

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on April 30, 2009 in Austin, Texas. The meeting opened at 9:04 a.m. with the following commissioners present:

Texas Transportation Commission:

Deirdre Delisi	Chair
Ted Houghton, Jr.	Commissioner
Ned Holmes	Commissioner
Fred Underwood	Commissioner
Bill Meadows	Commissioner

Administrative Staff:

Amadeo Saenz, Jr., Executive Director
 Bob Jackson, General Counsel
 Roger Polson, Executive Assistant to the Deputy Executive Director
 Dee Hernandez, Chief Minute Order Clerk

Registration sheets listing others in attendance are on file with the Texas Department of Transportation Chief Minute 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 2:18 p.m. on April 22, 2009, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

ITEM 1. Approval of Minutes of the March 26, 2009 regular meeting of the Texas Transportation Commission

Commissioner Underwood made a motion, seconded by Commissioner Holmes, and the commission approved the minutes of the March 26, 2009 regular meeting of the Texas Transportation Commission.

ITEM 2. AWARDS/RECOGNITIONS/RESOLUTIONS

a. Recognition of the service of Robert "Bob" E. Tesch, outgoing chairman of the Central Texas Regional Mobility Authority

This resolution was presented by Commission Chairman Deirdre Delisi.

b. Resolution to recognize Bob Daigh, Austin District Engineer, upon his retirement after more than 21 years with the department

This resolution was presented by Executive Director Amadeo Saenz.

ITEM 14. CONSTRUCTION AND MAINTENANCE FUNDING REPORT

Status report on the FY 2009 Obligation Limit and report on the actual April 2009 and proposed May 2009 highway maintenance and construction contract letting.

This report was presented by Chief Financial Officer James Bass and Assistant Executive Director for Engineering Operations John Barton.

ITEM 3. REGIONAL REPORTS

a. Report on transportation matters of regional significance by the North East Texas Regional Mobility Authority

The commission received comments from North East Texas Regional Mobility Authority Chair Jeff Austin, III; North East Texas Regional Mobility Authority Finance Chair Gary Halbrooks; Bob Torrens; John Cloutier; and Celia Boswell.

b. Report on transportation matters of regional significance by the Hidalgo County Regional Mobility Authority

The commission received comments from Hidalgo County Regional Mobility Authority Chairman Dennis Bureson; Pate Transportation Partners Managing Partner Gary Pate; Hidalgo County Mayor Norberto Salinas; and Hidalgo County Economic Development Director Sophia Hernandez.

ITEM 4. AVIATION

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

Commissioner Holmes made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Aviation Division Director David Fulton:

111775
AVN

The Texas Department of Transportation (department) is authorized under the federal Aviation Development Act to award federal funding for capital improvement projects and to assist in the development and establishment of airports in the state of Texas.

The airports listed in Exhibit A are currently in need of improvements to preserve the airports or to meet standards. The department recommends the award of federal grant funds for the improvements.

On Thursday, March 19, 2009, a public hearing was held. No comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$2,100,199.

Note: Exhibit A on file with minute order clerk.

ITEM 5. FEDERAL RESCISSION

Discussion of the status of workgroup activities related to the rescission of unobligated federal-aid highway funds apportioned to Texas; approve funding categories and programs from which funds will be reduced and returned to the federal government (MO)

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Assistant Executive Director for Engineering Operations John Barton:

111776
AEO

On April 13, 2009, the Federal Highway Administration (FHWA) issued a Notice of Rescission of Federal-Aid Apportionments (notice). The purpose of the notice was to formally advise the states that \$3.15 billion of unobligated federal-aid highway funds apportioned to the states was rescinded, as required by Division I, Title I of the Omnibus Appropriations Act, 2009, Pub. L. No. 111-8. The Act specifically exempts Highway Safety, Highway Rail Grade Crossing, Transportation Enhancement and sub-allocated Surface Transportation Program funds from the rescission. Not later than 30 days after the date of the notice, the states must identify the amounts to be rescinded from funds apportioned under Chapter 1 of Title 23, United States Code. The portion of the rescission assigned to the State of Texas is \$272,403,085.

Transportation Code, §201.103 requires 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 emphasis on the construction of controlled access highways, and to plan for future highways.

The Texas Department of Transportation (department) previously convened a workgroup consisting of representatives from metropolitan planning organizations to provide input to the department on how rescissions should be distributed across funding categories. This group, known as the Stakeholder Committee on Rescissions (SCOR), discussed past rescissions, anticipated future rescissions, and the constraints the department faces when an official rescission notice is received. The SCOR met several times over the past year, and recently met to recommend funding categories and amounts to be rescinded based on this particular notice.

SCOR considered several factors prior to making a recommendation, including the current balances of each funding category, the amount of funds that were subject to lapse, any funding that was not expected to be used during the period, the impact to non-attainment areas, and the attributes of specific funding categories. The group conceded that any decision was difficult and had the potential for negative impact, but that the most flexibility was retained by preserving the programs with the fewest restrictions. Exhibit A to this minute order describes the funding categories and amounts to be rescinded, as recommended by the SCOR.

IT IS THEREFORE ORDERED by the commission that the Executive Director shall take the approximate rescission amount shown from each of the eligible categories set forth in Exhibit A to make up the total federally designated rescission amount. Since unobligated balances change on a daily basis in the normal course of obligating federal funds, the Executive Director shall establish the final rescission amounts in consultation with the FHWA as near to the deadline for identification of these amounts as practical.

Note: The commission received comments from Hidalgo County Metropolitan Planning Organization Director Edward Cannon.

ITEM 6. AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

a. Discussion of ARRA funding the department could receive from other state and federal agencies for non-transportation purposes and the need to develop a list of non-transportation projects that potentially qualify for ARRA funding.

This report was presented by Assistant Executive Director for Support Operations Edward Serna.

b. Discussion of the status of ARRA project delivery and a proposed methodology for selecting and prioritizing substitute projects; approve changes to the lists of mobility and preventative maintenance and rehabilitation projects previously approved for funding from Texas' portion of the ARRA (MO)

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Assistant Executive Director for Engineering Operations John Barton:

111777
AEO

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act (ARRA). The ARRA created an economic stimulus package that provides \$64.1 billion nationwide for infrastructure projects, including \$27.5 billion for highway and bridge construction, and \$1.5 billion for surface transportation grants to be administered by the Secretary of Transportation.

Texas' share of the funding for highway and bridge construction is expected to be approximately \$2.25 billion, based on the existing apportionment formula.

In anticipation of the enactment of the ARRA, the Texas Department of Transportation (department) collaborated with the Texas Division of the Federal Highway Administration (FHWA), MPOs, tolling authorities and transit providers to develop a unified approach to identifying and prioritizing projects that potentially qualify for funding. Department staff and local officials agreed upon a list of criteria to be used for evaluating projects. FHWA also issued a guidance document on funding, project selection, eligible activities, and other specific requirements to assist states in implementing the ARRA. The priority and preference selection criteria described in the ARRA and the FHWA guidelines were subsequently used in the evaluation process to develop the lists of projects recommended for funding under the ARRA.

Time continues to be a critical element with regard to the selection and prosecution of projects. The ARRA requires that 50 percent of the discretionary funds allocated to the state for highway and bridge projects must be obligated within 120 days of receiving the apportionment from FHWA or the funds will be redistributed to other states. In addition, states must have 100 percent of the funds obligated within one year or the remaining funds will be redistributed. The department received the Notice of Apportionment from FHWA on March 2, 2009. States initially submitted data on projects to be funded completely or partially with ARRA funds to FHWA on March 17, 2009. States must continue to update the data on projects to be funded with ARRA funds in a timely manner.

In Minute Order 111734, dated March 5, 2009, the Texas Transportation Commission (commission) approved the funding, under the provisions of the ARRA, of approximately \$1.2 billion in mobility projects and approximately \$500 million in preventive maintenance and rehabilitation projects.

The department has continued to monitor the progress of these projects to ensure that they comply with the criteria identified in that minute order, the ARRA, and the project selection requirements established by FHWA.

As a result of those efforts, a revised list of mobility projects has been developed and is set forth in Exhibit A. These revisions provide for technical corrections to project numbers, limits, and descriptions on certain projects. In addition, the following substantive revisions have been made:

- The funds previously identified for two mobility projects in the Houston District have been modified to allow a greater portion of the ARRA funding to be obligated within the first 120 days. The funding for the I-10 project (CSJ 0508-01-329) has been increased from \$11 million to \$27 million. The funding for the SH 99 project (CSJ 3510-05-002) has been decreased from \$181 million to \$165 million. There was no net change in the combined funding amounts for these two projects.
- The funds previously identified for two mobility projects in the Lubbock District have been modified to allow a greater portion of the ARRA funding to be obligated within the first 120 days. The funding for the LP 289 project (CSJ 0783-02-064) has been increased from \$12 million to \$26.4 million. The funding for the LP 289 project (CSJ 0783-02-065) has been decreased from \$14.4 million to \$0 million. There was no net change in the combined funding amounts for these two projects.
- The department planned to contribute \$500,000 to a US 59 mobility project in conjunction with the state of Arkansas. That project has been removed from the list based on the decision of the neighboring state not to use ARRA funds for the project due to project delivery issues.

No other projects listed in Exhibit A have been changed or removed.

A list of mobility projects deleted from Minute Order 111734 is shown in Exhibit C.

The department has also developed a revised list of preventive maintenance and rehabilitation projects, which is set forth in Exhibit B. The following revisions have been made.

- One Yoakum District rehabilitation project has been added to the list. The FM 1681 project (CSJ 0215-12-008, Gonzales County) was included to match the same work being performed on an adjacent section of the roadway by the San Antonio District using ARRA funds.
- One Beaumont District project has been added to the list. The Forest Highway 335 project (CSJ 0920-12-039) was included to use designated forest funds from the ARRA.
- Two linked projects in the Pharr District have been removed from the list due to a reclassification of the roadway which will require revised environmental documents. This environmental clearance will not be obtained within the ARRA funding time frame. Three projects in the Pharr District have been added to the list to replace those removed. These added projects are the FM 755 project (CSJ 1103-04-025, Starr County), the Avasolo Street project (CSJ 0921-26-015, Starr County), and the SP 206 project (CSJ 1425-03-053, Cameron County).
- Twenty-two maintenance and rehabilitation projects have been removed from this list. These projects were incorrectly shown in the initial list as ARRA funded projects. These projects will be funded with conventional category funding.

No other projects listed in Exhibit B have been changed or removed.

A list of preventive maintenance and rehabilitation projects deleted from Minute Order 111734 is shown in Exhibit D.

All projects are subject to federal and state laws, including the provisions of the ARRA. No matching funds are required.

IT IS THEREFORE ORDERED by the commission that the transportation projects set forth in Exhibits A and B are hereby approved for funding under the provisions of the ARRA.

IT IS FURTHER ORDERED that the executive director or the director's designee is authorized to proceed with project development and contract awards for the projects described in Exhibits A and B, and to enter into any necessary agreements associated with these projects and activities.

IT IS FURTHER ORDERED that Exhibits A and B in Minute Order 111734 are rescinded and replaced with Exhibits A and B to this minute order.

IT IS FURTHER ORDERED that the department shall track the progress of the transportation projects set forth in Exhibits A and B separately from other ongoing projects and place information regarding the status of these projects on the department's web site.

c. **Various Counties** –Award Federal §5311, Nonurbanized Area Program, American Recovery and Reinvestment Act of 2009, Funds for Intercity Bus Projects (MO)

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Public Transportation Division Director Eric Gleason:

111778
PTN

The United States Congress has passed and President Obama has signed the American Recovery and Reinvestment Act of 2009 (stimulus package), a bill to create jobs, restore economic growth, and strengthen America's middle class through measures that modernize the nation's infrastructure, enhance America's energy independence, expand educational opportunities, preserve and improve affordable health care, provide tax relief, and protect those in greatest need, and for other purposes.

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

49 U.S.C. §5311 (f) provides that 15 percent of the stimulus package funds allocated to non-urbanized areas be set-aside for intercity bus transportation projects unless the governor, or his designee, certifies that the intercity bus service needs of the state are being adequately met. Awards to intercity carriers meet the goals of the stimulus package and are in accordance with the formula in §31.36(i). The commission desires to award \$7,588,110 in §5311(f) nonurbanized (rural) funds to eight intercity carriers as described in Exhibit A.

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

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

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

Note: Exhibit A on file with minute order clerk.

Note: The commission received comments from Texas Bus Association President Randy Isaacs.

ITEM 7. PUBLIC TRANSPORTATION

Various Counties – Award federal §5310 funds, Elderly Individuals and Individuals with Disabilities Program, and award transportation development credits for FY 2009 (MO)

This item was deferred.

ITEM 8. PROMULGATION OF ADMINISTRATIVE RULES Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

a. Final Adoption

(to be published in the *Texas Register* for public comment)

Chapter 2 – Environmental Policy and Chapter 11 – Design (MO)

Amendments to §2.1, General; Emergency Action Procedures (Environmental Review and Public Involvement for Transportation Projects); and Repeal of §11.56, Connection with Regionally Significant Highway and New §11.56, Connection with Regionally Significant Highway (Access Connections to State Highways)

Commissioner Houghton made a motion, seconded by Commissioner Meadows and the commission approved the following minute order presented by Design Division Director Mark Marek:

111779
DES

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §2.1, relating to general and emergency environmental action procedures, and the repeal of §11.56 and new §11.56 relating to connection with regionally significant highway, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, repeal, and new section, attached to this minute order as Exhibits A - E, 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 §2.1, the repeal of §11.56, and new §11.56 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 on file with minute order clerk.

b. Proposed Adoption

(to be published in the *Texas Register* for public comment)

Chapter 9 – Contract Management (MO)

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Construction Division Director Thomas Bohuslav:

111780
CST

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §9.114, relating to opportunity for formal hearing 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 §9.114 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 on file with minute order clerk.

ITEM 9. TRANSPORTATION PLANNING

Various Counties – Approve appointment of one member to the Grand Parkway Association Board of Directors (MO)

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Transportation Planning and Programming Division Director Jim Randall:

111781
TPP

The Texas Transportation Commission (commission) by Minute Order 109225, dated April 24, 2003, reappointed William F. Burge, III to serve a six-year term on the Board of Directors (board) of the Grand Parkway Association, a transportation corporation created by the commission under Transportation Code, Chapter 431.

Mr. Burge's term expires on April 24, 2009.

Pursuant to Title 43, Texas Administrative Code (TAC), §15.85, the board has nominated Mr. Burge for a third term and has submitted the prescribed documentation for commission review.

The board published an appropriate notice of the nomination and its proposed consideration by the commission at least 20 days prior to the date of this order, and has furnished the commission with the requisite publisher's affidavit.

Based upon the review and consideration of all relevant information as documented and filed with the commission, as well as the board's recommendation, it appears to the commission that the nominee is fully eligible and qualified to serve as a member of the board in accordance with Transportation Code, Chapter 431, and 43 TAC, Chapter 15, Subchapter H.

IT IS THEREFORE ORDERED by the commission that effective on the date of this order, William F. Burge, III is hereby re-appointed to serve as a member on the board for the Grand Parkway Association, with a term expiring April 30, 2015.

ITEM 10. TOLL PROJECTS**a. Chambers County – Establish toll rates for Segment I-2 of SH 99 (Grand Parkway) from I-10 East to Fisher Road in Chambers County (MO)**

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Texas Turnpike Authority Division Director Mark Tomlinson:

111782
TTA

Title 43, Texas Administrative Code, §27.82(d) provides that the Texas Transportation Commission (commission) will establish toll rates for the use of a toll project on the state highway system and prescribes criteria to be considered by the commission in setting toll rates.

Minute Order 111167, dated December 13, 2007, designated SH 99 Segment I-2 as a toll project on the state highway system. SH 99 Segment I-2 is a four-lane controlled-access toll road extending 6.6 miles from I-10 to Fisher Road in Chambers County. SH 99 Segment I-2 is an all-electronic, open road tolling facility. It will have a closed ramp system of toll collection under which no toll-free use of the roadway will be possible. The tolling configuration consists of one mainline toll gantry and one set of ramp toll gantries.

Pursuant to Title 43, Texas Administrative Code, §27.82(d), in setting toll rates, the commission considered: (1) the results of traffic and revenue studies and any schedule of toll rates established in a traffic and revenue report; and (2) vehicle classifications, type and location of the facility, and similar criteria that apply to the project.

The results of the toll rate analysis for SH 99 Segment I-2 provides toll rates at each tolling point as set forth in Exhibit A.

IT IS THEREFORE ORDERED by the commission that the Texas Department of Transportation is authorized to charge tolls in Chambers County on the SH 99 Segment I-2 toll project from I-10 to Fisher Road in the amounts stated in Exhibit A.

Note: Exhibit A on file with minute order clerk.

b. Dallas County – Consider approval of the designation as a toll project of the I-635 Managed Lanes Project along I-635 from east of Luna Road to Greenville Avenue and on I-35E from south of the Loop 12/I-35E split to south of Valwood Parkway in Dallas County (MO)

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Texas Turnpike Authority Division Director Mark Tomlinson:

111783
TTA

In Minute Order 111703, dated February 26, 2009, the Texas Transportation Commission (commission) awarded the Comprehensive Development Agreement (CDA) for the INTERSTATE 635 Managed Lanes Project (I-635 Project) to LBJ Infrastructure Group, LLC (formerly known as LBJ Development Partners). The agreement is to

develop, design, construct, finance, maintain and operate the I-635 CDA Project along I-635 from east of Luna Road to Greenville Avenue and on I-35E from south of the Loop 12/I-35E split to south of Valwood Parkway in Dallas County.

The Texas Department of Transportation (department) received final environmental clearance from the Federal Highway Administration (FHWA) for the I-635 Project in June, 2008. The corridor will continue as a controlled-access facility and, as currently planned, will consist of: 1) along I-635, from east of Luna Road to Greenville Avenue through the cities of Dallas and Farmers Branch, an eight-lane divided, general purpose facility with an additional four-to-six-lane divided, managed lanes facility, and a continuous frontage road system; and 2) along I-35E, from south of the Loop 12/I-35E split to south of Valwood Parkway through the cities of Dallas and Farmers Branch, a ten-lane divided, general purpose facility with a two-to-six-lane managed lanes facility.

On March 18, 2009, FHWA and the department entered into an agreement under the Express Lanes Demonstration Program authorized by section 1604(b) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. No. 109-59, authorizing tolling of the managed lanes in the I-635 Project.

Transportation Code, §228.051 provides that the commission by order may designate one or more lanes of a segment of the state highway system as a toll project or system.

IT IS THEREFORE ORDERED by the commission that the tolled managed lanes on I-635 from east of Luna Road to Greenville Avenue and on I-35E from south of the Loop 12/I-35E split to south of Valwood Parkway are designated as a toll project on the state highway system.

c. **Travis County** – Consider the preliminary approval of a request for financing from the Central Texas Regional Mobility Authority to pay for certain costs relating to the construction of the 290 East toll project from east of US 183 to east of FM 734 in Travis County, including the costs of right of way acquisition and utility relocation, and the costs of constructing direct connectors at the US 183 interchange (MO)

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Finance Division Director Brian Ragland:

111784
FIN

The Texas Department of Transportation (department) and the Central Texas Regional Mobility Authority (CTRMA) developed a “CTRMA/TxDOT Regional Implementation Program” that provides for the funding and development of certain transportation system improvements within the jurisdictional limits of the CTRMA.

On October 8, 2007, the Capital Area Metropolitan Planning Organization (CAMPO) Transportation Policy Board approved amendments to CAMPO’s 2030 Transportation Plan (Plan) and the FY 2008-FY 2011 Transportation Improvement Program (TIP), amending previous authorizations for the development of certain highway projects of the Texas Department of Transportation (department) that are located within the boundaries of CAMPO as toll projects, including the US 290 East project.

Pursuant to Transportation Code, §228.0111, the CTRMA has exercised its option to develop, construct, and operate the US 290 East project. The CTRMA has proposed an innovative plan for the financing and development of the US 290 East project that contemplates the planning, financing, design, construction, operation, and maintenance of a CTRMA turnpike project in the median of US 290 East from east of US 183 to east of FM 734. Existing US 290 would be reconstructed and expanded to provide, on the highway and adjacent facilities, an equivalent or greater number of nontolled lanes than currently exist. The nontolled portion of the project would remain on the state highway system as US 290.

Transportation Code, §370.301 authorizes the department to provide for or contribute to the payment of costs of the design, financing, construction, operation, or maintenance of a turnpike project by a regional mobility authority (RMA) on terms agreed to by the department and the RMA. 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 Texas Transportation Commission (commission).

Pursuant to Transportation Code, §222.103, the commission adopted Title 43, Texas Administrative Code, §§27.50-27.58 (toll equity rules) to prescribe conditions for the commission's financing of a toll facility of a public or private entity.

In accordance with Section 27.53 of the toll equity rules, the CTRMA has submitted a request for financing in the amount of up to \$281 million to pay for certain costs relating to the construction of the 290 East toll project from east of US 183 to east of FM 734 in Travis County, including the costs of right of way acquisition and utility relocation, and the costs of constructing direct connectors at the US 183 interchange. The request is for the financial assistance to be in the form of a grant.

Information and data required by Section 27.53(b) is either contained in the request for financing or is already in the department's possession. Supplemental information and data required by Section 27.53(c) is contained in the request for financial assistance or has already been provided to the department.

The CTRMA will benefit the state and the traveling public and improve the efficiency of the state's transportation system through the potential construction and operation of this project, which will enhance mobility and safety within this segment of the state transportation system.

The projects are consistent with the approved Texas Transportation Plan and the Metropolitan Transportation Plan of the Capital Area Metropolitan Planning Organization.

The CTRMA has indicated that they will fund a portion of the costs of developing the proposed projects through revenue bond sales and loans. Along with the requested financial assistance, the projects have the potential to expand the availability of funding for transportation projects or reduce direct state costs.

Of the \$281 million in financing requested, \$90 million is from federal economic stimulus funds authorized by the American Recovery and Reinvestment Act (ARRA) of 2009, that the commission has authorized the department to commit to the costs of constructing the direct connectors at the US 183 interchange. The remaining \$191 million in financial assistance is still under consideration.

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the Central Texas Regional Mobility Authority meets the applicable requirements of 43 TAC §27.53 and §27.54(a) and, in accordance with those provisions, the commission grants preliminary approval of the request for financing in the amount of \$90 million, in the form of a grant, to be used for the purposes described herein, and directs the executive director to implement the actions authorized and required by those and other applicable toll equity rule provisions.

ITEM 11. MANAGEMENT

a. Update of the development of the Strategic Policy and Performance Management Program.

This report was presented by Special Assistant, Strategic Policy and Performance Mary Meyland.

b. Report on implementation of the spirit of Sarbanes-Oxley in department practices.

This report was presented by Chief Financial Officer James Bass.

c. Rescind prior minute order and direct the Chief Financial Officer to develop and implement policies and procedures which incorporate the spirit of Sarbanes-Oxley into key financial reports, including an internal control report, and direct the finance division to establish a code of ethics for senior finance personnel (MO)

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Chief Financial Officer James Bass:

111785
CFO

The Texas Department of Transportation (department) has a long-standing reputation for integrity and ethical behavior. This reputation is a great source of pride for the department as well as one of the department's greatest assets because it instills the necessary trust and confidence that the public must have in any governmental agency. It is of utmost importance to the Texas Transportation Commission (commission) to continue to be good stewards of the taxpayer resources entrusted to the department.

The federal Sarbanes-Oxley Act (SOX) was signed into law in July of 2002, in large part as a response to the corporate and accounting scandals occurring in 2001 and 2002. SOX required publicly traded companies to adhere to significant new governance standards that broadened the roles of board members of those companies in overseeing financial transactions and auditing procedures. While SOX does not apply to private or non-profit companies or to governmental entities, the application of its general principles relating to internal financial controls and professional responsibility would enhance the level of accountability for department actions and reliability of department financial information.

Section 302 of SOX requires that the principal executive officer or officers and the principal financial officer or officers, or persons performing similar functions, certify (the "302 certifications") to the Securities and Exchange Commission (SEC) in each annual or quarterly report filed or submitted under the Act that:

- (1) the signing officer has reviewed the report;
- (2) based on the officer's knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;
- (3) based on such officer's knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of the company as of, and for, the periods presented in the report;
- (4) the signing officers:
 - (A) are responsible for establishing and maintaining internal controls,
 - (B) have designed such internal controls to ensure that material information relating to the company and its consolidated subsidiaries is made known to such officers by others within those entities, particularly during the period in which the periodic reports are being prepared,
 - (C) have evaluated the effectiveness of the company's internal controls as of a date within 90 days prior to the report, and
 - (D) have presented in the report their conclusions about the effectiveness of their internal controls based on their evaluation as of that date;
- (5) the signing officers have disclosed to the auditors and the audit committee of the board of directors (or persons fulfilling the equivalent function):
 - (A) all significant deficiencies in the design or operation of internal controls which could adversely affect the company's ability to record, process, summarize, and report financial data and have identified for the company's auditors any material weaknesses in internal controls; and
 - (B) any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal controls; and
- (6) the signing officers have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

The department is not required to submit reports to the SEC, but it regularly prepares comparable annual financial reports which are subject to audit and which contain a complete set of basic financial statements. The executive director and chief

financial officer currently incorporate most of the SOX requirements in their certifications to the auditors of the department's annual financial statements in the form of a management representation letter.

Section 404 of SOX sets out requirements for an internal control report. The report is to: (1) state the responsibility of management for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and (2) contain an assessment, as of the end of the most recent fiscal year of the company, of the effectiveness of the internal control structure and procedures of the company for financial reporting.

It is expected that outside assistance would be required to complete an internal control assessment for the first year and that future assessments could be prepared by department staff. Department staff has already established and currently maintains internal controls for financial reporting. In the course of auditing the department's annual financial statements, independent auditors (primarily state auditors) evaluate the department's system of internal controls to determine whether it can be relied upon as a basis for expressing an opinion on the financial statements. The auditors do not, however, perform sufficient audit work to express an opinion on the system of internal controls.

As part of maintaining an adequate internal control structure, the role of the chief financial officer in ensuring that the executive director has sufficient reliable financial information to make appropriate budgetary and spending adjustments should be specified and monitored for its effectiveness.

Section 406 of SOX requires that a code of ethics be adopted for senior financial officers. As defined in that section, a code of ethics means such standards as are reasonably necessary to promote:

- (1) honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;
- (2) full, fair, accurate, timely, and understandable disclosure in the periodic reports required to be filed by the company; and
- (3) compliance with applicable governmental rules and regulations.

Establishing a code of ethics for senior financial officers would define the standards to which they are held in order to ensure full, fair, accurate, timely and understandable financial reports and documents that the department submits to the commission, the Governor and the Texas Legislature, or disseminates to the public.

The commission desires to implement the spirit of Sarbanes-Oxley by implementing policies and procedures, including a code of ethics for senior finance personnel, that are designed to maintain and build on the department's commitment to transparency and reliability of financial information and to ethical behavior and integrity, and to enhance the level of accountability for department action.

This minute order contains the identical provisions as Minute Order 111676 passed by the commission January 29, 2009, except for the incorrect reference to "cash forecasting report" instead of the intended "cash report" in paragraph (2) below. This order corrects that reference.

IT IS THEREFORE ORDERED by the commission that the chief financial officer or his designee is directed to:

- (1) Develop and implement policies and procedures to expand the practice of providing certifications by the executive director and chief financial officer to include certifications to the commission for all quarterly and annual financial reports filed with the commission, including the operating budget, investment report, and cash report, with the certification to contain, as applicable, the 302 certifications or similar certifications that the chief financial officer considers applicable to department operations.
- (2) Develop and implement policies and procedures: (a) for establishing and maintaining an adequate internal control structure and procedures for financial reporting, (b) for assessing, as of the end of each fiscal year, the effectiveness of the internal control structure and financial reporting procedures, (c) setting forth the responsibility of management for the internal control structure and for financial reporting procedures, and (d) specifying the role of the chief financial officer in ensuring that the executive director has sufficient reliable financial information to make appropriate budgetary and spending adjustments and providing for monitoring of this role for its effectiveness.
- (3) Develop a code of ethics for senior finance personnel that includes such standards as are reasonably necessary to promote: honest and ethical conduct; full, fair, accurate, timely, and understandable disclosure in reports and other documents; and compliance with applicable rules and regulations.

IT IS FURTHER ORDERED by the commission that the chief financial officer shall report to the commission on the status of implementation of this order no later than May 1, 2009.

IT IS FURTHER ORDERED by the commission that Minute Order 111676 is rescinded and replaced by this order.

ITEM 12. FINANCE

Approval of changes to the Texas Mobility Fund Revenue Financing Program financial plan, documents, issuance and remarketing of bonds, particularly for bonds authorized by the commission on December 18, 2008 and the Series 2005-B variable rate bonds outstanding (MO)

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Finance Division Director Brian Ragland:

111786
FIN

Section 49-k, Article III of the Texas Constitution (Constitutional Provision) and Transportation Code, Chapter 201, Subchapter M, and other applicable law, including Government Code, Chapter 1371, authorize the Texas Transportation Commission (commission) to issue bonds and other obligations secured by all or part of the money in

the Texas Mobility Fund (Fund). Obligations may be issued to 1) pay all or part of the costs of constructing, reconstructing, acquiring, and expanding State highways; 2) provide participation by the State in the payment of part of the costs of constructing and providing publicly owned toll roads and other public transportation projects; 3) create debt service accounts; 4) pay interest on obligations for a period of not longer than two years; 5) refund or cancel outstanding obligations and 6) pay the commission's costs of issuance (collectively, Projects).

The commission has previously issued seven series of bonds secured by the Fund including the commission's State of Texas General Obligation Mobility Fund Bonds, Series 2005-B (Variable Rate Bonds) (the Series 2005-B Bonds) which bear interest at a weekly rate supported by a liquidity facility provided by DEPFA Bank plc, acting through its New York Branch (DEPFA). Due to the DEPFA credit rating downgrades, the Series 2005-B Bonds have been bearing interest at weekly rates higher than typical market rates for similarly secured weekly variable rate obligations.

Minute Order No. 111674, adopted by the commission on January 29, 2009, authorized actions necessary to replace DEPFA with an alternate liquidity facility to be provided through the Comptroller of Public Accounts. However, the liquidity provided by the Comptroller may only be available through August 31, 2009, and the commission now may instead consider converting Series 2005-B Bonds under the Second Supplemental Resolution to the Master Resolution Establishing the Texas Transportation Commission Mobility Fund Revenue Financing Program, into a mode which does not require liquidity.

Minute Order No. 111413, adopted by the commission on June 26, 2008 authorized, among other things, the appointment of Bank of America as the remarketing agent for the Series 2005-B bonds. Due to changes in the structure of Bank of America, the commission may wish to appoint a different remarketing agent unless the Series 2005-B bonds are converted to a different mode not requiring a remarketing agent.

Minute Order No. 111632 adopted by the commission on December 18, 2008 authorized, among other matters, an "Eighth Supplemental Resolution to the Master Resolution Establishing the Texas Transportation Commission Mobility Fund Revenue Financing Program" (Eighth Supplement), which prescribes the terms, provisions and covenants related to the issuance of additional bonds in one or more series entitled "Texas Transportation Commission State of Texas General Obligation Mobility Fund Bonds" (Bonds) with such name and series designation as set forth in the Eighth Supplement, in the aggregate principal amount not to exceed \$1 billion.

The commission may consider issuing Bonds in an aggregate principal amount up to \$1.3 billion instead of the \$1 billion originally authorized in the Eighth Supplement should market conditions and Fund revenues permit issuance of such additional Bonds.

Additionally, due to the enactment by the 111th United States Congress of the "American Recovery and Reinvestment Act of 2009" governmental issuers such as the commission may issue tax credit bonds for certain projects (Build America Bonds) providing a 35% or 45% subsidy from the federal government for such bonds.

The commission may consider issuing all or a portion of any series of Bonds to be issued pursuant to the Eighth Supplement as Build America Bonds and therefore the

commission has determined it to be in the best interest of the State to amend and restate the Eighth Supplement (Amended and Restated Eighth Supplement) to increase the amount of the Bonds that may be issued and to authorize issuing a portion of the Bonds as Build America Bonds if it is determined by the Department Representative, as defined in the Eighth Supplement, to be in the best interest of the commission.

The commission may issue the Bonds under such terms and manner of sale as determined by the Department Representative at the time of sale including private placement, negotiated sale or competitive bid.

IT IS THEREFORE ORDERED by the commission that the Amended and Restated Eighth Supplement is hereby approved with an aggregate principal amount of Bonds to be issued in one or more series not to exceed \$1.3 billion and the Chair and Executive Director are authorized and directed to execute and deliver the Bonds and the Department Representative is authorized and directed to execute and deliver the Amended and Restated Eighth Supplement, the Bond Purchase Contract/Placement Agreement, the Paying Agent Agreement, any Remarketing Agreement, Liquidity Agreement, Tender Agent Agreement, Escrow Agreement and similar agreements necessary for any Variable Rate Bonds, Refunding Bonds and Build America Bonds (collectively, Program Documents), and the Bond Purchase Contract/Placement Agreement, the Paying Agent Agreement and any Remarketing Agreement, Liquidity Agreement, Tender Agent Agreement, Escrow Agreement and similar agreements in connection with any Variable Rate Bonds and Refunding Bonds are approved in substantially the form previously approved by the commission in connection with the Outstanding Parity Debt with such changes as the Department Representative executing the same may approve, such approval to be conclusively evidenced by execution of the Program Documents.

IT IS FURTHER ORDERED by the commission that any necessary ancillary documents in connection with the issuance of the Bonds and the Program Documents are hereby approved, and the Department Representative is authorized and directed to execute and deliver such documents and make any election relating to the Build America Bonds.

IT IS FURTHER ORDERED by the commission that the Department Representative is authorized to take all action necessary in connection with the remarketing of the Series 2005-B Bonds or the conversion of the Series 2005-B bonds into a mode not requiring liquidity, including amending the Second Supplemental Resolution, designating the underwriter/remarketing agent and providing notice to appropriate parties.

IT IS FURTHER ORDERED by the commission that each member of the commission and each Department Representative is authorized and directed to perform all such acts and execute such documents and notices, including execution of certifications to the underwriters, the Attorney General, the Comptroller of Public Accounts, the Bond Review Board, the United States Treasury Department and other parties, as may be necessary to carry out the intent of this order and other orders of the commission relating to the Mobility Fund Revenue Financing Program and the Program Documents.

ITEM 13. STATE INFRASTRUCTURE BANK**Final Approval**

a. Fort Bend County – City of Rosenberg – Consider granting final approval of an application from the City of Rosenberg to borrow \$450,000 from the State Infrastructure Bank to pay for sewer and water line relocation costs along SH 36 (MO)

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Finance Division Director Brian Ragland:

111787
FIN

On March 26, 2009, by Minute Order 111755, the Texas Transportation Commission (commission) granted preliminary approval of an application request for financial assistance from the City of Rosenberg (city) to borrow \$450,000 pay for sewer and water line relocation costs along SH 36 from US 90A to Avenue M in Rosenberg.

Pursuant to the commission's preliminary approval, the executive director implemented and completed negotiations and other actions authorized and required by commission rules. The executive director affirms that the necessary social, economic, and environmental impact studies have been completed, and that the Texas Department of Transportation has approved those studies. The executive director recommends that the commission grant final approval of the SIB application for financial assistance.

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

IT IS THEREFORE ORDERED that the financial assistance application submitted by the City of Rosenberg to borrow \$450,000 plus a 20 percent contingency from the State Infrastructure Bank is granted final approval. The executive director is directed and authorized to enter into the financial assistance agreement as negotiated with the city. The loan will be repaid over a period of seven years at 3.0 percent interest per annum.

b. Jones County – City of Stamford – Consider granting final approval of an application from the City of Stamford to borrow \$300,000 from the State Infrastructure Bank to pay for sewer and water line relocation costs along FM 1226 (MO)

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Finance Division Director Brian Ragland:

111788
FIN

On March 26, 2009, by Minute Order 111756, the Texas Transportation Commission (commission) granted preliminary approval of an application request for financial assistance from the City of Stamford (city) to borrow \$300,000 to pay for sewer and water line relocation costs along FM 1226 in Stamford.

Pursuant to the commission's preliminary approval, the executive director implemented and completed negotiations and other actions authorized and required by commission rules. The executive director affirms that the necessary social, economic, and environmental impact studies have been completed, and that the Texas Department of Transportation has approved those studies. The executive director recommends that the commission grant final approval of the SIB application for financial assistance.

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

IT IS THEREFORE ORDERED that the financial assistance application submitted by the City of Stamford to borrow \$300,000 plus 20 percent contingency from the State Infrastructure Bank is granted final approval. The executive director is directed and authorized to enter into the financial assistance agreement as negotiated with the city. The loan will be repaid over a period of ten years at 4.0 percent interest per annum.

ITEM 15. CONTRACTS

a. Award or Reject Highway Improvement Contracts

(1) Highway Maintenance and Department Building Construction (see attached itemized list) (MO)

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

111789
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for maintenance of the State Highway System, which were publicly opened and read on April 7 and 8, 2009.

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

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

Commissioner Holmes made a motion, seconded by Commissioner Houghton and the commission approved the following minute order as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

111790
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for improvement of the State Highway System, which were publicly opened and read on April 7, 8, 22 and 23, 2009.

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

ITEM 16. ROUTINE MINUTE ORDERS

Commissioner Holmes made a motion, seconded by Commissioner Houghton and the commission approved the following minute orders presented by Executive Director Amadeo Saenz:

a. Donations to the Department

(1) Bridge Division – Acknowledge a donation from Precast/Prestressed Concrete Institute (PCI) for reimbursement of a department employee’s travel expenses related to attending the joint PCI/AASHTO Technical Committee for Concrete Design (T-10) Meeting. The meeting was held in Chicago, Illinois, from April 23 – 24, 2009 (MO)

111791
GSD

This minute order acknowledges a donation of \$867.30 from Precast/Prestressed Concrete Institute (PCI) for a Texas Department of Transportation (department) employee’s travel expenses to attend the joint PCI/AASHTO Technical Committee for Concrete Design meeting which was held in Chicago, Illinois from April 23 – 24, 2009.

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

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

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

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

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

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

IT IS THEREFORE ORDERED by the commission that the donation of \$867.30 by PCI is acknowledged. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(2) Construction Division – Consider a donation from American Chemical Society – Rubber Division for a department employee's travel expenses related to attending and presenting at the Rubber Modified Asphalt Conference. The conference will be held in Akron, OH, from May 6 – 8, 2009 (MO)

111792
GSD

This minute order considers a donation of approximately \$700.40 from the American Chemical Society – Rubber Division for a department employee's travel expenses to attend and present at the Rubber Modified Asphalt Conference being held in Akron, OH, from May 6 – 8, 2009.

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

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

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

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

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

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

IT IS THEREFORE ORDERED by the commission that the donation of \$700.40 by the American Chemical Society – Rubber Division is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(3) Houston District – Consider a cash donation from Methodist West Houston Hospital to facilitate the review of various documents required for the construction of the deceleration lane located at I-10 West of Barker Cypress and the Methodist West Houston Hospital (MO)

111793
GSD

This minute order considers a cash donation of \$5,000 to the department from Methodist West Houston Hospital to facilitate the review of various documents required for the construction of the deceleration lane located at I-10 west of Barker Cypress and the Methodist West Houston Hospital.

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

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

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

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

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

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

IT IS THEREFORE ORDERED by the commission that the donation of \$5,000 by Methodist West Houston Hospital is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(4) Travel Information Division – Consider a donation from the City of San Augustine of a leasehold real property interest in the Camino Real de los Tejas Tourist Information Center Facility property (MO)

111794
GSD

This minute order considers a donation of approximately \$1,500 worth of real property interest from the City of San Augustine.

Acceptance of this donation will satisfy the requirements of Rider 24 in the Appropriations Bill of the 79th Legislature, Regular Session, 2005, allowing the department to operate the Camino Real de los Tejas Tourist Information Center in the Lufkin District.

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

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

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

IT IS THEREFORE ORDERED by the commission that the donation of approximately \$1,500 in a leasehold real property interest by the City of San Augustine is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

(5) Various Offices and Austin District – Acknowledge a donation from Women's Transportation Seminar (WTS) International, Heart of Texas Chapter to allow various department employees to attend the 2009 Transportation Event that was held on April 29, 2009 in Austin, Texas (MO)

111795
GSD

This minute order acknowledges a donation of approximately \$960 in conference fees from Women's Transportation Seminar (WTS) International for Texas Department of Transportation (department) employees' attendance at the 2009 Transportation Event that was held on April 29, 2009 in Austin, Texas.

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

Members of WTS International may be interested in a contract, purchase, payment, or claim with or against the department. Nonetheless, the commission has determined that acceptance of the donation will provide a significant public benefit and will not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation of approximately \$960 in conference fees by WTS International is acknowledged. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

b. Eminent Domain Proceedings

Various Counties – noncontrolled and controlled access highways (see attached itemized list) (MO)

111796
ROW

The Texas Transportation Commission (commission) of the State of Texas (state) has found in order to promote the public safety, to facilitate the safety and movement of traffic and to preserve the financial investment of the public in its highways, public necessity requires the laying out, opening, constructing, reconstructing, maintaining, and operating of the following highways in the state as a part of the State Highway System (highway system).

The commission has found and determined that each of the following listed parcels of land, same being more particularly described in the exhibits attached hereto, and such additional lesser estates or property interests described thereon, are necessary or convenient for use for such purposes and it is necessary to acquire fee simple title to said land, as provided by Texas Transportation Code, Subchapter D, Chapter 203, Sections 203.051, 203.052, and 203.054, as a part of the highway system to be constructed, reconstructed, maintained and operated thereon.

The commission has found in order to promote the public safety, to facilitate the safety and movement of traffic, to preserve the financial investment of the public in its highways and reconstructing, maintaining, and operating of Controlled Access Highways in the state as a part of the highway system at such locations as are necessary throughout the state and has determined that each of the following listed parcels of land, described in those Exhibits designated, identified and listed by an alphabetical exhibit reference under "CONTROLLED ACCESS" and same being more particularly described in the exhibits attached hereto and such additional lesser estates or property interests described thereon, are necessary and suitable for use for such purposes and it is necessary to acquire fee simple title to said land, as provided by law, as a part of the highway system to be so constructed, reconstructed, maintained, and operated thereon and in the exercise of the police power of the state for the preservation of human life and safety, and under existing laws, the highway to be constructed on each such parcel of land is designated as a Controlled Access Highway, and on such parcels of land listed herein where there is remaining abutting private property, roads are to be built as a part of said highway whereby the right of ingress and egress to or from the remaining private property abutting on said highway is to be permitted and/or denied, as designated and set forth on each of the exhibits attached hereto.

The commission, through its duly authorized representatives, has attempted to negotiate with the owner(s) of the parcels of land described in the attached exhibits and has been unable to agree with such owner(s) as to the fair cash market value thereof and

damages, if any, or after diligent search of available records, numerous inquiries, and actual visits to the location of said parcels of land has been unable to locate the owner(s) of same so as to enter into negotiations for the purchase of said parcels of land.

IT IS THEREFORE ORDERED that the executive director is hereby authorized and directed to transmit this request of the commission to the attorney general to file or cause to be filed against all owners, lienholders and any owners of any other interests in said parcels of land, proceedings in eminent domain to acquire in the name of and on behalf of the state, for said purposes, fee simple title to each such parcel of land as are more particularly described in each of the exhibits attached hereto and made a part hereof, and such additional lesser estates or property interests as are more fully described in each of said exhibits, save and excepting, oil, gas and sulphur, as provided by law, to wit:

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Brazoria	SH 35	36	0178-02-072	52A
Brazoria	SH 35	33	0178-02-072	65
Brazoria	SH 35	22	0179-01-040	720
Collin	US 380	3	0135-05-024	22
Dallas	SH 183	12	0094-03-098	54
Dallas	SH 183	14	0094-03-100	7
Dallas	SH 183	15	0094-03-100	86
Dallas	SH 183	16	0094-03-100	19
Dallas	SH 183	13	0094-03-100	61
Dallas	SH 183	4	0094-03-100	65
Dallas	SH 183	5	0094-03-100	44
Dallas	SH 183	7	0094-03-100	42
Dallas	SH 183	6	0094-03-100	25
Dallas	SH 183	11	0094-03-100	55
Dallas	SH 183	10	0094-03-100	30
Dallas	SH 183	17	0094-03-100	43
Dallas	SH 183	18	0094-03-100	85
Dallas	SH 183	19	0094-03-100	45
Dallas	SH 183	8	0094-03-100	5
Dallas	Spur 366	27	0196-07-028	2 & 2TE
Denton	FM 407	2	1950-01-033	1
Denton	FM 423	23	1567-02-029	26
Denton	FM 423	34	1567-02-030	8
Denton	FM 720	9	1567-01-032	79
Denton	US 380	21	0134-09-057	9
Denton	US 380	26	0134-09-057	2
Denton	US 380	25	0134-09-059	26
Denton	US 380	24	0134-09-059	8

NON-CONTROLLED ACCESS (CONTINUED)

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Goliad	US 59	28	0088-03-038	26B
Goliad	US 59	29	0088-03-038	26C
Goliad	US 59	30	0088-03-038	26D
Goliad	US 59	31	0088-03-038	26F
Rockwall	FM 740	32	1014-03-047	32
Rockwall	FM 740	1	1014-03-047	17
Rockwall	FM 740	20	1014-03-047	55
Zapata	US 83	35	0038-03-030	74

CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Caldwell	SH 130	F	3583-01-002	522 & 522E
Caldwell	SH 130	L	3583-01-002	1808
Caldwell	SH 130	K	3583-01-002	1519
Caldwell	SH 130	J	3583-01-002	666
Caldwell	SH 130	I	3583-01-002	661
Caldwell	SH 130	H	3583-01-002	641
Caldwell	SH 130	G	3583-01-002	619
Dallas	SH 183	B	0094-03-098	3
Dallas	SH 183	A	0094-03-100	92
Guadalupe	SH 130	M	3583-02-002	806
Guadalupe	SH 130	N	3583-02-002	807
Travis	SH 130	C	0440-06-008	443B
Travis	SH 130	E	0440-06-008	1551AC
Travis	SH 130	D	0440-06-008	464C & 464CE

Note: Exhibits 1 through 36 and A through N on file with minute order clerk.

c. Finance

(1) Accept the quarterly cash report (MO)

111797
FIN

Texas Transportation Code, §201.107 requires the Texas Transportation Commission (commission) to prepare a quarterly statement containing an itemized list of all the money received by the Texas Department of Transportation (department) and the source of the money and of all money paid by the department and the purpose of the payment. The statement shall be filed in the records of the department and a copy submitted to the Governor. The report must comply with each reporting requirement applicable to financial reporting provided by the General Appropriations Act.

The cash statement will be prepared for each quarter of the department's fiscal year. A quarterly cash report for the department for the second quarter of Fiscal Year 2009, ending February 28, 2009, attached as Exhibit A, has been prepared in accordance with Texas Transportation Code, §201.107.

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

Note: Exhibit A on file with minute order clerk.

(2) Accept the Quarterly Investment Report (MO)

111798
FIN

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

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

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

Pursuant to this legislation, in Minute Order 108970, dated July 25, 2002, the commission approved and adopted a written investment policy and written investment strategy applicable to funds of the commission held under the Indenture of Trust dated July 15, 2002 securing the outstanding bonds, notes or other obligations issued by the commission to finance a portion of the cost of the initial phase of the Central Texas Turnpike System, also known as the 2002 Project. The investment policy and investment strategy have been amended pursuant to Minute Order 109066, dated October 31, 2002, Minute Order 109339, dated July 31, 2003, Minute Order 109462, dated October 30, 2003, Minute Order 109732, dated July 29, 2004, Minute Order 109963, dated February 24, 2005, Minute Order 110087, dated May 26, 2005, Minute Order 110145, dated July 28, 2005, Minute Order 110617, dated July 27, 2006, Minute Order 111003, dated July 26, 2007, and Minute Order 111490, dated August 28, 2008. The commission has designated the department's Chief Financial Officer, Director of Finance and Deputy Director of Finance as investment officers. The Debt Management Director is authorized to act as investment officer in the absence of the Chief Financial Officer, Director of Finance and the Deputy Director of Finance.

Section 9.0 of the investment policy requires the investment officer to prepare and submit to each member of the commission and the executive director of the department an investment report on no less than a quarterly basis. The report must be prepared in accordance with the requirements of that section, including containing sufficient information to provide for a comprehensive review of investment activity and current investment instruments and performance for the reporting period.

Quarterly investment reports will be prepared for each quarter of the department's fiscal year. A quarterly investment report for the 2002 Project for the period ending February 28, 2009, attached as Exhibit A, has been prepared in accordance with Government Code, §2256.023 and Section 9.0 of the investment policy.

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

Note: Exhibit A on file with minute order clerk.

d. Load Zones & Postings

Various Counties – Revise load restrictions on the state highway system

(1) Roadways (MO)

111799
CST

The Texas Transportation Commission (commission) under provision of Texas Transportation Code §621.102, may set the maximum gross weight of a vehicle and its load, maximum gross weight of a combination of vehicles and loads, maximum axle load, or maximum wheel load that may be moved over a state highway or a farm or ranch road if the commission finds that heavier maximum weight would rapidly deteriorate or destroy the road.

Pursuant to §621.102, a maximum weight or load may not exceed the maximum set by statute for that weight or load. This section does not apply to a vehicle delivering groceries, farm products, or liquefied petroleum gas.

An engineering and traffic investigation has been made on the state highway system to determine and fix the maximum loads to be transported or moved on, over or upon the roads of the highway system.

It has been determined from this investigation that the load restrictions on certain sections of roads of the state highway system should be removed.

IT IS THEREFORE ORDERED by the commission that the maximum load limits which may be transported or moved on, over or upon the roads described in Exhibit A be removed for the month of April 2009, as set forth therein, superseding any portion of a previous action in conflict. The executive director shall proceed with the removal of signs as appropriate, making the removal of this load limitation effective and operative.

Note: Exhibit A on file with minute order clerk.

(2) Bridges (MO)

111800
BRG

The Texas Transportation Commission (commission) under provision of V.T.C.A., Transportation Code, §621.102, may set the maximum gross weight of a vehicle and its load, maximum gross weight of a combination of vehicles and loads, maximum axle load, or maximum wheel load that may be moved over a state highway or a farm or ranch road if the commission finds that heavier maximum weight would rapidly deteriorate or destroy the road or a bridge along the road.

Pursuant to §621.102, a maximum weight or load may not exceed the maximum set by statute for that weight or load. This section does not apply to a vehicle delivering groceries, farm products, or liquefied petroleum gas.

An engineering and traffic investigation has been made to determine and fix the maximum loads that may be moved over the state highway system.

It has been determined from this investigation that the loads on certain bridges of the state highway system should be restricted or previous restrictions should be revised or removed.

IT IS THEREFORE ORDERED by the commission that the maximum load limits which may be moved over the bridges described in Exhibits A and B be placed, revised, or removed as set forth therein, superseding any portion of previous action in conflict. The executive director shall proceed with the erection of signs as appropriate, making the placement of these load limitations effective and operative.

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

e. Right of Way Dispositions and Donations

(1) Bexar County – FM 471 at FM 1560 in San Antonio – Consider the exchange of drainage easements (MO)

111801
ROW

In the city of San Antonio, **BEXAR COUNTY**, on **FARM TO MARKET ROAD 471**, the State of Texas (state) acquired an easement interest in certain land needed for highway drainage purposes by instrument recorded in Volume 8221, Page 121, Deed Records of Bexar County, Texas.

A portion of the easement (surplus easement), 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 exchange of a surplus easement as partial or full consideration for other land needed by the state for highway purposes.

WCH Holdings, L.P., (owner) has granted to the state an easement interest in land needed for highway drainage purposes (new easement), described in Exhibit B. The owner is also the owner of the fee underlying the surplus easement. The owner has requested that the surplus easement be released in exchange for the new easement.

It is the opinion of the commission that it is proper and correct that the state release its interest in the surplus easement in exchange and as full consideration for the new easement to the state, the value of the two easements being equal.

NOW, THEREFORE, the commission finds that the surplus easement is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument releasing the state's rights and interest in the surplus easement in exchange and as full consideration for the new easement to the state.

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

(2) Comal County – I-35 at Water Lane in New Braunfels – Consider the sale of a surplus maintenance site and improvements to the city of New Braunfels (MO)

111802
ROW

In the city of New Braunfels, COMAL COUNTY, on INTERSTATE 35, the State of Texas (state) acquired certain land for a maintenance site by instruments recorded in Volume 93, Page 564; Volume 99, Page 538; Volume 134, Page 307; and Volume 135, Page 610, Deed Records of Comal County, Texas.

The land and the improvements (surplus land), described in Exhibit A, are no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of real property which is no longer needed for a state highway purpose.

The City of New Braunfels has requested that the state sell the surplus land to the city for \$1,039,683.

The commission finds \$1,039,683 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to the City of New Braunfels, Texas, for \$1,039,683; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(3) Fannin County – FM 64 at SH 50 in Ladonia – Consider the transfer of a surplus maintenance site and improvements to SH 50 in Ladonia (MO)

111803
ROW

In the city of Ladonia, FANNIN COUNTY, on FARM TO MARKET ROAD 64, the State of Texas (state) acquired certain land for a sub-section warehouse site by instrument recorded in Volume 431, Page 230, Deed Records of Fannin County, Texas.

The land and the improvement (surplus land), described in Exhibit A, are no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Section 202.021, the Texas Transportation Commission (commission) may waive payment for real property transferred to a governmental entity with the authority to condemn the property, if the estimated cost of future maintenance on the property equals or exceeds the fair value of the property.

The appraised value of the surplus land is \$26,000. The Paris district has advised that maintenance of the surplus land for 20 years is estimated to cost the state \$33,880, which exceeds the value of the surplus land. Fannin County has requested that the surplus land be transferred to the county in consideration of the estimated savings to the state of future maintenance costs.

The commission finds \$26,000 to be a fair and reasonable value for the state's rights, title and interest in the surplus land, and it is the opinion of the commission that it is proper and correct that the state convey to the county all of its rights, title and interest in the surplus land in consideration of the estimated savings to the state of future maintenance costs, which exceed the value of 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 Fannin County, Texas, in consideration of the estimated 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 land.

Note: Exhibit A on file with minute order clerk.

(4) Hockley County – FM 300 at US 385 in Levelland – Consider the sale of surplus right of way to the abutting landowner (MO)

111804
ROW

In the city of Levelland, HOCKLEY COUNTY, on FARM TO MARKET ROAD 300, the State of Texas acquired certain land needed for highway purposes by instrument recorded in Volume 91, Page 273, Deed Records of Hockley County, Texas.

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

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

Sundown State Bank is the abutting landowner and has requested that the surplus land be sold to the bank for \$6,120.

The commission finds \$6,120 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value of the surplus land is less than \$10,000 and authorizes the executive director to execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Sundown State Bank for \$6,120; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(5) Moore County – US 87 at BNSF Railway in Dumas – Consider the exchange of surplus real property for new right of way (MO)

111805
ROW

In the city of Dumas, MOORE COUNTY, on US 87, the State of Texas (state) needs to acquire a small tract of public parkland (new land), described in Exhibit A, for an improvement project to the highway.

In accordance with Title 23 CFR, Chapter 771, and a determination by the Federal Highway Administration, replacement land is required to mitigate the adverse environmental impact caused by the acquisition of this parkland.

In the city of Dumas, on US 87, the state previously acquired certain land for highway purposes by instruments recorded in Volume 74, Page 14, and in Volume 123, Page 380, Deed Records of Moore County, Texas.

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

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

The City of Dumas is the owner of the new land, described in Exhibit B. The city has requested that the surplus land be conveyed to the city in exchange and as consideration for the new land.

It is the opinion of the commission that it is proper and correct that the state convey the surplus land to the city in exchange and as full consideration for the conveyance of the new land to the state and the environmental mitigation requirements.

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

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

(6) Tarrant County – SH 180 at SH 360 in Arlington – Consider the correction of MO 111283 for the sale of surplus property to the abutting landowner (MO)

111806
ROW

In the city of Arlington, TARRANT COUNTY on STATE HIGHWAY 180, the State of Texas acquired certain land needed for state highway purposes.

The Texas Transportation Commission (commission) approved Minute Order 111283 on February 28, 2008, authorizing the sale of surplus land. The minute order made reference to the instrument of conveyance to the state which was subsequently corrected, including the legal description. The reference and legal description are being amended and corrected by this minute order.

The surplus land was conveyed to the state by Correction Deed without Warranty recorded as Instrument No. D208321860, Deed Records of Tarrant County, Texas.

The surplus land, described in Exhibits A and B, is no longer needed for a state highway purpose.

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

NOW, THEREFORE, IT IS ORDERED that Minute Order 111283 be amended only with respect to the reference to the instrument of conveyance to the state and the correction of the legal description, and all other provisions of Minute Order 111283 are to remain unchanged.

FURTHER, the commission recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying of all of the state's rights, title and interest in the surplus land to Union Pacific Railroad Company.

Note: Exhibits A and B on file with 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)

111807
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 speed limits on various segments of the state highway system, previously established by the commission by minute order and listed in Exhibit C, are no longer necessary or have been incorporated by cities which have the authority to set speed limits on these sections of highways.

The department, in consultation with the Texas Commission on Environmental Quality, has also determined that the environmental speed limit on the segment of US 67 established by Minute Order 108409, dated January 25, 2001, 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 through D on file with minute order clerk.

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

Note: The commission did not meet in executive session.

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 regular meeting of the Texas Transportation Commission adjourned at 12:53 p.m.

APPROVED:

Deirdre Delisi, Chair
Texas Transportation Commission

xxx

I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on April 30, 2009, in Austin, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation