

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on June 25, 2009 in Austin, Texas. The meeting opened at 9:07 a.m. with the following commissioners present:

Texas Transportation Commission:

Deirdre Delisi	Chair
Ned Holmes	Commissioner
Fred Underwood	Commissioner
Bill Meadows	Commissioner

Administrative Staff:

Amadeo Saenz, Executive Director
 Steve Simmons, Deputy 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 4:21 p.m. on June 17, 2009, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

ITEM 1. Approval of Minutes of the May 28, 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 May 28, 2009 regular meeting of the Texas Transportation Commission.

Note: Executive Director Amadeo Saenz recognized citizen of Kuwait, Saud Al-Naki.

ITEM 2. AVIATION

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

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

111844
 AVN

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

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

On Thursday, May 21, 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 \$31,623,971.

Note: Exhibit A on file with minute order clerk.

ITEM 3. PUBLIC TRANSPORTATION

a. El Paso County – Award federal United We Ride grant funds to El Paso Community College (MO)

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

111845
PTN

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

The department received a competitive United We Ride (UWR) grant from the FTA to overcome locally-identified constraints to coordinated public transportation. The commission desires to make the following award that addresses a constraint identified in the regional transportation coordination process responding to Texas Transportation Code Chapter 461.

The commission desires to award \$35,445 to El Paso Community College for a transit driver training demonstration project that includes instructor salary, outreach, training of an initial ten students, and an evaluation of the project.

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 above award, submit the necessary application to the FTA, notify the agency in writing of the commission's approval and negotiate the necessary contract.

b. Hays, Travis, and Williamson Counties – Award Federal §5311, Nonurbanized Area Formula Program, funds and award transportation development credits to Capital Area Rural Transportation System (CARTS) (MO)

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

111846
PTN

The Texas Transportation Commission (commission) takes special note of its designation by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, "Formula 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.

The Capital Area Metropolitan Planning Organization (CAMPO) has authorized the transfer of \$1.39 million in Surface Transportation Program Metropolitan Mobility and Rehabilitation funding for the purchase of 10 commuter buses. The flexed funding will be administered under the Federal Transit Administration (FTA) grant program, Formula Grants for Other than Urbanized Areas (49 U.S.C. §5311).

Title 43, Texas Administrative Code, §5.73 establishes the process for which Transportation Development Credits (TDC) may be awarded at the discretion of the commission. The commission passed Minute Order 110771, on December 14, 2006, expressing its intent to award TDC that will promote public transportation capital infrastructure projects: fleet replacement, fleet expansion, maintenance facilities; and capital projects that support regional coordination.

The commission awards \$1.39 million to the Capital Area Rural Transportation System (CARTS) rural transit district and 168,640 in TDC for the purchase of buses to support a commuter project approved by CAMPO.

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

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

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is authorized to submit the necessary state application to FTA, and enter into the necessary contracts with CARTS upon completion of all application requirements.

c. Various Counties – Award state funds to public transportation providers for FY 2010 as appropriated by the 81st Texas Legislature (MO)

Commissioner Underwood made a motion, seconded by Commissioner Meadows and the commission approved the following minute order presented by Public Transportation Division Director Eric Gleason.

111847
PTN

The General Appropriations Act enacted by the 81st Texas Legislature, Regular Session, appropriated \$57,482,135 for public transportation grants for small urban and nonurbanized areas of the state.

The Texas Transportation Commission (commission) desires to award \$28,741,068, the appropriated amount for FY 2010, and the balance plus any unobligated funds for fiscal year 2011.

Title 43, Texas Administrative Code, §31.11 establishes a formula by which public transportation funds shall be distributed to the small urban and nonurbanized areas of the state. The FY 2010 allocation is shown in Exhibit A and has been calculated in accordance with the provisions of §31.11.

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

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

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the allocations as described in Exhibit A and to enter into the necessary contracts for the FY 2010 program of projects upon completion of all application requirements by the local public transportation operators.

Note: Exhibit A on file with minute order clerk.

ITEM 4. AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

Discussion of the status of ARRA project delivery; and approve additions to the list of preventive maintenance and rehabilitation projects previously approved for funding from Texas' portion of the ARRA funding (MO)

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

111848
ADM

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 is a critical element with regard to the selection and prosecution of projects. States must have 100 percent of the funds obligated within one year of receiving the apportionment from FHWA or the remaining funds will be redistributed to other states. 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 \$500 million in preventive maintenance and rehabilitation projects. In Minute Orders 111777 and 111808, dated April 30, 2009 and May 28, 2009 respectively, the commission made revisions to the previously approved list of 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 the minute orders, the ARRA, and the project selection requirements established by FHWA. Due to current national economic conditions and the accompanying effects on construction contracting and material supplies, the preventive maintenance and rehabilitation projects that have gone to letting in April and May 2009 have experienced a significant under run of the originally obligated ARRA funds. This under run allows additional preventive maintenance and rehabilitation projects to be brought forward for ARRA funding.

The department has developed a proposed list of additional preventive maintenance and rehabilitation projects, which is set forth in Exhibit A. No previously approved preventive maintenance and rehabilitation projects are affected by the selection of these additional projects.

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

IT IS THEREFORE ORDERED by the commission that the preventive maintenance and rehabilitation projects set forth in Exhibit A 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 Exhibit A and to enter into any necessary agreements associated with these projects and activities.

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

Note: Exhibit A on file with minute order clerk.

Note: The commission received comments from City of Temple Mayor William Jones, III.

ITEM 5. PROMULGATION OF ADMINISTRATIVE RULES Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

Proposed Adoption

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

Chapter 17 – Vehicle Titles and Registration (MO)

Amendments to §17.21, Definitions, and §17.23, Temporary Registration Permits (Motor Vehicle Registration)

Commissioner Holmes made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Vehicle Titles and Registration Division Director Rebecca Davio:

111849
VTR

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §17.21, Definitions, and §17.23, Temporary Registration Permits, 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 § 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 6. MANAGEMENT

Grant final approval for the selection of an independent consultant to conduct a thorough management and organizational review of the department (MO)

Commissioner Holmes made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Assistant Executive Director for Support Operations Edward Serna:

111850
ADM

The Professional Services Procurement Act, Government Code, Chapter 2254, Subchapter B, authorizes the Texas Department of Transportation (department) to issue a Request for Proposals (RFP) for the purpose of retaining a private consultant to study and advise the department.

On February 18, 2009, the Texas Transportation Commission (commission) received a letter from the Chairman of the Senate Committee on Transportation and Homeland Security requesting that the department initiate a procurement to secure the services of an outside consulting firm of the highest caliber to conduct a top-down organizational/operational audit of the department. The scope of work should include recommendations regarding personnel levels, structure, and any organizational changes necessary to increase productivity and provide cost savings.

On March 26, 2009, by Minute Order 111739, the commission authorized and directed the department to issue an RFP for the specified services and to enter into negotiations with selected firms to secure a contract that would provide the best value to the department.

On April 10, 2009, the department issued an RFP seeking to contract with a firm to conduct a review of the department's management and organizational structure, its staffing levels and its business processes. Eleven firms submitted responses to the RFP. Oral presentations and preliminary negotiations took place in June 2009 and based on these efforts, the department's staff recommends the selection of Grant Thornton, LLP as the private consultant for these services.

IT IS THEREFORE ORDERED by the commission that the determination that the proposal submitted by Grant Thornton, LLP provides the best value to the department is approved, and the department is authorized and directed to complete negotiations with Grant Thornton, LLP necessary to finalize the contract.

IT IS FURTHER ORDERED that the contract is awarded to Grant Thornton, LLP subject to, and effective upon the occurrence of, the following: (1) the successful conclusion of negotiations; and (2) final execution of the contract.

ITEM 7. TRANSPORTATION PLANNING

a. Bell, Coryell and Lampasas Counties – Approve revisions to the Killeen-Temple Urban Transportation Study Metropolitan Area Boundary (MO)

Commissioner Holmes 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:

111851
TPP

Pursuant to Title 43, Texas Administrative Code (TAC), §15.3, revisions to metropolitan planning area boundaries must be approved by the governor or the governor's designee. The governor and the Texas Department of Transportation (department) must be provided documentation and the rationale supporting any recommended boundary change.

In accordance with Title 23, CFR §450.312, a metropolitan planning area boundary shall, at a minimum, cover the urbanized area and the contiguous geographic area(s) likely to become urbanized within the 20-year forecast period covered by the metropolitan transportation plan.

On October 4, 2005, Governor Perry delegated authority to the Texas Transportation Commission (commission) to approve metropolitan planning area boundary changes.

On January 21, 2009, the Killeen -Temple Urban Transportation Study (K-TUTS) Transportation Planning Policy Board approved the adjusted metropolitan planning area boundary based on a study that examined population levels, county boundaries, and input from local officials.

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

IT IS THEREFORE ORDERED by the commission that the proposed the K-TUTS metropolitan planning area boundary changes are hereby approved in accordance with Title 23, CFR §450.312 as the 2009 Metropolitan Planning Area Boundary as shown in Exhibit A.

Note: Exhibit A on file with minute order clerk.

Note: The commission received comments from City of Temple Mayor William Jones, III; and Bell County Commissioner Tim Brown.

b. Fannin County – Authorize the acquisition of a 1.35-mile rail facility in Bonham, and the lease of the rail line to the Fannin County Rural Rail District (FCRRD); approve acceptance of donation from Bonham Economic Development Corporation (BEDCO) for purposes of acquiring the rail line (MO)

Commissioner Meadows 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:

111852
TPP

Transportation Code, §91.002, authorizes the Texas Department of Transportation (department) to acquire, finance, construct, operate, and maintain rail facilities. The department may enter into an agreement with a public entity, including a political subdivision of the state, to permit the entity independently or jointly with the department, to acquire, construct, maintain, or operate a rail facility or system.

The Texas Transportation Commission (commission) approved the department to purchase a 33.5-mile segment of the Union Pacific Railroad Company's (UP) Bonham Subdivision between milepost 94.0, near Paris, and milepost 127.5, east of Bonham, in Fannin and Lamar Counties with Minute Order 109588 on February 26, 2004. Subsequently, the commission approved the department to lease the rail line to the Fannin County Rural Rail Transportation District (FRRTD) with Minute Order 110350 on December 15, 2005.

FRRTD has requested that the department acquire an additional 1.35 miles of rail line from the UP that is contiguous to the west end of the segment of track already owned by the state and that terminates in Bonham. FRRTD proposes to lease this line from the department and intends to improve the line to provide a tourist passenger service and to provide local freight rail service.

The Bonham Economic Development Corporation (BEDCO) has offered a cash donation of \$140,000 to the department for the purchase of the line. The purchase of the rail line and improvements would preserve a regional transportation alternative through Fannin and Lamar counties that is necessary for rural economic development opportunities.

A public hearing concerning the proposed donation and acquisition was held by BEDCO at the Fannin County Annex in Bonham on April 7, 2009. Public comments were positive and BEDCO passed a resolution agreeing to provide funding to the department for the acquisition.

The commission has considered the information presented by FRRTD and BEDCO and has determined that acquisition of the rail facility from the UP and the lease of the rail line to FRRTD are in the best interest of the state. The acquisition of the installed rails, signals, switches, structures and other improvements that comprise the rail facility is necessary for the preservation and restoration of the operation of freight and passenger rail service along this corridor.

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 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 BEDCO is not a party to a contested case before the department, has not been a party to a contested case before the department during the last 30 days; is not subject to department regulation or oversight, and is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department. The department has determined that acceptance of the donation is in the best interest and welfare of the traveling public and will provide a significant public benefit.

IT IS THEREFORE ORDERED by the commission that the donation of \$140,000 by Bonham Economic Development Corporation 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.

IT IS FURTHER ORDERED by the commission that the executive director or the executive director's designee is authorized to enter into any necessary agreements to acquire from UP the 1.35-mile rail facility along the Bonham Subdivision between milepost 127.5, and milepost 128.85, in Bonham, in Fannin County, for an amount not to exceed \$140,000.

IT IS FURTHER ORDERED by the commission that the executive director or the executive director's designee is authorized to amend the existing lease agreement with FRRTD to include the new portion of line and allow for use as a passenger rail facility.

Note: The commission received comments from Bonham Economic Development Corporation Executive Director Glenn Taylor.

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

Commissioner Holmes 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:

111853
TPP

The Texas Transportation Commission (commission) by Minute Order 109301, dated June 26, 2003, reappointed Robert C. Brown, 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. Brown's term expires on June 26, 2009.

Pursuant to Title 43, Texas Administrative Code (TAC), §15.85, the board has nominated Mr. Brown 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, Robert C. Brown, III is hereby re-appointed to serve as a member on the board for the Grand Parkway Association, with a term expiring June 25, 2015.

d. Various Counties – Approval to authorize additional projects with CONSTRUCT authority under the work program created by Minute Order 111215 and concurrence in the selection of those projects by the Regional Transportation Council, and approval of revisions to previously authorized projects. Projects are to be funded with payments received from the North Texas Tollway Authority for the right to develop, finance, design, construct, operate and maintain the SH 121 toll project from Business SH 121 in Denton County to US 75 in Collin County (MO)

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

111854
FIN

Transportation Code, §228.012 requires the Texas Department of Transportation (department) to create a separate account in the state highway fund to hold payments received by the department under a comprehensive development agreement (CDA), the surplus revenue of a toll project or system, and payments received under Transportation Code, §§228.0111(g)(2) and (i)(2).

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

The department has created subaccounts in the state highway fund to hold the payments received from the North Texas Tollway Authority (NTTA) for the right to develop, finance, design, construct, operate, and maintain the SH 121 toll project from Business SH 121 in Denton County to US 75 in Collin County (SH 121 payments).

Pursuant to Transportation Code, §228.012, the SH 121 payments may be used to pay the costs of a transportation project, highway project, or air quality project within a department district in which any part of the SH 121 toll project is located. The SH 121 toll project is located in the Dallas District. An air quality project is a project or program of the department or another governmental entity that the commission determines will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads.

In Minute Order 110727, dated October 26, 2006, the Texas Transportation Commission (commission) approved, and authorized the department's executive director to enter into, a memorandum of understanding (MOU) with the Regional Transportation Council (RTC), the transportation policy council of the North Central Texas Council of Governments (NCTCOG), a federally designated MPO, concerning the administration, sharing, and use of surplus toll revenue and CDA concession payments in the region served by the NCTCOG. The SH 121 toll project is located in the region served by the NCTCOG.

Responsibility for allocating the SH 121 payments has already been assigned, to a degree, to the RTC under the MOU. The MOU provides that the selection of projects to be financed using those funds shall be made by the RTC, subject to commission concurrence. The projects are to be selected in a cooperative department-RTC selection process which considers the desires of the cities and counties in which the project is located. The RTC has developed a plan for regional sharing of surplus toll revenue and CDA concession payments, based on the location of the toll project from which these revenues are derived and the residential location of toll users in the region served by the NCTCOG.

The department has established a work program to account for and track projects in the Dallas District that are to be funded with the SH 121 payments. In Minute Order 111215, dated January 31, 2008; Minute Order 111439, dated July 31, 2008; Minute Order 111528, dated September 25, 2008; Minute Order 111553, dated October 30, 2008; and Minute Order 111822, dated May 28, 2009 the commission concurred with certain projects

identified by the RTC to be funded with those payments, and approved the placement of those projects in the work program. The RTC, through an extensive public involvement process, has identified additional projects in the Dallas District to be funded with the SH 121 payments.

IT IS THEREFORE ORDERED by the commission that, pursuant to the MOU, it concurs with the projects as shown in Exhibit A that have been selected by the RTC to be funded with the SH 121 payments, and approves the placement of the projects in the work program with CONSTRUCT authority, to be developed consistent with applicable state and federal laws, regulations, and procedures. Pursuant to the finding of the RTC, the commission determines that the projects shown in Exhibit A are transportation or highway projects, or air quality projects that will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads, and are therefore eligible to be funded with the SH 121 payments.

IT IS FURTHER ORDERED by the commission that it concurs with the projects as shown in Exhibit B as amendments to previous minute orders.

IT IS FURTHER ORDERED that, unless otherwise approved by the commission, all direct costs associated with the projects for which federal and state funds have not been allocated shall be charged to this work program, including the costs of right of way acquisition, preliminary engineering, and construction engineering, and the costs of department staff incurred in the development, procurement, and construction of the projects.

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

ITEM 8. STATE INFRASTRUCTURE BANK

Travis County – Central Texas Regional Mobility Authority (CTRMA) – Consider granting preliminary approval of an application from the CTRMA to borrow \$31.61 million from the State Infrastructure Bank to pay for certain costs of Segment 1A of the 290E Toll Road Project in Travis County, from just east of US 183, easterly to just east of Springdale Road (MO)

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

111855
FIN

The Central Texas Regional Mobility Authority (CTRMA) submitted an application for financial assistance from the State Infrastructure Bank (SIB) under Title 43 Texas Administrative Code, Chapter 6 (rules). The application satisfied all requirements of the rules, including passage by the CTRMA of a resolution authorizing submission of the application to the Texas Department of Transportation (department). The CTRMA intends to use the financial assistance to pay for right-of-way acquisition and partial funding of final design for Segment 1A of the 290 East Toll Project in Travis County, from just east of US 183, easterly to just east of Springdale Road.

The intended use of the financial assistance conforms to the purposes of the SIB. The present and projected financial condition of the SIB is sufficient to cover the requested financial assistance for the project.

Based on department review and analysis of the application, the Texas Transportation Commission (commission) makes the following findings: 1) the RMA has offered general funds, and a secondary security through long term debt as security to assure likely repayment of the financial assistance; 2) the project is consistent with the Statewide Transportation Plan; 3) the project is listed in the 2008-2011 Statewide Transportation Improvement Program and is consistent with the State Implementation Plan; 4) the project will improve both the safety and efficiency of state transportation systems; and 5) the repayment of the financial assistance under negotiated terms will expand the availability of funding for other transportation projects and reduce direct state costs.

NOW, THEREFORE, IT IS DETERMINED that the application for SIB financial assistance submitted by the Central Texas Regional Mobility Authority meets the requirements of commission rules, and in accordance with those rules and applicable law, the commission grants preliminary approval of the application to borrow \$31.61 million from the State Infrastructure Bank, and directs the executive director to commence negotiations and other actions authorized and required by its rules.

Note: The commission received comments from Roger Baker.

ITEM 9. TOLL PROJECTS

a. **Tarrant County** – Consider preliminary approval of a request for financing from the North Texas Tollway Authority to pay for certain construction and right of way costs related to the crossing of the Southwest Parkway, a toll project from I-30 to Altamesa Boulevard in the City of Fort Worth, over the Union Pacific Railroad Davidson Rail Yard in Tarrant County (MO)

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

111856
CFO

The Texas Department of Transportation (department) and the North Texas Tollway Authority (NTTA) have been proceeding with the preliminary development of the SH 121 toll project from I-30 to Altamesa Boulevard in Tarrant County (Southwest Parkway).

The Southwest Parkway project is located within the boundaries of the NTTA, and the NTTA is authorized to construct, operate, maintain, expand, or extend the Southwest Parkway project pursuant to Transportation Code, §228.0111(s) and other applicable law.

The Southwest Parkway project crosses over and affects railroad facilities known as the Davidson Yard, which are owned and operated by the Union Pacific Railroad Company (UPRR). The NTTA and the City of Fort Worth (City) have reached agreement with UPRR regarding the design, construction, and operation of the Southwest Parkway across the Davidson Yard, documented in the “Union Pacific Railroad/Project Partners Formal Agreement,” dated as of January 8, 2009 (Formal Agreement). The department is also a party to the Formal Agreement to document the department’s agreement to convey certain real property necessary for the proposed Union Pacific facilities contemplated in the Formal Agreement.

To acquire right-of-way interests needed for the Southwest Parkway, obtain access to the Davidson Yard to construct the Southwest Parkway, and otherwise close the settlement described in the Formal Agreement (obligations), the NTTA and the City agreed to each fund an equal share of the \$95 million cost of the obligations. The failure of the NTTA and the City to demonstrate by August 20, 2009 their ability to fund the \$95 million is one of several events entitling any party to the Formal Agreement, including UPRR, to terminate that agreement.

On June 11, 2009, the Regional Transportation Council (RTC) of the North Central Texas Council of Governments (NCTCOG), the metropolitan planning organization for the Dallas/Fort Worth region, adopted a resolution committing to program \$49.87 million of Surface Transportation Program – Metropolitan Mobility funds to fund the first portion of the \$95 million, with the \$45.13 million balance to be funded by the NTTA unless the NTTA does not establish feasibility for the Southwest Parkway or otherwise elects not to undertake the delivery of the Southwest Parkway on or before such time as the \$49.87 million is fully advanced to the NTTA.

In the event the NTTA does not establish feasibility for the Southwest Parkway or otherwise elects not to undertake the delivery of the Southwest Parkway, the RTC has identified Category 2 funds already dedicated to the project that would fund the remaining \$45.13 million balance.

Transportation Code, §366.301 authorizes the department to provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, construction, operation, or maintenance of a turnpike project or system by the NTTA on terms agreed to by the department and the NTTA. 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 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 NTTA has submitted a request for \$49.87 million to pay for a portion of the costs of the obligations. The financial assistance has been requested in the form of a grant.

Section 27.53(d) authorizes the executive director of the department to waive submission of individual items of information or data required by Section 27.53(c) if: (1) the information or data required by this section is not relevant to the project or the financial assistance requested; (2) the department already possesses information or data in a format that may be substituted for the required information or data; or (3) the past performance of the requestor on previous projects developed in collaboration with the department indicates that the requestor will adequately and prudently address the issues and impacts described in the requested information or data.

Information and data required by Section 27.53(b) is contained in the request for financing. Supplemental information and data required by Section 27.53(c) is either contained in the request for financing or is temporarily waived under Section 27.53(d)(3), as the past performance of the NTTA on previous projects developed in collaboration with the department indicates that the NTTA will adequately and prudently address the issues and impacts described in the requested information or data.

The department previously conducted environmental studies and analyses of the Southwest Parkway, and has secured environmental clearance in the form of a reevaluation of the Final Environmental Impact Statement for the Southwest Parkway, which was approved by the FHWA on June 3, 2009.

The NTTA has, subject to establishing feasibility for, and committing to develop, the Southwest Parkway, committed that the Southwest Parkway project will comply with all applicable local, state and federal environmental laws, regulations and requirements, and has, with respect to any construction regarding the Southwest Parkway undertaken by the NTTA, committed that the NTTA will assume all liability and responsibility for existing and future EPIC.

The completion of the Southwest Parkway will benefit the state and the traveling public and improve the efficiency of the state's transportation system by enhancing local and regional mobility, decreasing congestion, increasing safety, increasing economic development opportunities, decreasing travel time, decreasing air pollution, and enhancing quality of life in the Southwest Parkway corridor.

The Southwest Parkway project will expand the availability of funding for transportation projects or reduce direct state costs. The financial assistance will reduce the amount of funding required from the City and realize the benefits described above. This financial assistance will enhance the ability of Southwest Parkway to go forward as a toll facility, improving the efficiency of the state transportation system. Without the financial assistance, the timeline to complete the Southwest Parkway and realize the benefits could be indefinitely delayed.

The Southwest Parkway project is consistent with the approved Statewide Transportation Plan, the Statewide Transportation Improvement Program, and the approved metropolitan transportation plan (MTP) of the NCTCOG. The US DOT (FHWA/FTA) found the MTP to conform to the State Implementation Plan on June 12, 2007 and found the 2008-2011 Transportation Improvement Program to conform on October 31, 2007.

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the North Texas Tollway Authority meets the requirements of 43 TAC §27.53 and §27.54(a) and, in accordance with those provisions, the commission grants preliminary approval of financial assistance in the amount of \$49.87 million, to be used to pay for a portion of the costs to acquire right-of-way interests needed for the Southwest Parkway, obtain access to the Davidson Yard to construct the Southwest Parkway, and otherwise close the settlement described in the Formal Agreement, and directs the executive director to implement the actions authorized and required by those provisions.

b. Travis and Caldwell Counties – Approval of the use of the payment received from SH 130 Concession Company, LLC for the right to develop, finance, design, construct, operate, and maintain the SH 130 toll project from US 183 in Travis County to I-10 in Guadalupe County to fund two owner-directed change orders on the SH 130 toll project (MO)

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

111857
FIN

Transportation Code, §228.012 requires the Texas Department of Transportation (department) to create a separate account in the state highway fund to hold payments received by the department under a comprehensive development agreement (CDA), the surplus revenue of a toll project or system, and payments received under Transportation Code, §§228.0111(g)(2) and (i)(2).

The department is required to create subaccounts in the account for each project, system, or region, and to hold money in a subaccount in trust for the benefit of the region in which a project or system is located. Interest earned on money in a subaccount shall be deposited to the credit of that subaccount.

The department has created subaccounts in the state highway fund to hold the payments received from the SH 130 Concession Company, LLC, for the right to develop, finance, design, construct, operate, and maintain the SH 130 toll project from US 183 in Travis County to I-10 in Guadalupe County. Selection of projects to be financed using those funds shall be made by the department, subject to Texas Transportation Commission (commission) concurrence. The projects are to be selected in a cooperative selection process which considers the desires of the cities and counties in which the project is located.

The department has established work programs to account for and track projects in the Austin and San Antonio Districts that are to be funded with the SH 130 payments. The department has developed a list of projects to be funded with the SH 130 payments and has placed a portion of those projects located in the work program established for the Austin District. Additional projects may be added to the work program through commission approval.

The projects to be funded with the SH 130 payments relate to two owner directed change orders. The first change order is to fund an adjustment of column locations at the SH 45/SH 130 interchange to accommodate future railroad tracks. The second change order is for the construction of a turnaround bridge near Plum Creek. This turnaround bridge will facilitate traffic movements along SH 130 where the overpasses are spaced four miles apart. Pursuant to the requirements of the SH 130, Segments 5 and 6 Facility Concession Agreement, the department is obligated to pay the costs of the change orders, which will be funded with a portion of the concession payment.

IT IS THEREFORE ORDERED by the commission that the use of payments received from SH 130 Concession Company, LLC for the right to develop, finance, design, construct, operate, and maintain the SH 130 toll project from US 183 in Travis County to I-10 in Guadalupe County to fund two change orders on the SH 130 toll project is approved, with the work under those change orders to be carried out consistent with applicable state and federal laws, regulations, and procedures.

IT IS FURTHER ORDERED that the placement in the work program of the SH 130 toll project work to be carried out under the change orders, as shown in Exhibit A, is approved.

Note: Exhibit A on file with minute order clerk.

c. Harris County – Consider approval of the designation as a toll project of SH 99 (Grand Parkway) from I-10 to US 290 (MO)

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

111858
TTA

In HARRIS COUNTY, NEW LOCATION, STATE HIGHWAY 99 (Grand Parkway), from I-10 to US 290, is currently planned as a four-lane divided highway to be on the state highway system. This section of SH 99 will consist of a proposed controlled-access facility with two tolled mainlanes and two-lane, non-tolled, discontinuous one-way frontage roads in each direction.

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

Transportation Code, §203.003 authorizes the commission to lay out, construct, maintain, and operate a designated state highway, with control of access as necessary to facilitate the flow of traffic and promote the public safety and welfare.

The Texas Department of Transportation received final environmental clearance from the Federal Highway Administration on SH 99 from I-10 to US 290 as a toll facility in June of 2008.

IT IS THEREFORE ORDERED by the commission that the tolled mainlanes on SH 99 from I-10 to US 290 are designated as a toll project on the state highway system.

IT IS FURTHER ORDERED that SH 99 from I-10 to US 290 is designated as a controlled access facility for the purpose of development, maintenance and operation.

d. Various Counties – Accept the Report of Actual Traffic and Revenue for the Central Texas Turnpike System (MO)

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

111859
TTA

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

ITEM 10. MAINTENANCE

Property Exchange

Various Counties – Fort Worth and Dallas district facilities – Consider approval to issue a Request for Proposal for a property exchange (MO)

Commissioner Holmes made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Maintenance Division Director Toribio Garza:

111860
MNT

Transportation Code, Chapter 201, Section 201.1055, authorizes agreements with private entities for the acquisition, design, construction or renovation of buildings for the Texas Department of Transportation (department) by various methods. The methods include the exchange of existing department-owned property and improvements with a private entity in return for the construction of a building or other facility required to support department operations on department-owned property.

Under that authority, the department intends to issue a request for proposal to select a qualified private entity to design, construct, renovate, and provide other facility-support structures in exchange for the existing property at I-820 and SH 199 in Saginaw, and I-30 and Collins Road in Arlington. If the design and construction cost is less than the appraised value of the property, the private entity will be required to pay the difference in

cash upon the exchange. If the costs are more than the value of the exchange, the private entity shall have the option to donate the difference. The construction and renovation of buildings on state-owned property will provide critically needed replacement facilities required to support department operations and mission.

The following department-owned properties to be exchanged are no longer needed for the purposes for which they were acquired:

Property located at I-30 and Collins Road, Arlington, Tarrant County, having an appraised value of \$17.6 million, more particularly described by metes and bounds in Exhibit A; and

Property located at I-820 and SH 199, Saginaw, Tarrant County, having an appraised value of \$850,000, more particularly described by metes and bounds in Exhibit B.

The following improvements will be procured in exchange for the properties that are no longer needed:

Construction of a new area engineer, maintenance and laboratory building, and renovation of an existing building on department property located at 2501 Southwest Loop 820 in the city of Fort Worth, Tarrant County, Texas, more particularly described by metes and bounds in Exhibit C;

Construction of a new maintenance facility to be completed on department-owned property located at SH 144 in the city of Glen Rose, Somervell County, Texas, more particularly described by metes and bounds in Exhibit D;

Construction of a new maintenance facility to be completed on department-owned property located at 2400 US 180 West, in the city of Mineral Wells, Palo Pinto County, Texas, more particularly described by metes and bounds in Exhibit E;

Construction of a new maintenance facility to be completed on department-owned property located at 508 South Blue Mound Road in the city of Saginaw, Tarrant County, more particularly described by metes and bounds in Exhibit F; and

Construction of a new area engineer office to be completed on department-owned property located at 1851 SH 66, in the city of Garland, Dallas County, more particularly described by metes and bounds in Exhibit G. This project is the only improvement that will be subject to negotiation in the procurement; however, responsive proposals must include all projects.

The department proposes to negotiate a development and exchange agreement with the top-ranked proposer to procure the new buildings and facilities based on whose proposal provides the best value to the department. Best value will be based on cost estimates for the site development, design, construction, renovation, management services and all other associated costs.

IT IS THEREFORE ORDERED by the commission that the department issue a request for proposal and commence negotiations with the top-ranked proposer to design, construct, renovate, and provide other facility-support structures, as described, in exchange for the department-owned properties located in Saginaw and Arlington.

IT IS FURTHER ORDERED that the department may negotiate with the second-ranked proposer or reissue a request for proposal for this project in the event that suitable terms for a development and exchange agreement cannot be accomplished.

Note: Exhibits A through G on file with minute order clerk.

ITEM 11. OBLIGATION LIMIT REPORT

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

This report was presented by Chief Financial Officer James Bass.

ITEM 12. CONTRACTS**a. Award or Reject Highway Improvement Contracts**

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

Commissioner Holmes made a motion, seconded by Commissioner Underwood to defer Project RMC 619408001 in Tarrant County and Project RMC 615763001 in Navarro County and the commission approved the following minute order as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

111861
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 June 9 and 10, 2009 as well as the Navarro County, Job Number 4010, Dallas District deferred contract from the May 28, 2009 Commission meeting..

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 Underwood and the commission approved the following minute order as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

111862
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 June 9 and 10, 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 13. ROUTINE MINUTE ORDERS

Commissioner Underwood made a motion, seconded by Commissioner Holmes and the commission deferred Items 13.a.(1) and 13.c and approved the following minute orders presented by Executive Director Amadeo Saenz:

a. Donations to the Department

(1) Administration – Acknowledges a donation from Infra-Americas, a division of Inframation Ltd., for reimbursement of a department employee’s travel expenses for speaking at the 5th Annual US P3 Infrastructure Finance Forum 09. The meeting was held in New York, New York from June 17-19, 2009 (MO)

This item was cancelled.

(2) Austin District – Consider a donation from The Red Poppy Endeavor for wildflower seeds to be planted within the state’s right of way (MO)

111863
GSD

This minute order considers a donation to the Texas Department of Transportation (department) from The Red Poppy Endeavor for approximately \$13,500 worth of wildflower seeds. The wildflower seeds will be planted within the state’s right of way for highway beautification.

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 for \$13,500 worth of wildflower seeds from The Red Poppy Endeavor 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) Construction Division – Acknowledges a donation from the National Asphalt Pavement Association, Inc., for reimbursement of a department employee's travel expenses for speaking at the Warm Mix Asphalt and Recycling Symposium. The meeting was held in Sacramento, California from June 8-10, 2009 (MO)

111864
GSD

This minute order acknowledges a donation \$796.08 from the National Asphalt Pavement Association, Inc., for a Texas Department of Transportation (department) employee's travel expenses to speak at the Warm Mix Asphalt and Recycling Symposium which was held in Sacramento, California, from June 8-10, 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 \$796.08 by NAPA 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.

(4) Construction Division – Acknowledges a donation from the Texas Asphalt Pavement Association for department employees' travel expenses to speak and participate in the Texas Asphalt Pavement Association Mid-Year Meeting. The meeting will be held in Ruidoso, New Mexico from June 24-26, 2009 (MO)

111865
GSD

This minute order considers a donation \$1,458.56 from the Texas Asphalt Pavement Association for the Texas Department of Transportation (department) employees' travel expenses to speak at the Texas Asphalt Pavement Association Mid-Year Meeting, which is being held in Ruidoso, New Mexico, from June 24-26, 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 \$1,458.56 by the Texas Asphalt Pavement Association 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.

(5) Government and Public Affairs Division – Acknowledges a donation from the Mexican Association of Engineering of Roads, AC for a department employee's travel expenses to attend the International Highway and Roadway Symposium scheduled for June 3-5, 2009 in Boca del Rio, Veracruz (MO)

111866
GSD

This minute order acknowledges a donation of approximately \$1,230 from the Mexican Association of Engineering of Roads, AC for a Texas Department of Transportation (department) employee's travel expenses to the International Highway and Roadway Symposium which was held in Boca del Rio, Veracruz, Mexico, from June 3-5, 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 approximately \$1,230 by the Mexican Association of Engineering of Roads, AC 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.

b. Eminent Domain Proceedings

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

111867
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	8	0178-02-072	41B
Denton	FM 423	2	1567-02-030	54
Denton	FM 720	5	1567-01-032	7 & 7E
El Paso	FM 76	3	0674-01-058	38
Rockwall	FM 740	7	1014-03-047	42
Upshur	SH 155	1	0520-02-048	7
Webb	SH Loop 20	4	0922-33-115	16
Zapata	US 83	6	0038-03-030	91

CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Caldwell	SH 130	L	3583-01-002	506A
Caldwell	SH 130	M	3583-01-002	800
Caldwell	SH 130	N	3583-01-002	1626
Comal	SH 46	G	0215-02-050	13
Dallas	IH 30	H	1068-04-132	12
Dallas	IH 30	C	1068-04-139	2
Dallas	SH 183	B	0094-03-098	34
Dallas	US 80	D	0095-02-106	4
Harris	IH 10	A	0271-07-260	710B
Montgomery	IH 45	J	0675-08-089	156A
Montgomery	IH 45	I	0675-08-089	153
Travis	SH 130	O	0440-06-008	443A
Travis	SH 130	P	0440-06-008	443C
Travis	SH 130	K	0440-06-008	464A
Webb	SH Loop 20	E	0086-14-036	2
Webb	SH Loop 20	F	0086-14-036	3

Note: Exhibits 1 through 8 and A through P on file with minute order clerk.

c. Highway Designation**Hunt County – Redesignate multiple segments of state highways in and around the city of Commerce (MO)**

This item was deferred.

d. Load Zones & Postings**Various Counties – Revise load restrictions on various bridges on the state highway system**

111868
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) Burnet County – US 281 at the Colorado River – Consider the acceptance of a donation of land for a highway improvement project (MO)**

111869
ROW

In BURNET COUNTY, on US 281 at the Colorado River, the Texas Department of Transportation (department) is acquiring the right of way for a highway improvement project.

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

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

Burnet County (owner) is the owner of the property described in Exhibit A. The owner wants to donate this property, estimated at \$2,140, to the department for construction of a highway improvement project.

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

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

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

Note: Exhibit A on file with minute order clerk.

(2) Comal County – I-35 at FM 725 in New Braunfels – Consider the sale of surplus right of way to the abutting landowner (MO)

111870
ROW

In the city of New Braunfels, COMAL COUNTY, on INTERSTATE 35, the State of Texas acquired certain land for highway purposes by instruments recorded in Volume 113, Page 225; Volume 114, Page 193; Volume 113, Page 285; Volume 113, Page 428; and Volume 113, Page 234, Deed Records of Comal 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.

Tiger Tote Food Stores, Inc., is the abutting landowner and has requested that the surplus land be sold to the company for \$157,250.

The commission finds \$157,250 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 Tiger Tote Food Stores, Inc., for \$157,250; 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) Gonzales County – US 90A at Seydler Street in Gonzales – Consider the sale of three surplus right of way easements to the underlying fee owners (3 MO's)

111871
ROW

In the city of Gonzales, GONZALES COUNTY, on US 90A, the State of Texas acquired an easement interest in certain land for highway purposes by instrument recorded in Volume 319, Page 434, Deed Records of Gonzales County, Texas.

A portion of the land (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 sale of surplus easements.

Gonzales County Water Supply Corp., a Texas corporation, is the underlying fee owner and has requested that the surplus easement be sold to the corporation for \$2,009.

The commission finds \$2,009 to be a fair and reasonable value for the state's rights and interest in the surplus easement.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus easement is no longer needed for a state highway purpose and that the value of the surplus easement is less than \$10,000 and authorizes the executive director to execute a proper instrument releasing all of the state's rights and interest in the surplus easement to Gonzales County Water Supply Corp., a Texas corporation, for a cash consideration of \$2,009.

Note: Exhibit A on file with minute order clerk.

111872
ROW

In the city of Gonzales, GONZALES COUNTY, on US 90A, the State of Texas acquired an easement interest in certain land for highway purposes by instrument recorded in Volume 319, Page 434, Deed Records of Gonzales 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 sale of surplus easements.

Gontex, Inc., is the underlying fee owner and has requested that the surplus easement be sold to the corporation for \$11,849.

The commission finds \$11,849 to be a fair and reasonable value for the state's rights and interest in the surplus easement.

NOW, THEREFORE, the commission finds that the surplus easement is no longer needed for a state highway purpose and recommends, subject to approval of the attorney general, that the Governor of Texas execute a proper instrument releasing the state's rights and interest in the surplus easement to Gontex, Inc., for \$11,849.

Note: Exhibit A on file with minute order clerk.

111873
ROW

In the city of Gonzales, GONZALES COUNTY, on US 90A, the State of Texas acquired an easement interest in certain land for highway purposes by instrument recorded in Volume 319, Page 434, Deed Records of Gonzales 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 sale of surplus easements.

Charles Guy Martin is the underlying fee owner and has requested that the surplus easement be sold to him for \$12,295.

The commission finds \$12,295 to be a fair and reasonable value for the state's rights and interest in the surplus easement.

NOW, THEREFORE, the commission finds that the surplus easement is no longer needed for a state highway purpose and recommends, subject to approval of the attorney general, that the Governor of Texas execute a proper instrument releasing the state's rights and interest in the surplus easement to Charles Guy Martin for \$12,295.

Note: Exhibit A on file with minute order clerk.

(4) King County – US 82, old alignment west of Guthrie – Consider the quitclaim of surplus right of way to honor a reversionary clause (MO)

111874
ROW

In KING COUNTY, on US 82, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 18, Page 358, Deed Records of King County, Texas.

The instrument conveying the land to the state provided that if the land should be abandoned as a public road, then it shall revert to the grantor.

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

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

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

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument quitclaiming all of the state's rights, title and interest in the surplus land to the Estate of S.B. Burnett, as duly probated in Cause No. 85248, 48th Judicial District Court of Tarrant County, Texas, and its successors and assigns.

Note: Exhibit A on file with minute order clerk.

(5) Montgomery County – I-45 from 0.6 miles north of Loop 336 north to 0.043 miles south of Loop 336 South – Consider the acceptance of a donation of land for a highway improvement project (MO)

111875
ROW

In MONTGOMERY COUNTY, on INTERSTATE 45 from 0.60 miles north of Loop 336 North to 0.043 miles south of Loop 336 South, the Texas Department of Transportation (department) is acquiring the right of way for a highway improvement project.

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

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

Towne Center Venture, L.L.P., a Texas limited liability partnership (owner) is the owner of the property described in Exhibit A. The owner wants to donate this property, estimated at \$23,064, to the department for construction of a highway improvement project.

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

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

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

Note: Exhibit A on file with minute order clerk.

(6) Reagan County – RS 1676, Kemper Spur west of Big Lake – Consider the quitclaim of surplus right of way, waiver of the service fee and removal of the surplus land from the highway system (MO)

111876
ROW

In REAGAN COUNTY, on RANCH TO MARKET SPUR 1676, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 47, Page 548, Deed Records of Reagan County, Texas.

The instrument conveying the land to the state provided that if the land ceases to be used for public road purposes, then it shall revert to the grantor, its successors and assigns.

The land (surplus land), described in Exhibit A, is no longer needed for public road or state highway purposes.

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

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

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that RS 1676 from Ranch to Market Road 1676 to a Pipe Line Station, a distance of approximately 0.157 mile, be removed from the state highway system.

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

The commission finds that the service fee is unjust or unwarranted.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument quitclaiming all of the state's rights, title and interest in the surplus land to Humble Pipe Line Company, its successors and assigns, and that the service fee be waived.

FURTHER, IT IS ORDERED that the surplus land is removed from the state highway system.

Note: Exhibit A on file with minute order clerk.

(7) Tarrant County – SH 121 at SH 183 in Fort Worth – Consider the sale of surplus access rights (MO)

111877
ROW

In the city of Fort Worth, TARRANT COUNTY, on STATE HIGHWAY 121, a designated controlled access highway, the State of Texas acquired certain land for highway purposes by instrument recorded under County Clerk's File No. D209135936. The state owns and controls certain access rights to the highway facility to and from the abutting lands.

Portions of the access rights (surplus access rights), shown on Exhibit A, are no longer needed for a state highway purpose.

Fort Worth Country Day School, Inc., a Texas non-profit corporation (FWCDS), owner of a 26.928-acre tract of land conveyed by deed recorded in Volume 4746, Page 252, Deed Records of Tarrant County, Texas (FWCDS Tract), is the landowner abutting the property line along which access is proposed to be released and has requested that the state sell the surplus access rights to FWCDS for \$423,000.

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

The Texas Department of Transportation has determined that the sale of the surplus access rights is not expected to compromise the safety or add traffic volume in an amount to exceed the capacity of the existing highway.

It is the opinion of the commission that it is proper and correct that the state sell the surplus access rights to FWCDS for a cash consideration of \$423,000.

NOW, THEREFORE, the commission finds that the surplus access rights are no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument granting the state's interest in the surplus access rights to Fort Worth Country Day School, Inc., a Texas non-profit corporation, for a cash consideration of \$423,000.

IT IS FURTHER ORDERED that the surplus access rights will be exclusive to the FWCDS Tract, and nothing in this order shall be construed to directly or indirectly approve conveyance of access rights to the properties abutting the FWCDS Tract.

Note: Exhibit A 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)

111878
TRF

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

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

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

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

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

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

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

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

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

14. 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.

Note: The commission received comments from City of Temple Mayor William Jones, III.

The regular meeting of the Texas Transportation Commission adjourned at 10:30 a.m.

APPROVED:

Deirdre Delisi, Chair
Texas Transportation Commission

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I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on June 25, 2009, in Austin, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation