocations based on funds transfer requests in multiple categories. In addition, this minute order updates project specific program lists, incorporates information regarding transportation development credits, and includes minor revisions and technical corrections.

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

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

ITEM 6. Transportation Planning

a. Various Counties - Approval to exceed contract term restrictions for the procurement of indefinite deliverable contracts for engineering, surveying and other professional services to assist in developing transportation corridors within the state (MO)

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Director of Planning Marc Williams.

113553
TPP

Title 43, Texas Administrative Code, §9.32(b)(1)(B) provides that for an indefinite deliverable architectural, engineering or surveying services contract, the contract period in which initial work authorizations may be issued may not be longer than two years after the date of contract execution, unless approved by the Texas Transportation Commission (commission) before the notice of intent posting date.

The Texas Department of Transportation (department) is currently in various stages of planning and development of several transportation corridors throughout the state. The department intends to issue notices of intent to solicit the services of firms employing professional engineers, land surveyors and other professionals under indefinite deliverable contracts, and to issue work authorizations to one or more of those firms to provide various services related to corridor development. More specifically, the department intends to enter into five indefinite deliverable contracts for

the provision of planning, environmental, engineering, and surveying services for Interstate 35, Interstate 10, Interstate 45, High Priority Corridor Interstate 69, and Strategic Rural Corridors. Establishing longer contract periods will allow for a more effective and consistent corridor development process and will enable these professionals to perform the various corridor development activities in a more efficient manner. The contract dollar values will be established by the executive director or the executive director's designee in accordance with Title 43, Texas Administrative Code, §9.32(b)(1)(A), and it is anticipated that these contracts will be federally funded.

IT IS THEREFORE ORDERED by the commission that the department is authorized to proceed with a solicitation for no more than five indefinite deliverable contracts limited to the provision of planning, environmental, engineering, and surveying services and that initial work authorizations may be issued up to but no later than six years after a contract is executed.

b. Various Counties - Approve revisions to the Capital Area Metropolitan Planning Organization (CAMPO) Metropolitan Area Boundary (MO)

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Director of Planning Marc Williams. The commission received comments from Burnet County Judge Donna Klaeger and Burnet County Commissioner Joe Don Dockery registered his opinion for this item.

113554
TPP

Pursuant to Title 43, Texas Administrative Code, §16.51(c), the governor or the Texas Transportation Commission (commission), if the approval authority has been delegated to the commission, must approve the boundaries of a designated metropolitan planning area and any revision of those boundaries. The metropolitan planning organization must provide the governor and the Texas Department of Transportation with appropriate documentation and the rationale supporting any recommended boundary change.

In accordance with 23 U.S.C. §134 and 23 C.F.R. §450.312, a metropolitan planning area boundary shall, at a minimum, encompass the entire existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the metropolitan transportation plan. The metropolitan planning area boundary may be further expanded to encompass the entire metropolitan statistical area or combined statistical area.

On October 4, 2005, Governor Rick Perry delegated authority to the commission to approve metropolitan planning area boundary changes.

On March 18, 2013, the Capital Area Metropolitan Planning Organization (CAMPO) Policy Board approved a resolution recommending the expansion of the metropolitan planning area boundary to include Burnet County. The Burnet County Commissioners Court previously approved a resolution requesting membership in CAMPO.

The commission has reviewed and accepted the documentation and rationale supporting the metropolitan planning area boundary changes provided by CAMPO.

IT IS THEREFORE ORDERED by the commission that the proposed CAMPO metropolitan planning area boundary changes, as shown in Exhibit A, are hereby approved.

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

ITEM 7. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code,

Chapter 2001:

a. Final Adoption

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

Repeal of §2.24, Memorandum of Understanding with the Texas Historical Commission; and New Subchapter H, Memorandum of Understanding with the Texas Historical Commission, New §§2.251-2.278

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Environmental Affairs Division Director Carlos Swonke.

113555
ENV

The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of §2.24, and the simultaneous replacement of the repealed sections with new Subchapter H, Memorandum of Understanding with the Texas Historical Commission, §§2.251-2.278, relating to coordination of environmental review of transportation projects by the Texas Historical Commission, 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 §2.24 and new §§2.251-2.278 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 - C are on file with the assistant chief clerk.

(2) Chapter 2 - Environmental Review of Transportation Project (MO)

Repeal of §2.23, Memorandum of Understanding with the Texas Natural Resource Conservation Commission; and New Subchapter I, Memorandum of Understanding with the Texas Commission on Environmental Quality, New §§2.301-2.308

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Environmental Affairs Division Director Carlos Swonke.

113556
ENV

The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of §2.23 and new Subchapter I, §§2.301-2.308 all relating to a Memorandum of Understanding with the Texas Commission on Environmental Quality to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted repeal 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 §2.23 and new §§2.301-2.308 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 - C are on file with the assistant chief clerk.

ITEM 8. 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 9. Design-Build Projects

Bexar County - Authorize the department to issue a request for proposals for the design, construction and maintenance of Loop 1604 in Bexar County, providing for the expansion of a non-toll expressway from SH 16 (Bandera Road) to FM 471 (Culebra Road), and, at the department's option, to design, construct, and maintain portions of Loop 1604 further south at SH 151, and approve stipulated amounts as payment for the work product of unsuccessful proposers (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.

113557
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 estimated construction costs of \$50 million or more.

On May 31, 2012, by Minute Order 113116, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the development of 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). The RFQ also included an option to extend the project limits south to SH 151. 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 will be requested to submit detailed proposals to design, construct, and maintain 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. The department intends to issue an RFP for the Loop 1604 Western Extension Project from SH 16 (Bandera Road) to FM 471 (Culebra Road), which will include, in the department's sole discretion, the option to potentially design, construct, and maintain portions of Loop 1604 further south at SH 151, and to request detailed proposals from the four short-listed teams to design, construct, and, maintain the project.

Transportation Code § 223.249(a) and 43 TAC § 9.153(f) require 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 the 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 Loop 1604 Western Extension Project or other department projects without further payment to the unsuccessful proposer. Transportation Code § 223.249(b) and 43 TAC § 9.153(f) also require the department to pay a partial stipend in the event that a procurement is terminated before the execution of a design-build contract.

IT IS THEREFORE ORDERED that the department is authorized to issue an RFP to design, construct, and maintain the Loop 1604 Western Extension Project from SH 16 (Bandera Road) to FM 471 (Culebra Road), and at the department's sole option, to potentially design, construct, and maintain portions of Loop 1604 further south at SH 151.

IT IS FURTHER ORDERED that, after consideration of the criteria in 43 TAC § 9.153(f), the department is authorized to pay each proposer that submits a responsive, but unsuccessful, proposal for the Loop 1604 Western Extension 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 0.25% of the successful proposer's price for all work under the design-build agreement.

IT IS FURTHER ORDERED that in the event the procurement is terminated prior to the execution of the design-build agreement, and after consideration of the criteria in 43 TAC § 9.153(f), the department is authorized to pay each proposer a partial stipend based upon the value of the work product 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 \$125,000.

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 the proposer satisfies the conditions for payment identified by the department in the Loop 1604 Western Extension Project procurement documents.

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

ITEM 10. Toll Roads

a. Harris County - Concur in the election of a chair and vice-chair of the committee formed pursuant to Transportation Code, §228.013 to make certain determinations concerning the distribution of financial risk, the method of financing, and the tolling structure and methodology for the SH 288 Toll Lanes Project (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.

113558
SPD

The Texas Department of Transportation (department) and local stakeholders are currently analyzing options for the financing and delivery of the SH 288 Project in Harris County that includes the construction of four toll lanes in between existing free general purpose lanes from US 59 to the Harris/Brazoria county line, which may include a direct connector at the Texas Medical Center and eight direct connectors at Beltway 8.

For certain toll projects of the department in which a private entity has a financial interest in the project's performance, Senate Bill 1420, 82nd Legislature, Regular Session, 2011, added Transportation Code, §228.013 requiring that the distribution of the project's financial risk; the method of financing for the project; and the tolling structure and methodology must be determined by a committee comprised of representatives from the department; any local toll project entity for the area in which the project is located; the applicable metropolitan planning organization; and each municipality or county that has provided revenue or right of way for the project (SB 1420 Committee).

The Texas Transportation Commission (commission) has adopted 43 TAC §§27.90-27.92 to implement Section 228.013 and define the process for the issuance of these determinations by an SB 1420 Committee (committee rules).

Under Section 27.92(a) of the committee rules, the requirement to form an SB 1420 Committee for the purpose of issuing a report containing the committee's

determinations applies to department toll projects that will be developed under a concession agreement contract. As the department and local stakeholders are analyzing options for the financing and delivery of the SH 288 Project that include the development, construction, and operation of SH 288 an SB 1420 Committee for the project was formed.

On April 19, 2013, the SB 1420 Committee for the SH 288 Project in Harris County met and elected Michael Alford, representing the Texas Department of Transportation, as chair of the committee and Matt Sebesta, representing the Houston-Galveston Area Council, as vice-chair of the committee. Under Section 27.92(c) of the committee rules, an SB 1420 Committee's election of a chair and vice-chair is subject to the concurrence of the commission.

IT IS THEREFORE ORDERED that the Texas Transportation Commission hereby concurs with the election of Michael Alford as chair and Matt Sebesta, as vice-chair of the SH 288 Project in Harris County SB 1420 Committee.

b. Tarrant County - Consider the approval of a term sheet for a Toll Services Agreement (TSA) with the North Texas Tollway Authority (NTTA) for the North Tarrant Express 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 4 – 0. This item was presented by Strategic Projects Division Deputy Director Katie Nees.

113559
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 comprehensive development agreement for NTE Segments 2-4 provides for the development of a master plan for the corridor along Interstate 35W from I-30 to State Highway 170 in Tarrant County, as well as other facilities for connectivity, safety and financing, and authorizes the department and NTE Mobility Partners or its affiliate to enter into facility agreements for the development, design, financing, construction, maintenance, and operation of segments of the NTE project.

The North Tarrant Express is a multi-phased, multi-segment project dedicated to improving mobility along north I-35W, northeast I-820 and SH 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 I-820; and Segment 3B consists of 3.6 miles of I-35W from 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 (Developer) of NTE Mobility Partners 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 NTTA or 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 enter into the tolling services agreement with the Developer, and to concurrently enter into a tolling services agreement with the NTTA, to provide those services.

The department and the NTTA have negotiated a term sheet, attached as Exhibit A to this order, to serve as the basis for the tolling services agreement relating to the NTE Segments 3A and 3B Managed Lanes Project. As provided in the term sheet, the NTTA will provide toll services and marketing for an initial term of 10 years, with 5-year renewal terms through the end of the term of the comprehensive development agreement.

By Resolution No. 13-56, adopted April 17, 2013, the NTTA Board of Directors approved the tolling services agreement with the department according to the term sheet, and authorized the executive director of the NTTA to execute contract documents and take other actions necessary to implement the tolling services agreement.

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

IT IS FURTHER ORDERED that the final tolling services agreement shall be subject to commission approval.

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

ITEM 11. Finance

a. Caldwell County - City of Lockhart - Consider granting final approval of an ASHER application from the City of Lockhart to borrow up to \$3,600,000 from the state infrastructure bank (SIB) to pay for utility relocation costs for city utilities relating to the widening of US 183 within city limits (MO)

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Innovative Financing and Debt Management Office Director Benjamin Asher.

DMO

Transportation (department) for financial assistance to borrow \$3,600,000 from the State Infrastructure Bank (SIB) to pay for the city's costs of relocation of city utilities needed for the widening of US 183 within city limits (project). The revised SIB rules, approved by the Texas Transportation Commission (commission) by Minute Order 113110 on May 31, 2012 and effective June 21, 2012 (rules), allow for final approval by the commission of any SIB loan in the principal amount of \$10 million or less, without first going through the preliminary approval process described in the rules.

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

The commission finds that: (1) the project is consistent with the Statewide Long-Range Transportation Plan, the State Implementation Plan, and the metropolitan transportation plan developed by the applicable metropolitan planning organization; (2) the project will improve the efficiency of the state's transportation systems; (3) the project will expand the availability of funding for transportation projects or reduce direct state costs; and (4) the application shows that the project and the applicant are likely to have sufficient revenues to assure repayment of the financial assistance.

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

IT IS THEREFORE ORDERED that the application for SIB financial assistance submitted by the city of Lockhart to borrow \$3,600,000 from the State Infrastructure Bank is granted final approval. The executive director or his designee is directed and authorized to enter into the financial assistance agreement as negotiated with the city. The loan will be repaid over a period of 20 years at 2.50 percent interest per annum. The final maturity date will be June 7, 2033.

b. City of Robstown - Nueces County - Consider granting final approval of an application from the city of Robstown to borrow up to \$200,000 from the state infrastructure bank (SIB) to pay for the city's portion of the costs of right-of-way acquisition and utility relocation relating to the improvement of US 77 from FM 892 to south of CR 28 (MO)

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 4 – 0. This item was presented by Innovative Financing and Debt Management Office Director Benjamin Asher.

113561
DMO

The city of Robstown (city) submitted an application to the department for financial assistance to borrow up to \$200,000 from the state infrastructure bank (SIB) to pay for the city's portion of the costs of acquisition of right-of-way and utility relocation relating to improvements to US 77 from Farm to Market 892 to south of County Road 28 (project). The revised SIB rules, approved by the commission by Minute Order 113110 on May 31, 2012 and effective June 21, 2012 (rules), allow for final approval by the commission of any SIB loan in the principal amount of \$10 million or less, without first going through the preliminary approval process described in the rules.

The executive director or his designee implemented actions authorized and required by the rules for final approval, and also hereby determines that the requirement to submit any information or data that was not submitted by the city is waived as permitted by the rules either because the information or data is not relevant or the Texas Department of Transportation (department) already possesses the information or data.

The executive director affirms that the necessary social, economic, and environmental impact studies have been completed, and that the department has approved those studies. The executive director recommends that the commission grant final approval of the SIB application for financial assistance.

The commission finds that: (1) the project is consistent with the Statewide Long-Range Transportation Plan and with the State Implementation Plan; (2) the project will improve the efficiency of the state's transportation systems; (3) the project will expand the availability of funding for transportation projects or reduce direct state costs; and (4) the application shows that the project and the applicant are likely to have sufficient revenues to assure repayment of the financial assistance.

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

IT IS THEREFORE ORDERED that the application for SIB financial assistance submitted by the city of Robstown to borrow up to \$200,000 from the State Infrastructure Bank is granted final approval. The executive director or his designee is directed and authorized to enter into the financial assistance agreement as negotiated with the city. The loan will be repaid over a period of ten years at 2.78 percent interest per annum. The final maturity date will be no later than the date that is ten years from the date of funding.

ITEM 12. Proposition 14 Bonds

Grimes and Milam Counties - Approval of additional projects to be funded with the proceeds of State Highway Fund revenue bonds issued under Transportation Code, Section 222.003 (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 Traffic Operations Division Director Carol Rawson.

113562
TRF

Section 49-n, Article III, of the Texas Constitution (constitutional provision) provides that the Texas Legislature may authorize the Texas Transportation Commission (commission) to issue bonds and other public securities and enter into bond enhancement agreements that are payable from revenue deposited to the credit of the state highway fund to fund state highway improvement projects.

Pursuant to the constitutional provision, the Texas Legislature enacted Section 222.003, Texas Transportation Code (Enabling Act), which authorizes the commission to issue bonds and other public securities secured by a pledge of and payable from revenue deposited to the credit of the highway fund. Bonds and other public securities issued under the constitutional provision and Enabling Act are commonly known as "Proposition 14" bonds.

The Enabling Act, as amended, provides that (i) the aggregate principal amount of such bonds and other public securities may not exceed \$6 billion, (ii) the commission may issue bonds or other public securities in an aggregate principal amount of not more than \$1.5 billion each year, (iii) \$1.2 billion of the aggregate principal amount of such bonds or other public securities must be issued to fund safety projects that reduce accidents or correct or improve hazardous locations on the state highway system, and (iv) bonds and other public securities and credit agreements may not have a principal amount or terms that are expected to cause annual expenditures with respect thereto to exceed 10 percent of the amount deposited to the credit of the highway fund in the preceding year. The commission has issued approximately \$3.1 billion of Proposition 14 bonds pursuant to the terms of the Enabling Act.

Pursuant to the Enabling Act, the commission has adopted rules, codified as 43 TAC §§15.170-15.174, that prescribe criteria for selecting projects (including safety projects) eligible for funding under the Enabling Act.

On October 30, 2008, January 29, 2009, February 26, 2009, March 26, 2009, July 30, 2009, September 24, 2009, November 19, 2009, December 17, 2009, February 25, 2010, March 25, 2010, May 27, 2010, August 26, 2010, October 28, 2010, February 24, 2011, and May 26, 2011, the commission adopted Minute Orders 111550, 111680, 111709, 111751, 111890, 111976, 112037, 112075, 112115, 112119, 112275, 112375, 112474, 112610, and 112692 respectively, which approved the use of proceeds of Proposition 14 bonds for state highway improvement projects and work associated with state highway improvement activities, as contained in exhibits to the Orders.

Due to continuing national economic conditions and the accompanying effects on construction and material supplies, the projects that have gone to letting continue to experience underruns of the originally obligated bond funds. These underruns allow additional projects to be brought forward for funding under the bond program.

This minute order revises funding allocations for previously approved projects and activities and approves one additional project to be funded with the proceeds of Proposition 14 bonds, as set forth in Exhibit A.

IT IS THEREFORE ORDERED by the commission that the state highway improvement project and work to be performed in connection with state highway improvement activities, as contained in Exhibit A, is approved for funding with the proceeds of Proposition 14 bonds.

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

ITEM 13. Traffic Operations**Cameron and Hidalgo Counties - Approve proposed lane use restriction for trucks on US 83, US 77 and US 281 in Cameron and Hidalgo Counties (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 Traffic Operations Division Director Carol Rawson.

113563
TRF

Transportation Code, §545.0651, authorizes the Texas Department of Transportation (department) to restrict through traffic, by class of vehicle, to two or more designated lanes of traffic on certain portions of the designated state highway system, and requires the Texas Transportation Commission (commission) to adopt rules. The commission adopted these rules, 43 TAC §§25.601- 25.604 that became effective on January 8, 2004.

The department, working in conjunction with local jurisdictions developed proposed lane restrictions shown in Exhibit A. In accordance with §25.604(e)(3), the department conducted traffic studies to evaluate the impact of the lane restrictions. In accordance with §25.604(d), the department published a notice in the Texas Register for a 30-day comment period and held a public hearing in the local jurisdiction on the proposed restrictions. No comments were received at the public hearing or through the mail.

In accordance with Transportation Code §545.601 and 43 TAC §§25.601- 25.604, the department is proposing lane restrictions that would establish consistent lane use restrictions applicable to trucks, as defined in Transportation Code, §541.201, with three or more axles, and to truck tractors, also as defined in Transportation Code, §541.201, regardless of whether the truck tractor is drawing another vehicle or trailer. The proposed lane restrictions prohibit those vehicles from using lane one (inside left lane) of controlled access lanes on each side of the highways listed in Exhibit A. The proposed lane restrictions would be in effect 24-hours-a-day, 7-days-a-week, and would allow the operation of those vehicles in a prohibited traffic lane for the purposes of passing another vehicle or entering or exiting the highway.

In accordance with 43 TAC §25.604(h)(2), the executive director may temporarily suspend the lane restriction in an emergency.

The commission, having evaluated the truck lane restriction proposals based on the safety of the traveling public and the factors listed in 43 TAC §25.604(f), finds that the proposed lane restrictions should be approved.

IT IS THEREFORE ORDERED by the commission that the proposed lane restrictions are approved and shall become effective upon placement of all necessary traffic control devices.

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

ITEM 14. Contracts

Award or reject contracts for maintenance, highway and building construction

a. Highway Maintenance and Department Building Construction

(see attached itemized list) (MO)

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

113564
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 April 3 and 4, 2013.

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.

b. Highway and Transportation Enhancement Building Construction

(see attached itemized list) (MO)

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

113565
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 April 3 and 4, 2013, as well as Dallas District, Ellis County, Job Number 3216, Project Number PTF 2013(451), deferred from the March 28, 2013, commission meeting, as shown on Exhibit A.

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

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

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

IT IS THEREFORE ORDERED by the commission that the contracts described in Exhibit A, 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 15. Eminent Domain Proceedings

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

Commissioner Moseley made a motion that the Texas Transportation Commission authorize the Texas Department of Transportation to use the power of eminent domain to acquire the properties described in the minute order set forth in the agenda for the current month for construction, reconstruction, maintenance, widening, straightening, or extending the highway facilities listed in the minute order as a part of the state highway system, and that the first record vote applies to all units of property to

be condemned. The motion was seconded and the following minute order was approved by Commissioner Houghton, Commissioner Underwood, Commissioner Austin and Commissioner Moseley (a vote of 4 – 0). This item was presented by Right of Way Division Director John Campbell.

113566
ROW

To facilitate the safety and movement of traffic and to preserve the financial investment of the public in its highways, the Texas Transportation Commission (commission) finds that public necessity requires the laying out, opening, constructing, reconstructing, maintaining, widening, straightening, extending, and operating of the highway facilities listed below as a part of the State Highway System (highway system).

As provided for by Transportation Code, Chapter 203, Subchapter D, including Sections 203.051, 203.052, and 203.054, the commission finds and determines that each of the parcels of land listed below, and more particularly described in the attached Exhibits (parcels), are necessary or convenient as a part of the highway system to be constructed, reconstructed, maintained, widened, straightened, or extended (constructed or improved) and it is necessary to acquire fee simple title in the parcels or such lesser property interests as set forth in the attached Exhibits.

The commission finds and determines that the highway facilities to be constructed or improved on the parcels identified and listed below under "CONTROLLED ACCESS" are designated as a Controlled-Access Highway in accordance with Transportation Code, Section 203.031; and where there is adjoining real property remaining after acquisition of a parcel, the roads are to be constructed or improved as a part of the highway facility with the right of ingress and egress to or from the remaining real property adjoining the highway facility to be permitted or denied, as designated and set forth on each of the attached Exhibits A - L. Where there is adjoining real property remaining after acquisition of a parcel with respect to the highway facilities to be constructed or improved on the parcels identified as listed below under "NON-CONTROLLED ACCESS," roads are to be constructed or improved as a part of the highway facility with the right of ingress and egress to or from the remaining real property adjoining the highway facility to be permitted or denied, as designated and set forth on each of the attached Exhibits 1 - 33, 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
Bell	SH 317	10	0398-04-064	50
Collin	US 75	11	0047-14-071	14, 14E
Collin	SH 121	7	0549-03-022	38
Collin	SH 121	8	0549-03-022	47
Collin	SH 121	18	0549-03-022	13
Collin	SH 121	19	0549-03-022	55
Collin	SH 121	20	0549-03-022	24
Collin	SH 121	21	0549-03-022	25
Collin	SH 121	24	0549-03-022	37
Dallas	SH 183	22	0094-03-100	4
Dallas	SH 183	31	0094-03-100	6
Dallas	SH 183	12	0094-03-100	7
Dallas	SH 183	23	0094-03-100	25
Dallas	SH 183	13	0094-03-100	40
Dallas	SH 183	14	0094-03-100	41
Dallas	SH 183	32	0094-03-100	42
Dallas	SH 183	15	0094-03-100	43
Dallas	SH 183	33	0094-03-100	50
Dallas	SH 183	16	0094-03-100	65
Dallas	SH 183	17	0094-03-100	85
Denton	FM 2499	9	2681-01-018	27E
Denton	FM 2499	29	2681-01-018	5
Denton	FM 2499	30	2681-01-018	11
Denton	FM 720	1	1567-01-034	48A
Denton	FM 720	2	1567-01-034	48B
Denton	FM 720	3	1567-01-034	48C
Denton	FM 720	4	1567-01-034	48D
Harris	US 290	5	0050-09-084	650B
Harris	US 290	6	0050-09-084	650C
McLennan	FM 1637	25	0833-03-040	1
McLennan	FM 1637	26	0833-03-040	14
McLennan	FM 1637	27	0833-03-040	49
McLennan	FM 1637	28	0833-03-040	53

CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Bell	IH 35	H	0015-14-123	59
Collin	US 75	D	0047-14-071	28
Collin	US 75	E	0047-14-071	29
Collin	US 75	F	0047-14-071	30
Dallas	SH 183	I	0094-03-100	11

Dallas	SH 183	J	0094-03-100	27
Dallas	SH 183	K	0094-03-100	52
Dallas	SL 12	C	0581-02-115	69
Dallas	SL 12	L	0581-02-115	72
Harris	US 290	A	0050-09-084	650D
Harris	US 290	B	0050-09-084	650F
Harris	SH 99	G	3510-06-006	380

Note: Exhibits A - L and 1 - 33 are on file with the assistant chief clerk.

ITEM 16. Routine Minute Orders

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 Executive Director Phil Wilson.

a. Donations to the Department

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)

113567
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) Bowie County - SH 93, from the new alignment north of Bertha Street, southward to Keel Street in Texarkana - Consider the removal from the system of portions of highway and the designation of the alignment along a new location. Also consider the transfer of jurisdiction, control and maintenance and transfer of surplus right of way to the city (MO)

113568
ROW

In the city of Texarkana, **BOWIE COUNTY**, on **STATE HIGHWAY 93**, the state of Texas acquired certain land for highway purposes by various instruments recorded in the Deed Records of Bowie County, Texas.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended, as shown in Exhibit A, the designation of SH 93 on a new location, the removal from the state highway system of the old alignment and the transfer of control, jurisdiction and maintenance of the old alignment to the city of Texarkana.

Portions of the land (surplus land), described in Exhibit B, are 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 waive payment for real property transferred to a governmental entity if the property is a highway right of way and the governmental entity assumes jurisdiction, control and maintenance of the right of way for public road purposes.

The city of Texarkana will assume jurisdiction, control and maintenance of the old alignment for public road purposes and has requested the transfer of the surplus land to the city.

IT IS THEREFORE ORDERED by the commission that: 1) SH 93 is designated on a new location from north of Bertha Street, southward approximately 0.4 mile to Keel Street; 2) the old alignment of SH 93 is removed from the state highway system from the intersection with the new alignment north of Bertha Street, southward approximately 0.4 mile to Keel Street; and 3) jurisdiction, control and maintenance of the old alignment is transferred to the city of Texarkana.

FURTHER, 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 the state's rights, title and interest in the surplus land to the city of Texarkana, Texas; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

IN ADDITION, if the surplus land ceases to be used for public road purposes, the surplus land shall immediately and automatically revert to the state.

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

(2) Cameron County - US 77/83, old alignment at Melinda Drive in Brownsville - Consider the sale of surplus right of way to the city (MO)

113569
ROW

In the city of Brownsville, CAMERON COUNTY, on US 77/83, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 756, Page 353, Deed Records of Cameron County, Texas.

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 Brownsville has requested to purchase the surplus land for \$385,000.

The commission finds \$385,000 to be a fair and reasonable value of the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to the city of Brownsville, Texas, for \$385,000; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

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

(3) Hays County - US 290, old alignment in Dripping Springs - Consider the transfer of surplus right of way to the city (MO)

113570

In the city of Dripping Springs, HAYS COUNTY, on the former location of US

ROW

290, now known as County Road 320 and State Loop 64, the state of Texas acquired certain land for highway purposes by instruments recorded in the Deed Records of Hays County, Texas.

Portions of the land (surplus land), described in Exhibits A and B, are 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 transfer of highway right of way to a governmental entity that has assumed jurisdiction, control and maintenance of the right of way for public road purposes.

The city of Dripping Springs has assumed jurisdiction, control and maintenance and has requested that the surplus land be transferred to the city for public road purposes.

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 city of Dripping Springs, Texas; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

FURTHER, if the surplus land ceases to be used for public road purposes, the surplus land shall immediately and automatically revert to the state.

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

c. Highway Redesignation

Dallas County - Redesignate a segment of US 175 as SH 310 and extend the designation of US 175 from SH 310 to I-45 in the city of Dallas (MO)

113571
TPP

In DALLAS COUNTY, the Dallas District has requested the redesignation of a segment of US Highway 175 (US 175) as State Highway 310 (SH 310) from Interstate 45 in the city of Dallas southward approximately 1.8 miles to existing SH 310; and extension of the US 175 designation from SH 310 westward along a new location to I-45, a distance of approximately 0.6 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 US 175 be redesignated as SH 310 on the state highway system and US 175 be extended along a new location.

The Texas Transportation Commission (commission) finds that the redesignation of US 175 as SH 310 and extension of US 175 along a new location 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 US 175 from I- 45 in the city of Dallas southward to existing SH 310 is redesignated as SH 310,

and the designation of US 175 is extended along a new location from SH 310 westward to I-45.

d. Finance

(1) Obligation Limit Report

Quarterly status report on the FY 2012 Obligation Limit, the actual obligations utilized, proposed remaining highway maintenance and construction contract letting for the fiscal year and an update on motor fuel tax receipts

(2) Quarterly report on FY 2012 State Highway Fund 6 cash status

(3) Accept the Quarterly Investment Report (MO)

113572
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 investments authorized under the Public Funds Investment Act, in accordance with investment policies approved by the commission.

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

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

Pursuant to Government Code §2256.005(e) and Section 20 of the investment policy, the investment policy and investment strategies of the commission have been reviewed and revised annually by minute order since 2003, most recently by Minute Order 113271, dated August 30, 2012.

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

Section 9.0 of the investment policy requires the investment officer to prepare and submit to each member of the commission and the executive director of the

department an investment report on no less than a quarterly basis. The report must be prepared in accordance with the requirements of that section, including containing sufficient information to provide for a comprehensive review of investment activity and current investment instruments and performance for the reporting period. A quarterly investment report for the department for the period ending February 28, 2013, attached as Exhibit A, has been prepared in accordance with Government Code, §2256.023 and Section 9.0 of the investment policy.

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

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

e. Transportation Planning

Various Counties - Concurrence with the Regional Transportation Council of the North Central Texas Council of Governments' funding of construction and other project development costs of projects to be advanced through the use of payments received from the North Texas Tollway Authority for the right to develop, finance, design, construct, operate and maintain the SH 161 toll project from I-20 to SH 183 in Dallas County (MO)

113573
TPP

Transportation Code, §228.012 requires the Texas Department of Transportation (department) to create a separate account in the State Highway Fund to hold payments received by the department under a comprehensive development agreement (CDA) and the surplus revenue of a toll project or system.

The department is required to create subaccounts in the account for each project, system, or region, and to hold money in a subaccount in trust for the benefit of the region in which the project or system is located. Interest earned on money in a subaccount shall be deposited to the credit of that subaccount. The department may assign the responsibility for allocating money in a subaccount to the metropolitan planning organization (MPO) in which the region is located.

The department has created subaccounts in the state highway fund to hold the payments received from the North Texas Tollway Authority (NTTA) for the right to develop, finance, design, construct, operate, and maintain the SH 161 toll project from Interstate 20 to SH 183 in Dallas County (SH 161 payments).

Pursuant to Transportation Code, §228.012, the SH 161 payments may be used to pay the costs of a transportation project, highway project, or air-quality project within a region in which any part of the SH 161 toll project is located. Money must be allocated to projects authorized by Transportation Code, §228.0055 or §228.006, as applicable. An air-quality project is a project or program of the department or another governmental entity that the commission determines will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads.

In Minute Order 110727, dated October 26, 2006, the Texas Transportation Commission (commission) approved, and authorized the department's executive director to enter into a memorandum of understanding (MOU) with the Regional Transportation Council (RTC), the transportation policy council of the North Central Texas Council of Governments (NCTCOG), a federally designated MPO, concerning

the administration, sharing, and use of surplus toll revenue and CDA concession payments in the region served by the NCTCOG. The SH 161 toll project is located in the region served by the NCTCOG.

Responsibility for allocating the SH 161 payments has been assigned to the RTC under the MOU. The MOU provides that the selection of projects to be financed using those funds shall be made by the RTC, subject to commission concurrence. The projects are to be selected through a process which considers the desires of the cities and counties in which the project is located. The RTC has developed a plan for regional sharing of surplus toll revenue and CDA concession payments, based on the location of the toll project from which these revenues are derived and the residential location of toll users in the region served by the NCTCOG.

In Minute Order 112015, dated October 29, 2009, the commission clarified that commission concurrence in projects selected by the RTC to be financed with surplus toll revenue and CDA concession payments is limited to ensuring the funds are allocated to projects authorized by Transportation Code, §228.0055 or §228.006. The minute order requires the department to disburse such funds in accordance with directions from the RTC to pay the costs of qualified projects.

The department has established a work program to account for and track projects and project costs in the NCTCOG Metropolitan Planning Area (MPA) boundary funded with the SH 161 payments. In Minute Order 112759, dated July 28, 2011; Minute Order 112845, dated September 29, 2011; Minute Order 112977, dated January 26, 2012; Minute Order 113103, dated April 26, 2012; Minute Order 113221, dated July 26, 2012; Minute Order 113275, dated August 30, 2012; Minute Order 113343, dated October 25, 2012; and Minute Order 113472, dated January 31, 2013; q the commission concurred with certain projects identified by the RTC to be funded with those payments, and approved the placement of those projects in the work program. The RTC, through an extensive public involvement process, has identified additional project costs in the NCTCOG MPA boundary to be funded with the SH 161 payments.

IT IS THEREFORE ORDERED by the commission that, pursuant to the MOU and Minute Order 112015, it concurs with the projects as shown in Exhibit A that have been selected by the RTC to be funded with the SH 161 payments, and approves the placement of the projects in the work program with CONSTRUCT authority, to be developed consistent with applicable state and federal laws, regulations, and procedures. Pursuant to the finding of the RTC, the commission determines that the projects shown in Exhibit A are transportation or highway projects, or air-quality projects that will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads, and are therefore eligible to be funded with the SH 161 payments.

IT IS FURTHER ORDERED that, unless otherwise approved by the commission, all direct costs associated with the projects for which federal and state funds have not been allocated shall be charged to this work program, including the costs of right-of-way acquisition, preliminary engineering, and construction engineering. The costs of department staff incurred in the development, procurement, and construction of on-system projects to be funded from the SH 161 payments subaccounts will not themselves be funded from the SH 161 payments subaccounts. Funds from the SH 161

payments subaccounts that were used to reimburse the costs of department staff will be returned to the subaccounts without interest at least quarterly.

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

f. Speed Zones

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

113574
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.

16. Executive Session Pursuant to Government Code, Chapter 551


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

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

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

The regular meeting of the Texas Transportation Commission was adjourned at 10:32 a.m.

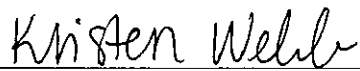
APPROVED:



Ted Houghton, Chairman
Texas Transportation Commission

xxx

I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on April 25, 2013, in Austin, Texas.



Kristen Webb, Assistant Chief Clerk
Texas Department of Transportation