

These are the minutes of the regular meeting of the Texas Transportation Commission held on September 27, 2012, in The Woodlands, Texas. The meeting was called to order by Chairman Houghton at 9:10 a.m. with the following commissioners present:

**Texas Transportation Commission:**

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

**Administrative Staff:**

Phil Wilson, Executive Director  
 Jeff Graham, General Counsel  
 Rose Walker, Chief Clerk  
 Kristen Webb, Chief Minute Order Clerk

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

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 3:33 p.m. on September 19, 2012, as required by Chapter 551, of the Government Code, referred to as “The Open Meetings Act.”

**ITEM 1. Safety Briefing**

This item was presented by Deputy Executive Director John Barton.

**ITEM 2. Approval of Minutes of the August 30, 2012, meeting of the Texas Transportation Commission**

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

The Commission received comments from Texas Senator Tommy Williams, Precinct 3 Commissioner Ed Chance, Texas Representative John Otto and Texas Representative Brandon Creighton.

The commission received a presentation from Houston District Engineer Mike Alford.

A presentation for former Texas Transportation Commissioner Ned Holmes was made with comments from each presiding commissioner as well as from Commissioner Holmes. A proclamation from Governor Rick Perry was read by Chairman Houghton.

**ITEM 3. Advisory Committee Appointment**

**Gulf Coast Rail District**

Appoint one member to the Gulf Coast Rail District (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 Chief Administrative and Strategy Officer Scott Leonard. The commission also received comments from Gulf Coast Rail Executive Director Maureen Crocker.

113280  
RRD

The Gulf Coast Freight Rail District (district) was established under the authority of Transportation Code, Chapter 171 and is governed by a board of directors (board). The board is responsible for the management, operation and control of the district.

Transportation Code, Chapter 171 provides that the Texas Transportation Commission (commission) may appoint one Ex Officio Nonvoting Director to the board.

The commission has determined that it would be in the best interest of the citizens of Texas to appoint Jeff Moseley, of the commission as the Ex Officio Nonvoting Director of the district.

IT IS THEREFORE ORDERED by the commission that the individual named above is appointed as the Ex Officio Nonvoting Director of the Gulf Coast Freight Rail District for a two-year term.

**ITEM 4. Comprehensive Development Agreements**

**Harris and Montgomery Counties - Approve the selection of the proposer who submitted the best value proposal to develop, design, construct, and maintain Segments F1, F2, and G of the SH 99 (Grand Parkway) project, from south of US 290 in Harris County to west of US 59 North in Montgomery County, and authorize the executive director of the department to execute a comprehensive development agreement 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 5 – 0. This item was presented by Strategic Projects Division Director Ed Pensock.

113278  
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 a toll project on the state highway system.

On March 31, 2011, by Minute Order 112629, the Texas Transportation Commission (commission) authorized and directed the department to issue a request for qualifications (RFQ) for the development of Segments F-1, F-2, and G of US 99 (Grand Parkway), from east of US 290 in Harris County to west of US 59 North in Montgomery County. The department issued the RFQ on November 18, 2011 and subsequently determined that five of the seven teams submitting qualifications statements in response to the RFQ were qualified to be on the short list of teams that would be requested to submit detailed proposals to develop, design, construct, and, potentially, maintain the project.

Transportation Code, §223.203 and 43 TAC §27.4 provide that, if authorized by the commission, the department will issue a request for proposals (RFP) from all private entities qualified for the short-list. On April 26, 2012, by Minute Order 113077, the commission authorized and directed the department to issue an RFP requesting detailed proposals from the short-listed teams to develop, design, construct, and maintain Segments F-1, F-2, and G of Grand Parkway using a design-build CDA and an associated capital maintenance agreement and authorized a payment for work product stipend of up to \$1 million per unsuccessful responsive proposer. On May 3, 2012, the department issued the RFP.

On August 15, 2012 technical proposals were received and on August 22, 2012, price proposals were received from Fluor Balfour Beatty Williams Brothers, Kiewit-Granite Parkway Constructors JV, Zachry-Odebrecht Parkway Builders, and Spring Creek Constructors. From August 16, 2012 until September 17, 2012, the department evaluated technical and price proposals from the proposers.

The proposals were evaluated concurrently in the following categories: (1) Pass/Fail and Responsiveness; (2) Technical Score; (3) Price Score; and (4) Schedule Score. The technical development proposals were evaluated using qualitative ratings of: meets minimum, fair, good, very good, and excellent; and assigned adjectival ratings and numerical scores in each category. Points were assigned to the technical development proposals based on those ratings and the weightings of the individual evaluation criteria to arrive at the Technical Score. To arrive at the Price Score, points were assigned to the proposal using a formula that is based on the combination of the proposed base and options price values, adjusted for complexity points, and the capital maintenance price. The schedule score was based on Proposer's commitments to deliver the entire Project ahead of the latest allowable TxDOT milestone dates for the Project.

The Technical Score points assigned to the technical development proposal were then added to the Price Score points and Schedule 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 concurrent qualitative evaluation and scoring of each proposal under the Technical Score, Schedule Score, and Price Score categories, and the Pass/Fail review, resulted in the proposals being ranked as follows: Zachry-Odebrecht Parkway Builders, Fluor Balfour Beatty Williams Brothers, Spring Creek Constructors, and Kiewit-Granite Parkway Constructors JV. The proposal submitted by Zachry-Odebrecht Parkway Builders was accordingly determined to provide the apparent best value.

IT IS THEREFORE ORDERED by the commission that the determination that the proposal submitted by Zachry-Odebrecht Parkway Builders provides the apparent best value to the department is approved, and the department is authorized and directed to commence and complete negotiations with Zachry-Odebrecht Parkway Builders necessary to finalize the design-build comprehensive development agreement and the associated capital maintenance agreement to develop, design, construct, and maintain Segments F-1, F-2, and G of Grand Parkway project, from south of US 290 in Harris County to west of US 59 North in Montgomery County, as well as other potential facilities to the extent necessary for connectivity, safety, and financing, and to modify the comprehensive development agreement as necessary as a result of such negotiations.

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

IT IS FURTHER ORDERED that if the executive director determines that the negotiations with Zachry-Odebrecht Parkway Builders cannot be successfully completed, and that therefore the proposal submitted by Zachry-Odebrecht Parkway Builders will not provide the apparent best value, the department is authorized to commence and complete discussions and negotiations with Fluor Balfour Beatty Williams Brothers, the next highest ranked proposer, with award to the next highest ranked proposer subject to the terms and conditions in the immediately preceding paragraph of this order.

**b. SH 99 (Grand Parkway) Toll Project**

Various Counties - Consider the final approval of a request for financing from the Grand Parkway Transportation Corporation (GPTC) to pay for eligible costs associated with the development, design, construction, operation, and maintenance of Segments D, E, F1, F2, and G of the SH 99 (Grand Parkway) toll project, from north of Kingsland Blvd. in Harris County to west of US 59 North in Montgomery County, and pre-development costs of other portions of the Grand Parkway, and authorize the executive director to enter into a financial assistance agreement for the Grand Parkway toll project (MO)

Commissioner Moseley made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Deputy Executive Director John Barton.

113279  
DMO

The Texas Department of Transportation (department) and the seven counties in the Houston area in which SH 99 (Grand Parkway) is located have been proceeding with the development of the Grand Parkway from SH 146 in Galveston County to SH 146 in Chambers County.

In accordance with the requirements of Transportation Code §228.0111 and the policies included in Minute Order 111410, the department and the seven counties entered into a Market Valuation Waiver Agreement, effective March 25, 2009, in which the parties agreed on the terms and conditions for the development, construction, and operation of the Grand Parkway, agreed to waive the development of a market valuation of the Grand Parkway, and agreed to certain other provisions applicable to the development, construction, and operation of the Grand Parkway. Each of the counties subsequently elected to exercise its option to develop, construct, and operate the portion of the Grand Parkway located within the territory of the county.

By resolution and order adopted on July 13, 2010, Chambers County withdrew its previous election to exercise that option, effectively choosing to not exercise its option, and providing for the reversion to the department of the right to develop, construct, and operate that portion of the Grand Parkway. In Minute Order 112528, the Texas Transportation Commission (commission) approved the department's determination to exercise its option to develop, finance, construct, and operate the portion of the Grand Parkway in Chambers County.

On January 11, 2011, the Harris County Commissioners Court rescinded its September 15, 2009 action to exercise the county's option, effectively choosing to not exercise its option, and providing for the reversion to the department of the right to develop, construct, and operate that portion of the Grand Parkway. In Minute Order 112558, the commission approved the department's determination to exercise its option to develop, finance, construct, and operate the portion of the Grand Parkway in Harris County.

On June 20, 2011, the Montgomery County Commissioners Court rescinded its September 14, 2009 action to exercise the county's option, effectively choosing to not exercise its option, and providing for the reversion to the department of the right to develop, construct, and operate that portion of the Grand Parkway. In Minute Order 112725, the commission approved the department's determination to exercise its option to develop, finance, construct, and operate the portion of the Grand Parkway in Montgomery County.

In Harris County, the department has been proceeding since 2011 with the construction of a Grand Parkway toll project comprising (1) an overpass at I-10 West and related highway improvements from north of Kingsland Boulevard to north of Colonial Parkway in Harris County (Segment D construction) and (2) three highway improvement projects identified as Segment E that will extend Grand Parkway from north of Colonial Parkway to south of US 290 in Harris County (Segment E construction), using the department's traditional design-bid-build method of

constructing highway improvement projects on the state highway system (Segment D construction and Segment E construction are referred to as the 2011 project).

In Harris and Montgomery counties, the department has been proceeding with the development of a toll project that will extend Grand Parkway from east of US 290 in Harris County to west of US 59 in Montgomery County, identified as Segments F-1, F-2, and G (2012 project), using a design-build comprehensive development agreement (CDA) in accordance with Subchapter E, Chapter 223, Transportation Code, which prescribes the process by which the department may enter into a CDA with a private entity that provides for the design, construction, maintenance or operation of a toll project on the state highway system. On September 27, 2012, the commission selected the proposer who submitted the best value proposal to develop, design, construct, and maintain the 2012 project using the CDA.

In Minute Order 113046, dated March 29, 2012, the commission adopted a resolution creating the Grand Parkway Transportation Corporation (GPTC) pursuant to Title 43, Texas Administrative Code, §15.95, approving its certificate of formation and bylaws and appointing the initial directors. The commission adopted 43 TAC §15.95 to establish procedures applicable to toll project corporations created under Transportation Code, Chapter 431 (chapter 431) in entering into contracts with or on behalf of the commission in connection with the funding and development of toll projects (toll project corporation rules).

GPTC is authorized to assist and act on behalf of the commission in the development, financing, design, construction, reconstruction, expansion, operation and/or maintenance of the Grand Parkway toll project in fulfillment of the purposes of chapter 431, including promoting and developing public transportation facilities and systems by new and alternative means, reducing burdens and demands on the limited funds available to the commission, and increasing the effectiveness and efficiency of the commission.

The department and the GPTC have been working together to identify an approach to provide for the funding and development of Segments D, E, F-1, F-2 and G of the Grand Parkway in Harris and Montgomery counties and to provide funding for Grand Parkway pre-development costs of undeveloped segments in other counties.

The department and the GPTC are working to define (1) the responsibilities of GPTC to pay the costs of (a) financing, constructing, operating and maintaining the Grand Parkway segments developed as the 2012 project using the CDA and Segments D and E in Harris County and (b) funding certain pre-development costs of other portions of the Grand Parkway, and (2) the assistance to be provided to the GPTC by the department in the form of (a) personnel, consultant advice and contractual support, (b) assignment of revenues from completed segments of the Grand Parkway, and (c) financial assistance.

The allocation of responsibilities between GPTC and the department and the assistance to be provided to the GPTC by the department, other than the financial assistance, will be reflected in a project agreement being negotiated between the parties.

Transportation Code §222.103 authorizes the department to participate, by spending money from any available source, in the acquisition, construction,

maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission.

On July 10, 2012, the GPTC's board of directors authorized the submission of an application for financial assistance under Transportation Code §222.103 for the costs of design, construction, acquisition of right of way, operation and maintenance and major maintenance of the 2012 project segments, costs of operation and maintenance of the portions of Segments D and E in Harris County, and pre-development costs of other portions of the Grand Parkway.

The GPTC plan of finance described in the application for financial assistance contemplates that the commission will assign to GPTC the toll revenues from operation of Segments F-1, F-2, and G of the Grand Parkway, and from operation of the portions of Segments D and E in Harris County, subject to satisfaction by the GPTC of all requirements for final approval of financial assistance by the commission and the project agreement having been executed by the parties.

In Minute Order 113202, dated July 26 2012, the commission granted preliminary approval of a toll equity loan in an aggregate amount in nominal dollars no greater than the facility costs associated with Segments F-1, F-2, and G of the Grand Parkway and the maintenance, operation and major maintenance costs of Segments F-1, F-2, and G of the Grand Parkway, together with operation and maintenance costs of Segments D and E in Harris County, incurred or reasonably expected to be incurred over 52 years, under mutually approved projections and including a commercially reasonable contingency for design and construction cost overruns, eligible to be paid from the state highway fund under applicable law, and which may only include costs for (1) design and construction, including costs of acquiring right of way, and the identified and permitted pre-development costs of other portions of the Grand Parkway, (2) operations and maintenance costs of the 2012 project segments and Segments D and E in Harris County, and (3) major maintenance. On September 17, 2012, the board of directors of the GPTC approved a modification of the project for which financial assistance is being requested from the commission to include the facility costs associated with Segments D (from north of Kingsland Boulevard to north of Colonial Parkway in Harris County), E, F-1, F-2, and G of the Grand Parkway and the maintenance, operation and major maintenance costs of Segment D in Harris County and Segments E, F-1, F-2 and G, and identified and permitted pre-development costs of other portions of the Grand Parkway, as determined under mutually approved projections and including a commercially reasonable contingency for design and construction costs overruns that are eligible to be paid from the state highway fund under applicable law, and are incurred or reasonably expected to be incurred over 52 years.

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the Grand Parkway Transportation Corporation meets the requirements of the commission and, accordingly, the commission grants final approval of financial assistance for Segment D in Harris County and Segments E, F-1, F-2 and G, and identified and permitted pre-development costs of other portions of the Grand Parkway, in an aggregate amount in nominal dollars not to exceed \$9,600,000,000, and authorizes the executive director of the department to enter into the toll equity loan

agreement with the Grand Parkway Transportation Corporation for the Grand Parkway project as described above, the form of which is attached as Exhibit A to this order, with such changes as the executive director may approve.

IT IS FURTHER ORDERED that the revenues of the portion of Segment D in Harris County and Segments E, F-1, F-2, and G of the Grand Parkway are assigned to the Grand Parkway Transportation Corporation upon execution by the department and the Grand Parkway Transportation Corporation of the project agreement.

IT IS FURTHER ORDERED that the Grand Parkway Transportation Corporation perform any function authorized by Subchapters A-C of chapter 431 and perform any function not specified by chapter 431, but necessary to develop, finance, refinance, design, construct, reconstruct, expand, toll, operate and/or maintain the Grand Parkway including the issuance of one or more series of public securities; collecting and enforcing tolls or causing such; execution of any agreements with the department or any other parties necessary in connection with the plan of finance for Grand Parkway or other matters related to the tolling, and other agreements and loans with the department pursuant to Transportation Code, Section 222.103; and any other matters related thereto.

IT IS FURTHER ORDERED that the executive director or his designee is authorized and directed to execute all ancillary agreements, instruments and certificates necessary to effect the delivery of the toll equity loan agreement and the purposes of this order.

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

**ITEM 5. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:**

**a. Final Adoption**

**(1) Chapter 5 – Finance (MO)**

**Repeal of §§5.70 - 5.74 (Transportation Development Credit Program) and New §§5.101 - 5.111 (Transportation Development Credit Program)**

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 Chief Financial Officer James Bass.

113281  
FIN

The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of §§5.70-5.74 and adopt new §§5.101-5.111, all relating to the Transportation Development Credit 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 §§5.70-5.74 and new §§5.101-5.111 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 minute order clerk.

**(2) Chapter 7 – Rail Facilities and Chapter 25 – Traffic Operations (MO)**

**New §§7.101 – 7.106 (Railroad Crossings) and Repeal of §§25.70 – 25.76 (Railroad Crossings)**

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 Chief Administrative and Strategy Officer Scott Leonard.

113282  
RRD

The Texas Transportation Commission (commission) finds it necessary to adopt new §§7.101 - 7.106 and adopt the repeal of §§25.70 - 25.76, all relating to railroad grade crossings 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 - D, 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 §§7.101 - 7.106 and the repeal of §§25.70 - 25.76 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 - D are on file with the minute order clerk.

**(3) Chapter 28 – Oversize and Overweight Vehicles and Loads (MO)**

**New §28.40, Purpose, §28.41, Definition, and §28.42, Districts Powers and Duties, §28.43, Permit Eligibility, §28.44, Permit Issuance Requirements and Procedures, §28.45, Permit Weight Limits for Axles, §28.46, Movement Requirements and Restrictions, §28.47, Records (Victoria County Navigation District Permits)**

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 Deputy Executive Director John Barton.

113283  
MNT

The Texas Transportation Commission (commission) finds it necessary to adopt new §§28.40 - 28.47, all relating to Victoria County Navigation District Permits to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that new §§28.40 - 28.47 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

**b. Proposed Adoption**

**(1) Chapter 9 - Contract and Grant Management (MO)**

**Amendments to §9.4, Civil Rights-Title VI Compliance (General)**

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 Chief Administrative and Strategy Officer Scott Leonard.

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §9.4, relating to Civil Rights - Title VI Compliance, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the 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 §9.4 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

**ITEM 6. Office of Compliance and Ethics Report**

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

**ITEM 7. Traffic Operations**

**Hill County – Proposed lane use restrictions for trucks on I-35 in Hill County (MO)**

113284  
OCR

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 Deputy Executive Director John Barton.

113285  
TRF

In accordance with Transportation Code §545.0651 and 43 Texas Administrative Code (TAC) §§25.601-25.604, the Texas Department of Transportation (department) is proposing a lane restriction applicable to trucks with three or more axles, and to truck tractors, regardless of whether the truck tractor is drawing another vehicle or trailer as defined in Transportation Code, §541.201.

The proposed lane restriction prohibits those vehicles from using any traffic lane, other than the second, third and fourth controlled access lanes on each side of INTERSTATE HIGHWAY 35 as counted from the center (inside left lane) of the highway from approximately US 77 south of the Interstate Highway 35 East/West split through Hill County to approximately 1.5 miles north of Abbott.

Transportation Code, §545.0651, authorizes the 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 rules, 43 TAC §§25.601-25.604 that became effective on January 8, 2004.

In accordance with TAC §25.604(e)(3), the department conducted a traffic study to evaluate the impact of the lane restriction. In accordance with §25.604(d), the department published a notice in the Texas Register for a 30 day comment period on August 3, 2012 and held a public hearing on the proposed restriction on August 14, 2012. The proposed lane restriction 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 proposal based on the safety of the traveling public and the factors listed in 43 TAC §25.604(f), finds that the proposed lane restriction should be approved.

IT IS THEREFORE ORDERED by the commission that the proposed lane restriction in Hill County is approved and shall become effective upon placement of all necessary traffic control devices.

**ITEM 8. Contracts**

Award or reject contracts for maintenance, highway and building construction

**a. Highway Maintenance and Department Building Construction**

(see attached itemized list) (MO)

Commissioner Austin made a motion, which was seconded, and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Deputy Executive Director John Barton.

113286  
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 September 6 and 7, 2012.

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

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

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

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

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

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

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

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

Commissioner 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 Deputy Executive Director John Barton.

113287  
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 September 6 and 7, 2012.

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

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

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

IT IS THEREFORE ORDERED by the commission that the contracts described in Exhibit A, with the exception of Project Number STP 2012(699)MM (Hidalgo County), be and are hereby respectively awarded to the lowest bidder or rejected as indicated therein. The award or rejection of Project Number STP 2012(699)MM is hereby deferred to a later date.

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

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

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

### **ITEM 9. Eminent Domain Proceedings**

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

Commissioner Moseley made a motion that the Texas Transportation Commission authorize the Texas Department of Transportation to use the power of eminent domain to acquire the properties described in the minute order set forth in the agenda for the current month for construction, reconstruction, maintenance, widening, straightening, or extending the highway facilities listed in the minute order as a part of the state highway system, and that the first record vote applies to all units of property to be condemned. The motion was seconded and the following minute order was approved by Commissioner Houghton, Commissioner Underwood, Commissioner Meadows, Commissioner Austin and Commissioner Moseley (a vote of 5 – 0). This item was presented by Deputy Executive Director John Barton.

ROW

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 - RR. 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 - 22, 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 sulphur, as provided by law, as follows:

NON-CONTROLLED ACCESS

| COUNTY  | HIGHWAY | EXHIBIT | ROW CSJ NO. | PARCEL |
|---------|---------|---------|-------------|--------|
| Bastrop | FM 535  | 16      | 0807-05-016 | 1      |

|           |             |    |             |     |
|-----------|-------------|----|-------------|-----|
| Collin    | FM 2786     | 14 | 3392-01-010 | 2   |
| Collin    | FM 2786     | 21 | 3392-01-010 | 1   |
| Collin    | FM 2786     | 18 | 3392-01-010 | 3   |
| Comal     | US 281      | 12 | 0253-03-065 | 15  |
| Denton    | FM 720      | 2  | 1567-01-034 | 5   |
| Denton    | FM 720      | 3  | 1567-01-034 | 7   |
| Denton    | FM 720      | 4  | 1567-01-034 | 10  |
| Denton    | FM 720      | 5  | 1567-01-034 | 18  |
| Denton    | FM 720      | 1  | 1567-01-034 | 3   |
| El Paso   | Buford Road | 13 | 8056-24-003 | 4   |
| El Paso   | SS 276      | 22 | 0608-01-002 | 9   |
| Fort Bend | FM 2218     | 6  | 2093-01-025 | 17  |
| Harris    | US 290      | 7  | 0050-09-083 | 612 |
| Harris    | US 290      | 8  | 0050-09-083 | 613 |
| Harris    | US 290      | 19 | 0050-09-083 | 600 |
| Harris    | US 290      | 9  | 0050-09-083 | 615 |
| Harris    | US 290      | 17 | 0050-09-083 | 620 |
| Harris    | US 290      | 15 | 0050-09-083 | 601 |
| Harris    | US 290      | 10 | 0050-03-084 | 656 |
| Harris    | US 290      | 11 | 0050-09-084 | 657 |
| Harris    | US 290      | 20 | 0050-09-084 | 667 |

## CONTROLLED ACCESS

| <u>COUNTY</u> | <u>HIGHWAY</u> | <u>EXHIBIT</u> | <u>ROW CSJ NO.</u> | <u>PARCEL</u> |
|---------------|----------------|----------------|--------------------|---------------|
| Bell          | IH 35          | RR             | 0015-04-083        | 23            |
| Bell          | IH 35          | GG             | 0015-04-083        | 126B          |
| Bell          | IH 35          | DD             | 0015-04-083        | 89A           |
| Bell          | IH 35          | FF             | 0015-04-083        | 126A,126A(Te) |
| Bell          | IH 35          | EE             | 0015-04-083        | 89B           |
| Bell          | IH 35          | BB             | 0015-07-078        | 74AC          |
| Bell          | IH 35          | CC             | 0015-07-078        | 75AC          |
| Bell          | IH 35          | L              | 0015-14-123        | 63            |
| Bell          | IH 35          | P              | 0015-14-123        | 110           |
| Bell          | IH 35          | R              | 0015-14-123        | 54AC          |
| Bell          | IH 35          | N              | 0015-14-123        | 93            |
| Bell          | IH 35          | M              | 0015-14-123        | 88,88E,88AC   |
| Bell          | IH 35          | LL             | 0015-14-123        | 6             |
| Bell          | IH 35          | V              | 0015-14-123        | 65            |
| Bell          | IH 35          | O              | 0015-14-123        | 104           |
| Bell          | IH 35          | MM             | 0015-14-123        | 4             |
| Bell          | IH 35          | Q              | 0015-14-124        | 19            |

## CONTROLLED ACCESS

| <u>COUNTY</u> | <u>HIGHWAY</u> | <u>EXHIBIT</u> | <u>ROW CSJ NO.</u> | <u>PARCEL</u> |
|---------------|----------------|----------------|--------------------|---------------|
| Bell          | IH 35          | T              | 0015-14-124        | 32,32AC       |

|          |        |    |             |       |
|----------|--------|----|-------------|-------|
| Bell     | IH 35  | S  | 0015-14-124 | 45    |
| Dallas   | IH 35E | J  | 0196-03-243 | 51    |
| Dallas   | IH 35E | QQ | 0196-03-243 | 3     |
| Dallas   | IH 35E | U  | 0196-03-243 | 57    |
| Dallas   | IH 35E | X  | 0196-03-243 | 4     |
| Dallas   | IH 35E | Y  | 0442-02-142 | 17A   |
| Denton   | IH 35E | AA | 0196-01-097 | 9     |
| Denton   | IH 35E | Z  | 0196-01-097 | 8     |
| Denton   | IH 35E | KK | 0196-02-109 | 29    |
| Erath    | US 67  | E  | 0079-08-002 | 11    |
| Harris   | IH 45  | K  | 0500-03-546 | 203   |
| Harris   | IH 45  | HH | 0500-03-546 | 207   |
| Harris   | US 290 | H  | 0050-09-084 | 654   |
| Harris   | US 290 | II | 0050-09-084 | 659   |
| Harris   | US 290 | F  | 0050-09-084 | 652   |
| Harris   | US 290 | I  | 0050-09-084 | 658   |
| Harris   | US 290 | G  | 0050-09-084 | 653   |
| Harris   | US 290 | JJ | 0050-09-084 | 662   |
| Harris   | US 290 | A  | 3256-01-101 | 1503A |
| Harris   | US 290 | C  | 3256-01-101 | 1509  |
| Harris   | US 290 | B  | 3256-01-101 | 1503B |
| Rockwall | IH 30  | W  | 0009-12-077 | 9     |
| Shelby   | SL 500 | D  | 3315-01-017 | 22    |
| Tarrant  | SH 121 | OO | 0364-01-129 | 74    |
| Tarrant  | SH 121 | PP | 0364-01-129 | 81    |
| Tarrant  | SH 121 | NN | 0364-01-134 | 118   |

Note: Exhibits A - RR and 1-22 are on file with the minute order clerk.

### **ITEM 10. Routine Minute Orders**

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

#### **a. Donations to the Department**

(1) **Bridge Division** – Consider a donation from the Precast/Prestressed Concrete Institute (PCI) for a department employee’s travel expenses to attend the 2012 PCI Annual Convention and National Bridge Meeting in Nashville, Tennessee on September 28 – 30, 2012 (MO)

113289  
CSO

This minute order considers a donation from the Precast/Prestressed Concrete Institute (PCI) for a Texas Department of Transportation (department) employee’s travel expenses to attend the 2012 PCI Annual Convention and National Bridge Meeting in Nashville, Tennessee, from September 28 – 30, 2012. The amount is estimated to be \$2,424.

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

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

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

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

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

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

IT IS THEREFORE ORDERED by the commission that the donation from PCI estimated at \$2,424 is approved for acceptance. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

**(2) Travel Information Division – Consider a donation from the Texas Travel Industry Association (TTIA) to provide food, beverage, lodging, admission and transportation to area attractions, from various sponsors, to the department during a study tour to educate the department's travel counselors on the Far West Texas Region from October 7-12, 2012 (MO)**

113290  
CSO

This minute order considers a donation from TTIA, to provide food, beverage, lodging, admission and transportation to area attractions, from various sponsors, to the Texas Department of Transportation (department) during a study tour to educate the department's travel counselors on the Far West Texas Region from October 7 – 12, 2012. The estimated value of the donation is \$30,000.

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

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

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

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

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

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

IT IS THEREFORE ORDERED by the commission that the donation with an estimated value of \$30,000 by the Texas Travel Industry Association is approved for acceptance. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

**(3) Dallas District – Consider a donation from QuikTrip Corporation for the design and construction of a right-turn deceleration lane for access to the donor's new facility located at the southbound frontage road (northwest corner) of Loop 12 and Davis Street in Dallas County (MO)**

113291  
CSO

This minute order considers a donation from QuikTrip Corporation for the design and construction of a right-turn deceleration lane for access to the donor's new facility located at the southbound frontage road (northwest corner) of Loop 12 and Davis Street in Dallas County. All design and construction work will be provided by the donor, its consultant or its contractor. In addition, the donor will pay the state's direct

and indirect costs to review, monitor and inspect the work that is on the state right of way. The estimated value of the donation, including direct and indirect costs is \$105,000.

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

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

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

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

The commission finds that acceptance of the donation would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation by QuikTrip Corporation estimated at \$105,000 is approved for acceptance. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

**(4) Dallas District – Consider a donation from Lowe's Companies, Inc. for the design and construction of a deceleration lane on the eastbound frontage road of I-20 to the new Lowe's and commercial development in Dallas County (MO)**

113292  
CSO

This minute order considers a donation from Lowe's Companies, Inc. for the design and construction of a deceleration lane on the eastbound frontage road of I-20 to the new Lowe's and commercial development in Dallas County. All design and

construction work will be provided by the donor, its consultant or its contractor. In addition, the donor will pay the state's direct and indirect costs to review, monitor and inspect the work that is on the state right of way. The estimated value of the donation, including direct and indirect costs is \$35,360.

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

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

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

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

The commission finds that acceptance of the donation would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation by Lowe's Companies, Inc. at \$35,360 is approved for acceptance. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

**(5) Houston District – Consider a donation from NEC Northpark/59, L.C., for the Design and construction of a left-turn lane and right-turn lane from SL 494 to the Northpark Place Reserve (Kroger Center) development in Montgomery County (MO)**

the Northpark Place Reserve (Kroger Center) development in Montgomery County. All design and construction work will be provided by the donor, its consultant or its contractor. In addition, the donor will pay the state's direct and indirect costs to review, monitor and inspect the work that is on the state right of way. The estimated value of the donation, including direct and indirect costs is \$107,000.

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

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

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

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

The commission finds that acceptance of the donation would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation by NEC Northpark/59, L.C., estimated at \$107,000 is approved for acceptance. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

**(6) Houston District – Consider a donation from Hearthstone HOA to provide a permanent irrigation system, plant material and maintenance of both in perpetuity as a landscape development project located within the right of way in the medians of FM 529 in Harris County (MO)**

113294  
CSO

This minute order considers a donation from Hearthstone HOA to provide a permanent irrigation system, plant material and maintenance of both in perpetuity, as a landscape development project located within the right of way in the medians of Farm to Market 529 in Harris County. Hearthstone HOA will install and maintain the irrigation system that will provide vegetative watering to trees within the right of way as part of a district wide landscape project in accordance with the Houston District’s Green Ribbon Program. The estimated value of the donation is \$126,547.

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

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

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

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

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

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

IT IS THEREFORE ORDERED by the commission that the donation from Hearthstone HOA with an estimated value of \$126,547 is approved for acceptance. The executive director or the executive director’s designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(7) Houston District – Consider a donation from Sam’s Real Estate Business Trust, for the design and construction of a right-turn lane from SH 288 at Discovery Bay

Drive for the Sam's Club retail center in Brazoria County (MO)113295  
CSO

This minute order considers a donation from Sam's Real Estate Business Trust, for the design and construction of a right-turn lane from State Highway 288 at Discovery Bay Drive for the Sam's Club retail center in Brazoria County. All design and construction work will be provided by the donor, its consultant or its contractor. In addition, the donor will pay the state's direct and indirect costs to review, monitor and inspect the work that is on the state right of way. The estimated value of the donation, including direct and indirect costs is \$40,320.15.

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

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

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

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

The commission finds that acceptance of the donation would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation by Sam's Real Estate Business Trust, estimated at \$40,320.15 is approved for acceptance. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(8) San Antonio District – Consider a donation from HEB Grocery Company, LP, for the installation of a new traffic signal on SH 97 at the intersection of S. Reed Street and the proposed location of the main entrance to the donor’s facility (MO)

113296  
CSO

This minute order considers a donation from HEB Grocery Company, LP, for the installation of a new traffic signal on State Highway 97 at the intersection of S. Reed Street and the proposed location of the main entrance to the donor’s facility. The improvements are necessary to safely and orderly facilitate the anticipated increase in traffic in this vicinity as a result of the donor’s expansion of their existing facility. All design and construction work will be provided by the donor, its consultant or its contractor. In addition, the donor will pay the Texas Department of Transportation’s (department) direct and indirect costs to review the construction documents at stages of partial completion, according to industry standards (30, 60 and 90% complete) and during construction. The estimated value of the donation, including direct and indirect costs is \$150,000.

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

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

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

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

The commission finds that acceptance of the donation would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation by HEB Grocery Company, LP, estimated at \$150,000 is approved for acceptance. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

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

**(1) Anderson County - US 287 adjacent to Gus Engeling Wildlife Management Area - Consider the transfer of surplus right of way to the Texas Parks and Wildlife Department (TPWD) (MO)**

113297  
ROW

In ANDERSON COUNTY, on US 287, the State of Texas acquired certain land needed for highway purposes by instrument recorded in Volume 697, Page 40, Deed Records of Anderson County, Texas.

The land (surplus land) 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 waive payment for real property transferred to a governmental entity if the estimated cost of future maintenance on the property equals or exceeds the fair value of the property.

The fair value of the surplus land has been determined to be \$9,300, and the state's costs for maintenance over the next 20 years is estimated to be \$212,000.

Texas Parks and Wildlife Department (TPWD) has requested that the surplus land be transferred to TPWD in consideration of the savings to the state of future maintenance costs, since the future maintenance costs exceed the value of the surplus land.

The commission finds \$9,300 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 transferring all of the state's rights, title and interest in the surplus land to Texas Parks and Wildlife Department in consideration of the savings to the state of future maintenance costs.

**(2) Brazos County- FM 158 in Bryan – Consider the quitclaim of surplus right of way to the abutting landowner (MO)**

113298  
ROW

In the city of Bryan, BRAZOS COUNTY, on FARM TO MARKET ROAD158 the state of Texas used certain land to which there is no record title in the name of the state or city.

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

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the quitclaim of property to which there is no record title to abutting property owners at the request of the county or municipality.

Central Texas Properties, Ltd., is the abutting landowner and has requested that the surplus land be quitclaimed to the company.

The city has requested that the surplus land be quitclaimed to the abutting landowner.

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

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

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

**(3) Galveston County - SL 197 in Texas City - Consider the removal of a highway segment from the system, redesignation of the remaining highway segment and transfer of surplus right of way to the city (MO)**

113299  
ROW

In the city of Texas City, GALVESTON COUNTY, on STATE LOOP 197 (SL 197), the state of Texas acquired certain land for highway purposes.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended, as shown in Exhibit A, that existing SL 197 from SH 146 eastward to 19th Avenue, a distance of approximately 3.45 miles, be removed from the state highway system; that control, jurisdiction and maintenance be transferred to the city; and that existing SL 197 from 19th Avenue southward to SH 146, a distance of 5.2 miles, be redesignated as STATE SPUR 197 (SS 197).

The land (surplus land), described in Exhibit B, 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 waive payment for real property transferred to a governmental entity if the estimated cost of future maintenance on the property equals or exceeds the fair value of the property.

The commission finds \$712,875 to be a fair and reasonable value of the state's rights, title and interest in the surplus land, and the cost of future maintenance over 25 years is estimated to be \$2.70 million.

IT IS THEREFORE ORDERED by the commission that: 1) existing SL 197 from SH 146 eastward to 19th Avenue, a distance of approximately 3.45 miles, is removed from the state highway system; 2) control, jurisdiction and maintenance is transferred to the city; and 3) existing SL 197 from 19th Avenue to SH 146 southward, a distance of approximately 5.2 miles, is redesignated SS 197.

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 transferring the state's rights, title and interest in the surplus land to the City of Texas City, Texas, in consideration of the savings to the state of future maintenance costs; 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 state land.

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

**(4) Hunt County – SH 276 from 5.92 miles east of FM 751 to 0.17 miles east of FM 513 – Consider the acceptance of a donation of land for a highway improvement project (MO)**

113300  
ROW

In HUNT COUNTY, on STATE HIGHWAY 276 from 5.92 miles east of FM 751 to 0.17 miles east of FM 513, the Texas Department of Transportation (department) is acquiring the right of way for a highway improvement project.

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

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

Sabine River Authority of Texas (owner) is the owner of the property described in Exhibit A and wants to donate this property, estimated at \$300,000, to the department for construction of a highway improvement project.

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

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

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

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

**(5) Tarrant County - SH 183 at SH 199 in River Oaks - Consider the sale of surplus right of way to the abutting landowner (MO)**

113301  
ROW

In the city of River Oaks, TARRANT COUNTY, on STATE HIGHWAY 183, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 1471, Page 140, Deed Records of Tarrant 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.

QuikTrip Corporation is the abutting landowner and has requested to purchase the surplus land for \$446,760.

The commission finds \$446,760 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 QuikTrip Corporation for \$446,760; 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.

(6) Tarrant County - SH 360 at Harwood Road in Euless - Consider the quitclaim of surplus right of way to honor a reversionary clause (MO)

113302  
ROW

In the city of Fort Worth, TARRANT COUNTY, on STATE HIGHWAY 360, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 8279, Page 2101, of the Deed Records of Tarrant County, Texas.

The instrument conveying the land to the state contained a clause to the effect that if the land is no longer used as a public highway, the property reverts to the grantor.

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 quitclaim of the state's interest to comply with a reversionary clause contained in the instrument that originally conveyed the interest to the state.

The commission finds that it is proper and correct that the state quitclaim its rights, title and interest in the surplus and to comply with the reversionary clause contained in the instrument of conveyance 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 quitclaiming the state's rights, title and interest in the surplus land to M. Paul Spain, as trustee for Bear Creek IV Joint Venture, his successors or assigns.

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

(7) Tarrant County - I-820 at Cahoba Drive in Fort Worth - Consider the sale of surplus right of way to the successful bidder and retention of a drainage easement (MO)

113303  
ROW

In the city of Fort Worth, TARRANT COUNTY, on INTERSTATE-820, the state of Texas acquired certain land for highway purposes by instrument recorded as Instrument No. D205292577, Deed Records of Tarrant County, Texas.

The land (surplus land), described in Exhibit A, is no longer needed for highway purposes. An easement interest over a portion of the surplus land is needed for highway drainage purposes (drainage easement), described in Exhibit B, and is reserved to the state.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Department of Transportation advertised the surplus land for sale.

James D. Finley submitted a bid of \$750,500, which was the successful bid.

The Texas Transportation Commission (commission) finds \$750,500 to be a fair and reasonable value of the state's rights, title and interest in the surplus land, subject to the drainage easement.

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, subject to the drainage easement, to James D. Finley for a cash consideration of \$750,500; 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 minute order clerk.

**c. Highway Designations**

**(1) Bowie County - Authorize the submission of an application to the American Association of State Highway and Transportation Officials (AASHTO) to designate a segment of US 59 in Texarkana as an Interstate Highway (MO)**

113304  
TPP

In accordance with Appendix A to Subpart A of 23 CFR Part 470 and the policies of the Federal Highway Administration and the American Association of State Highway and Transportation Officials (AASHTO), the Texas Department of Transportation (department) is recommending that a 3.5 mile segment of US HIGHWAY 59 (US 59), from I-30 southward to State Loop 151 in the city of Texarkana, be added to the Interstate Highway System and designated as INTERSTATE HIGHWAY 369 (I-369).

This minute order authorizes the department to petition the AASHTO Special Committee on US Route Numbering to recognize this segment of US 59, as shown in Exhibit A, as I-369.

IT IS THEREFORE ORDERED by the commission that the department is authorized to submit an application to the AASHTO Special Committee on US Route Numbering requesting the recognition of I-369 on the current location of US 59 from I-30 southward approximately 3.5 miles to SL 151 in the city of Texarkana.

IT IS UNDERSTOOD that following approval of the application by the AASHTO Special Committee on US Route Numbering, the commission will confirm the designation by minute order.

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

**(2) Cameron, Hidalgo and Starr Counties - Authorize the submission of an application to the American Association of State Highway and Transportation Officials (AASHTO) to designate one or more segments of US 83 in the Rio Grande Valley as an Interstate Highway (MO)**

113305  
TPP

In accordance with Appendix A to Subpart A of 23 CFR Part 470 and the policies of the Federal Highway Administration (FHWA) and the American Association of State Highway and Transportation Officials (AASHTO), state departments of transportation must coordinate changes to the Interstate System with AASHTO by submitting an application for recognition of a new interstate highway to the Special Committee on US Route Numbering.

The Texas Department of Transportation (department) proposes to designate one or more segments of US HIGHWAY 83 (US 83) in the Rio Grande Valley as logical additions to the Interstate System.

This minute order authorizes the department to petition the AASHTO Special Committee on US Route Numbering to recognize one or more segments of US 83 as logical additions to the Interstate System, with the condition that FHWA finds that each segment meets the criteria contained in Appendix A to Subpart A of 23 CFR Part 470 and approves the addition to the Interstate System. It is further recognized that it is the purview of the AASHTO Special Committee on US Route Numbering to assign an Interstate route number to the designated highway in coordination with FHWA.

IT IS THEREFORE ORDERED by the Texas Transportation Commission (commission) that the department is authorized to submit an application to the AASHTO Special Committee on US Route Numbering requesting the recognition of one or more segments of US 83 in the Rio Grande Valley as logical additions to the Interstate System.

IT IS UNDERSTOOD that following approval by the AASHTO Special Committee on US Route Numbering and FHWA, the commission will designate the segments with the assigned Interstate route number by minute order.

**d. Release of Access Rights**

**(1) Harris County – I-10, east of Westgreen Boulevard in Katy - Consider the designation of three locations on the highway at which access will be permitted to the abutting property (MO)**

113306  
DES

In HARRIS COUNTY, on INTERSTATE HIGHWAY 10, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded with the Harris County Clerk, File Number P019476 of Harris County, Texas, with denial of access to the abutting remainder property as described in the instrument.

Lin and Sons Enterprises, Inc., the current owner of the abutting property, has requested access to and from the westbound frontage road of I-10 be permitted along their south property line at three new access points, 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 three new access points will not compromise the mobility, safety or operation of the existing state highway facility, and designates the three new access points as locations where ingress and egress are permitted to and from the westbound frontage road of I-10.

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

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

(2) Waller County - Authorize the re-designation of access control along the I-10 eastbound frontage road, immediately east of FM 1489, in the city of Brookshire in order to move the sole access point on the frontage road for the property owned by Brookshire Town Center, LLC, from its original location to a new location (MO)

113307  
DES

In the city of Brookshire, in WALLER COUNTY, on I-10, a designated controlled-access highway, access onto the eastbound frontage road was permitted to the abutting property owner as described by metes and bounds and recorded in Volume 608, page 506 of the Deed Records of Waller County, Texas.

Brookshire Town Center, LLC, the current owner of the abutting property, has requested a redesignation of the control of access along their property line. The original access point, as shown in Exhibit A and attached hereto (original access point), will become controlled whereby access is denied. Access will be permitted at the new access point as described in Exhibit B (new access point).

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 is necessary for the mobility, safety and operation of the state highway facility and authorizes redesignation of permitted access along 35.00 linear feet of the I-10 eastbound frontage road from its original access point to the location described in Exhibit B.

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

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

**e. Reports****Accept the Report of Actual Traffic and Revenue for the Central Texas Turnpike System (CTTS) (MO)**113308  
TOD

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

The commission has previously issued \$2,199,993,781.80 in obligations to finance a portion of the costs of the Central Texas Turnpike System (system), a turnpike project composed initially of the State Highway 130, State Highway 45, and Loop 1 project elements (2002 Project), pursuant to an Indenture of Trust and four supplemental indentures. The Indenture of Trust dated July 15, 2002 (Indenture), prescribes the terms, provisions and covenants related to the issuance of turnpike revenue bonds and obligations to finance a portion of the costs of the 2002 Project.

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

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

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

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

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

**f. Speed Zones****Various Counties – Establish or alter regulatory and construction speed zones on various sections of highways in the state (MO)**113309  
TRF

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

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

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

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

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

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

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

The department, in consultation with the Texas Commission on Environmental Quality, has also determined that the environmental speed limit on a segment of State Highway 242 established by Minute Order 109064, dated October 31, 2002 and listed in Exhibit D, is no longer necessary.

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

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

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

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

The commission received comments from Denise Lord with the Texas Workforce Commission and Maria Espinoza of the Houston Eagle Forum.

**ITEM 11. Executive Session Pursuant to Government Code, Chapter 551 Section 551.071 - Consultation with and advice from legal counsel regarding any item on this agenda**

The commission did not meet in executive session.

The regular meeting of the Texas Transportation Commission was adjourned at 11:05 a.m.

APPROVED:

September 27, 2012

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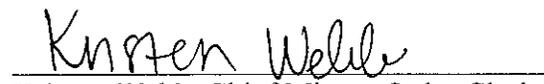


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Ted Houghton, Chairman  
Texas Transportation Commission

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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 September 27, 2012, in The Woodlands, Texas.



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Kristen Webb, Chief Minute Order Clerk  
Texas Department of Transportation