

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on October 29, 2009 in Fort Worth, Texas. The meeting opened at 9:03 a.m. with the following commissioners present:

Texas Transportation Commission:

Deirdre Delisi	Chair
Ted Houghton	Commissioner
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

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 4:33 p.m. on October 21, 2009, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

Receive comments from area public officials, community and civic leaders, and private citizens. Report by the Fort Worth District.

The commission received comments from Fort Worth District Engineer Maribel Chavez; Fort Worth City Council Member Jungus Jordan; Tarrant County Commissioner Gary Fickes; Johnson County Judge Roger Harmon; and Parker County Judge Mark Riley. The commission also received comments from State Representative Rob Orr.

ITEM 1. Approval of Minutes of the September 23, 2009 and September 24, 2009 meetings of the Texas Transportation Commission.

Commissioner Underwood made a motion, seconded by Commissioner Holmes, and the commission approved the minutes of the September 23, 2009 and September 24, 2009 meetings of the Texas Transportation Commission.

ITEM 2. REPORTS

a. Report on the status of the independent management and organizational review of the department.

This report was presented by Deputy Executive Director Steve Simmons. The commission also received comments from Anna Danegger representing Grant Thornton.

b. Report from the I-35 Corridor Advisory Committee related to a citizen-directed effort to identify mobility needs and develop solutions in this transportation corridor.

This report was presented by Texas Turnpike Authority Division Director Mark Tomlinson. The commission also received comments from I-35 Advisory Committee County Commissioner Tim Brown.

ITEM 3. DISCUSSION

a. Discussion of alternative project delivery methods and the potential use of those methods to facilitate the timely financing and development of critical highway improvement projects

This item was presented by Assistant Executive Director for Engineering Operations John Barton.

b. Discussion of 25-year projection of available funding levels for the development of the 2010 Unified Transportation Program (UTP), the FY 2011-2014 Statewide Transportation Improvement Program (STIP), the Statewide Transportation Plan (STP) and Metropolitan Transportation Plans.

This item was presented by Assistant Executive Director for Engineering Operations John Barton and Chief Financial Officer James Bass. The commission also received comments from North Central Texas Council of Governments Director of Transportation Michael Morris.

c. Discussion of options for the establishment of eligibility, prioritization, and selection criteria for highway improvement projects to be funded using the proceeds from bonds, notes, and other public securities issued under Transportation Code, Section 222.004 (Proposition 12 Bonds).

This item was presented by Assistant Executive Director for Engineering Operations John Barton.

ITEM 4. AVIATION

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

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Aviation Flight Services Director Jay Joseph.

112003
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, September 17, 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 \$11,537,157.

Note: Exhibit A on file with minute order clerk.

b. Various Counties – Approve appointment of four members to the Aviation Advisory Committee (MO)

Commissioner Underwood made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Aviation Flight Services Director Jay Joseph.

112004
AVN

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

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

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

The terms of two members expired on August 31, 2008; therefore, it is necessary for the commission to reappoint one member and appoint one new member for terms to expire on August 31, 2011.

The terms of two members expired on August 31, 2009; therefore, it is necessary for the commission to reappoint two members for terms to expire on August 31, 2012.

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

- | | |
|--|---|
| Gordon R. Richardson, Chairman
Caldwell, Texas Expires 8/31/2011
8/31/2011 | Michael Collier
Lakeway, Texas Expires |
| Greg Jones
The Woodlands, Texas Expires 8/31/2012
8/31/2012 | Joe Crawford
Abilene, Texas Expires |

IT IS THEREFORE ORDERED by the commission that the individuals identified above are hereby appointed for three-year terms as members of the Aviation Advisory Committee, with terms effective September 1, 2009, expiring on August 31, 2011, and August 31, 2012.

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

a. Final Adoption

(1) Chapter 17 – Vehicle Titles and Registration (MO)

Amendments to §17.40, Marketing of Specialty License Plates through a Private Vendor (Motor Vehicle Registration)

Commissioner Meadows made a motion, seconded by Commissioner Houghton and the commission approved the following minute order presented by Deputy Executive Director Steve Simmons:

112005
VTR

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §17.40, Marketing of Specialty License Plates through a Private Vendor relating to motor vehicle registration to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted 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 §17.40 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

(2) Chapter 25 – Traffic Operations (MO)

Amendments to §25.977, Reporting by Investigating Officers (Crash Records Information System)

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Traffic Operations Interim Division Director Carol Rawson:

112006
TRF

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §25.977, Reporting by Investigating Officers, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §25.977 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

Note: The commission received comments from Insurance Counsel of Texas Spokesman Mark Hanna.

(3) Chapter 30 – Aviation (MO)

Repeal of §30.101, Scheduled Intrastate Air Passenger Carriers, §30.102, United States Certificated Air Carriers, §30.103, Nonscheduled Air Carriers, and §30.104, All-Cargo Air Carriers (Air Carriers)

Commissioner Holmes made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Aviation Flight Services Director Jay Joseph.

112007
AVN

The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of §30.101, scheduled intrastate air passenger carriers, §30.102, United States certificated air carriers, §30.103, nonscheduled air carriers, and §30.104, all-cargo air carriers, all relating to air carriers to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted repeals, 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 repeal of §30.101, §30.102, §30.103, and §30.104 are adopted and are authorized for filing with the Office of the Secretary of State.

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

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

b. Proposed Adoption**(to be published in the *Texas Register* for public comment)****(1) Chapter 11 – Design (MO)**

Amendments to §11.50, Access Management, and §11.51, Definitions; Repeal of §11.52, Delegation of Access Permit Authority to Municipalities or Eligible Counties, and New §11.52, Access Connection Facilities; Amendments to §11.53, Locations Where the Department Controls the Access, and §11.54, Construction and Maintenance of Access Connection Facilities; Repeal of §11.55, Local Access Roads, and New §11.55, Appeal Process; Repeal of §11.56, Connection with Regionally Significant Highway, and New §11.56, Delegation of Access Permit Authority to Municipalities or Eligible Counties; and New §11.57, Local Access Roads, and New §11.58, Connection with Regionally Significant Highway (Access Connections to State Highways)

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

112008
DES

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §11.50, Access Management, §11.51, Definitions, §11.53, Locations Where the Department Controls the Access, and §11.54, Construction and Maintenance of Access Connection Facilities; the repeal of §11.52, Delegation of Access Permit Authority to Municipalities or Eligible Counties, §11.55, Local Access Roads, and §11.56, Connection with Regionally Significant Highway; and new §11.52, Access Connection Facilities, §11.55, Appeal Process, new §11.56, Delegation of Access Permit Authority to Municipalities or Eligible Counties, §11.57, Local Access Roads, and §11.58, Connection with Regionally Significant Highway, all relating to access connections to state highways to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §11.50, §11.51, §11.53, and §11.54; repeal of §11.52, §11.55, and §11.56; and new §11.52, §11.55, §11.56, §11.57, and §11.58 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 through C on file with minute order clerk.

(2) Chapter 15 – Transportation Planning and Programming (MO)**Amendments to §15.9, Corridor Advisory Committees and New §15.10, Corridor Segment Advisory Committees (Transportation Planning)**

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

112009
TTA

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §15.9, Corridor Advisory Committees, and new §15.10, Corridor Segment Advisory Committees, relating to transportation planning, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §15.9 and new §15.10 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.

(3) Chapter 22 – Use of State Property (MO)**Amendments to §22.11, Definitions, and §22.17, Memorial Markers (Use of State Highway Right of Way)**

Commissioner Underwood made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Traffic Division Interim Director Carol Rawson:

112010
TRF

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §22.11, Definitions, and §22.17, Memorial Markers, relating to use of state highway right of way, both 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 §22.11 and §22.17 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.

(4) Chapter 25 – Traffic Operations (MO)

Amendments to §25.952, Application, and §25.955, Sign Description (Memorial Sign Program for Victims of Impaired Driving)

Commissioner Underwood made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Traffic Division Interim Director Carol Rawson:

112011
TRF

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §25.952, Application, and §25.955, Sign Description, relating to the memorial sign program for victims of impaired driving to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §25.952 and §25.955 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. AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

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

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

112012
AEO

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

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

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

Time 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.

In Minute Order 111848, dated June 25, 2009, the commission approved funding, under the provisions of the ARRA, for additional preventive maintenance and rehabilitation projects. This ARRA funding became available due to underruns of originally obligated ARRA funds. In Minute Order 111879, dated July 30, 2009, technical revisions were made to the list of additional 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 continuing national economic conditions and the accompanying effects on construction contracting and material supplies, the preventive maintenance and rehabilitation projects that have gone to letting continue to experience underruns of the originally obligated ARRA funds. These underruns allow 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.

ITEM 7. TOLL ROAD PROJECTS

a. **Cameron County** – Authorize the Cameron County Regional Mobility Authority (CCRMA) to make improvements to the state highway system in connection with a new limited-access toll facility on SH 550 from approximately 1.1 miles west of FM 1847 to approximately 0.7 miles east of FM 1847, and from approximately 0.7 miles north of FM 3248 to SH 48 at the new Port of Brownsville entrance, and authorize the executive director to enter into a project development agreement with the CCRMA (MO)

Commissioner Houghton 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.

112013
AEO

In Minute Order 109788, dated September 30, 2004, the Texas Transportation Commission (commission) authorized the creation of the Cameron County Regional Mobility Authority (CCRMA) at the request of Cameron County (county).

The Texas Department of Transportation (department) and the CCRMA have been cooperatively developing the SH 550 project (project). The project is defined as a new limited-access toll facility from approximately 1.1 miles west of FM 1847 to approximately 0.7 miles east of FM 1847, and from approximately 0.7 miles north of FM 3248 to SH 48 at the new Port of Brownsville entrance. The portion of the project in the vicinity of FM 1847 is currently under construction, and the other portion along a new location is scheduled to receive bids in early 2010 as an American Recovery and Reinvestment Act funded project as authorized by the commission on March 5, 2009 by Minute Order 111734.

On September 9, 2009, the department and the CCRMA executed a Market Valuation Agreement for the project. On September 23, 2009 the Brownsville Metropolitan Planning Organization approved development of the project using the business terms and conditions set forth in the Market Valuation Agreement, and then the CCRMA Board exercised its primacy option to develop the SH 550 project in a special meeting.

The commission finds that the project will provide an important north-south corridor, serve as a reliever route for traffic in the area, and provide a direct connection to the Port of Brownsville. The commission also finds that the CCRMA is legally authorized to develop, operate and maintain this improvement of the state highway system and can do so in a cost-effective manner, consistent with applicable federal and state laws and regulations.

IT IS THEREFORE ORDERED by the commission that pursuant to Transportation Code, §370.033(f), the executive director is authorized to negotiate and enter into a project development agreement with the Cameron County Regional Mobility Authority that provides for such improvements to the state highway system.

b. Collin County – Consider the removal from the state highway system and transfer to the North Texas Tollway Authority of the portion of SH 121 comprising the mainlanes and associated right of way, from the ramp pair on the east side of the Hillcrest Road overpass to the ramp pair on the west side of the Watters Road overpass in Collin County (MO)

Commissioner Houghton 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.

112014
AEO

There has been an increasingly critical need for a continuous express lane facility within the SH 121 corridor extending from Business SH 121 in Denton County to US 75 in Collin County, a total length of approximately 26 miles (SH 121 Toll Project), to better serve the traveling public, relieve unacceptable levels of traffic congestion on the existing state highway system, and improve mobility in the rapidly developing portions of Collin, Dallas and Denton counties.

Pursuant to Resolution No. 07-42 passed on May 7, 2007, the Board of Directors of the North Texas Tollway Authority (NTTA) determined that the SH 121 Toll Project can be constructed and operated most effectively and economically as an integrated tollway project with the NTTA System, and resolved that the SH 121 Toll Project should be constructed as an extension and enlargement of the NTTA System.

Transportation Code, §228.151 authorizes the Texas Department of Transportation (department) to lease, sell, or transfer in another manner a toll project or system that is part of the state highway system, including a nontolled state highway or a segment of a nontolled state highway converted to a toll project, to a governmental entity that has the authority to operate a tolled highway. The Texas Transportation Commission (commission) and the Governor must approve the transfer of the toll project or system as being in the best interests of the state and the entity receiving the project or system.

Transportation Code, §228.153 requires the governmental entity to reimburse the department for any expenditures of the department for the financing, design, development, construction, operation, or maintenance of the highway that have not been reimbursed with the proceeds of bonds issued for the highway, unless the commission finds that the transfer will result in substantial net benefits to the state, the department, and the public that equal or exceed that cost.

Pursuant to Transportation Code, §§228.151-228.154, the commission has adopted Title 43, Texas Administrative Code (TAC), §§27.11-27.16 to prescribe the policies and procedures governing commission approval of the lease, sale, or transfer of a toll project to a governmental entity that has the authority to operate a tolled highway.

On August 25, 2009, the NTTA, in compliance with the requirements of 43 TAC §27.13, submitted a request to the executive director of the department for the removal from the state highway system and transfer to the NTTA of the portion of Segment 3 of the SH 121 Toll Project comprising the mainlanes and associated right of way, from the ramp pair on the east side of the Hillcrest Road overpass to the ramp pair on the west side of the Watters Road overpass in Collin County, to be utilized by the NTTA under Transportation Code, Chapter 366 for the design, financing, construction, operation, and maintenance of a turnpike project. Under the request, attached as Exhibit A to this order, the removal and transfer would be effective upon the service commencement date for Segment 3, estimated to be on or about [October 1, 2009].

In Minute Order 111030, dated August 23, 2007, the commission authorized the department, after compliance with the applicable requirements of Transportation Code, §§228.151-228.154 and 43 TAC §§27.11-27.16, to submit for the commission's approval additional agreements providing for the removal of segments of the SH 121 Toll Project from the state highway system and the transfer of those project segments to the NTTA, to be operated by the NTTA under terms as negotiated in the project agreement for the SH 121 Toll Project (Project Agreement) for a period that, for each segment, does not exceed 50 years from the service commencement date for Segment 1 of the SH 121 Toll Project.

Under 43 TAC §27.13(e), a lease, sale, or transfer is subject to a prior public hearing in each county in which the project is located. In accordance with §27.13(e), the department conducted a public hearing on September 30, 2009 in Plano, Texas, for the purpose of receiving comments from interested persons concerning the proposed removal from the state highway system and transfer to the NTTA of Segment 3 of the SH 121 Toll Project. A summary of the public hearing is attached as Exhibit B to this order.

IT IS THEREFORE DETERMINED by the commission, having reviewed the NTTA's request, and after having considered the conditions and requisites for such actions under Transportation Code, §228.151 and 43 TAC §§27.11-27.16, that the NTTA has made the commitments required under 43 TAC §27.13, and that the proposed removal from the state highway system and transfer to the NTTA of the portion of SH 121 comprising the mainlanes and associated right of way, from the ramp pair on the east side of the Hillcrest Road overpass to the ramp pair on the west side of the Watters Road overpass:

1. is in the best interests of the state and the NTTA; and
2. will not adversely affect:
 - (i) the financial viability of the SH 121 Toll Project; or
 - (ii) regional mobility.

IT IS FURTHER ORDERED by the commission that:

1. subject to the approval of the Governor, the commission approves the removal from the designated state highway system and transfer to the NTTA of that portion of SH 121 comprising the mainlanes and associated right of way, from the ramp pair on the east side of the Hillcrest Road overpass to the ramp pair on the west side of the Watters Road overpass in Collin County, as depicted and described in Exhibits C and D to this order, effective on the date of commencement of normal and continuous tolling operations and maintenance for Segment 3 of the SH 121 Toll Project by the NTTA after the occurrence of substantial completion of the work required to be performed by the department or the NTTA, as applicable, on such segment (service commencement date);

2. the executive director is directed to forward this order to the Governor of Texas for approval of the transfer in accordance with Transportation Code, §228.151;

3. repayment of any expenditures of the department for the financing, design, development, construction, operation, or maintenance of the SH 121 Toll Project is waived under Transportation Code, §228.153, as the transfer will result in substantial net benefits to the state, the department, and the public, including the upfront payments to the department in exchange for the right to design, finance, construct, operate and maintain the SH 121 Toll Project, that equal or exceed those expenditures;

4. the executive director is authorized and directed to negotiate and enter into a transfer agreement with the NTTA necessary to implement this order consistent with applicable laws and regulations, including the transfer of legal title to the right of way and other interests generally depicted and described in Exhibits C and D to this order, by instrument acceptable to the department and the NTTA and utilizing a legal description acceptable to the department, and subject to such handback requirements and reverter provisions determined necessary by the department and consistent with the terms of the Project Agreement.

c. Various Counties – Clarify the process for commission concurrence in projects selected by the Regional Transportation Council that are financed with comprehensive development agreement (CDA) concession payments and surplus toll revenue (MO)

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

112015
AEO

In Minute Order 110727, dated October 26, 2006, the Texas Transportation Commission (commission) authorized the executive director of the Texas Department of Transportation (department) to enter into a “Memorandum of Understanding Regional Revenue Sharing Fund for Surplus Toll Revenues and CDA Concession Payments” (MOU) with the Regional Transportation Council (RTC), the transportation policy council of the North Central Texas Council of Governments (NCTCOG), a federally-designated metropolitan planning organization.

The MOU established procedures for the administration and use of surplus toll revenue and comprehensive development agreement (CDA) payments (NCTCOG funds) within the region served by the NCTCOG, and the selection of projects to be financed with the NCTCOG funds.

Under Minute Order 110727 and the MOU, the selection of projects to be financed with the NCTCOG funds is to be made by the Regional Transportation Council, subject to commission concurrence.

Transportation Code, §228.012, enacted subsequent to the effective date of the MOU, requires the department to hold CDA payments and surplus toll revenue, such as the NCTCOG funds, in a subaccount in trust for the benefit of the region in which a project or system from which those funds are derived is located, and authorizes the department to assign the responsibility for allocating money in a subaccount to a metropolitan planning organization in which the region is located. Those funds are required to be allocated to projects authorized by Transportation Code, §228.0055 or §Section 228.006, as applicable.

Transportation Code, §228.0055 requires revenue received by the commission or the department under a comprehensive development agreement to be used to finance the construction, maintenance, or operation of transportation projects or air quality projects in the region. Transportation Code, §228.006 requires surplus revenue of a toll project or system to 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 toll project is located.

This minute order clarifies the process for commission concurrence in projects selected by the RTC that are financed with the NCTCOG funds in light of the enactment of Section 228.012.

The metropolitan planning organization in the region where the surplus toll revenues and CDA concession payments originate, if any, will determine the qualified projects to be financed with such surplus toll revenues and CDA concession payments, but such projects must be qualified projects pursuant to Transportation Code, §228.0055 and §228.006. The department has no authority to direct the purpose for which such funds are expended.

IT IS THEREFORE ORDERED by the commission that commission concurrence in projects selected by the RTC to be financed with the NCTCOG funds is limited to ensuring the funds are allocated to projects authorized by §228.0055 or §228.006. The department shall disburse such funds in accordance with directions from the RTC to pay the costs of qualified projects.

IT IS FURTHER ORDERED that the executive director of the department take all steps as may be necessary to ensure the processes administered by the department clearly confirm the status of any surplus toll revenues and CDA payments as trust funds held for the benefit of the region in which a project or system is located and the legal authority of the metropolitan planning organization, as applicable, and not the department, in allocating any such funds toward qualifying projects, including entering into any necessary agreements to carry out the provisions of this order, including agreements with a metropolitan planning organization necessary to assign the responsibility for allocating such funds to qualified projects.

ITEM 8. PASS-THROUGH TOLL PROGRAM

Authorize the executive director or designee to negotiate and execute a final pass-through toll agreement with each of those entities whose proposals under the February 26, 2009 pass-through toll program call were selected by the commission in Minute Order 111977 on September 24, 2009, as providing the best value to the state and who were successful in negotiating the financial terms of a pass-through toll agreement (MO)

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

112016
AEO

On February 26, 2009 by Minute Order 111710 the Texas Transportation Commission (commission) approved a program call for highway projects to be developed on the state highway system under a pass-through toll agreement (program call). The commission further determined that (i) monies available that can be allocated among all proposals selected under the program call will be limited to an estimated total of \$300 million in Category 12 funds, and (ii) only the category of construction costs will be considered as eligible for reimbursement under the program call.

Pursuant to Minute Order 111710 and Title 43 Texas Administrative Code §§5.51-5.60 (rules), the Texas Department of Transportation (department) published in the Texas Register a notice designating a 60-day period commencing on March 13, 2009 for acceptance of proposals from both public and private entities for projects to be developed under the program call. The deadline for submitting proposals was May 12, 2009. Department staff evaluated the public entity proposals that were timely submitted under the program call using the items of consideration set forth in §5.55 of the rules and provided its analyses of the pass-through toll proposals to the commission. No private entity pass-through toll proposals were received in this program call.

In accordance with §222.104(b), Transportation Code, and §§5.54-5.55 of the rules, the commission granted preliminary approval on September 24, 2009 in Minute Order 111977 authorizing the department to negotiate the financial terms of a pass-through toll agreement (agreement) with each of those public entities whose proposals were selected by the commission in that minute order as providing the best value to the state. The

agreements will provide for the payment of pass-through tolls to the selected public entities as reimbursement for the construction of facilities on the state highway system. A pass-through toll is a per-vehicle fee or a per-vehicle-mile fee that is determined by the number of vehicles using the facility.

The department and each of the public entities identified in Exhibit A have agreed to a total reimbursement through pass-through tolls for construction of the projects, a reimbursement rate per vehicle mile, the minimum amount to be reimbursed in any year with all projects open to traffic, and the maximum amount per year as set forth in the exhibit. Each agreement will expire once the total amount of that agreement has been reimbursed. The projects will be authorized and reimbursed from Category 12, Strategic Priority funds.

In accordance with §5.57 of the rules, the commission finds that: (1) the projects serve the public interest and not merely a private interest; (2) the proposed pass-through agreements are in the best interest of the state; (3) the projects are compatible with existing and planned transportation facilities; and (4) the projects further state, regional, and local transportation plans, programs, policies, and goals.

Before the projects in the selected proposals are designed, developed, or constructed using funds administered by the department, the projects: (1) must be included in the department's UTP, thereby identifying committed funding for the project; (2) must be included in the department's Statewide Transportation Improvement Program; and (3) will be subject to any and all applicable planning and environmental processes and approvals as mandated by state and federal regulations regarding such matters.

IT IS THEREFORE ORDERED that the executive director or his designee is authorized to negotiate and execute a pass-through toll agreement with each of the public entities set forth in Exhibit A for the construction of their respective projects as identified in the exhibit, in accordance with the negotiated terms and such other terms the department determines to be necessary, and to amend Category 12, Strategic Priority, of the 2007 Statewide Mobility Program (SMP), approved by Minute Order 110753, dated November 16, 2006, to authorize the projects included in each executed agreement.

Note: Exhibit A on file with minute order clerk.

ITEM 9. PASS-THROUGH TOLLS

El Paso County – Authorize the executive director to negotiate and execute a final pass-through toll agreement with Camino Real Regional Mobility Authority (CRRMA) for the design and construction of two projects: (1) a portion of the I-10 at Loop 375 (Americas Interchange) project including four direct connectors to/from I-10 to/from Loop 375; and (2) the I-10 corridor aesthetic project from Mile Post 6 (Loop 375-Transmountain Road) through Mile Post 34 (Loop 375-Americas Avenue) (MO)

This item was deferred.

ITEM 10. STATE INFRASTRUCTURE BANK**Final Approval**

El Paso County – City of El Paso – Consider granting final approval of an application from the City of El Paso to borrow \$6,356,000 from the State Infrastructure Bank to pay for improvements to the Paso Del Norte International Port of Entry in El Paso (MO)

This item was deferred.

ITEM 11. TRANSPORTATION PLANNING

a. El Paso County – Consider approval for development of a comprehensive transportation study and plan for the El Paso region that will improve international and regional mobility, including analysis of the various international bridges and ports of entry, existing and proposed state highways and other roadways, toll facilities, transit, and rail services (MO)

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Transportation Planning and Programming Division Deputy Director Wayne Dennis.

112017
TPP

The Texas Department of Transportation (department), the City of El Paso (city), and the Camino Real Regional Mobility Authority (CRRMA), in coordination with the El Paso Metropolitan Planning Organization (EPMPO), developed the 2008 Comprehensive Mobility Plan that provides for the funding and development of multiple transportation system improvements within the region.

The parties involved in the 2008 Comprehensive Mobility Plan recognize the need to develop a comprehensive transportation study (study) for the El Paso region that will improve international and regional mobility, including analysis of the various international bridges and ports of entry, existing and proposed state highways and other roadways, transit, and rail services. The purpose of the study is to review all existing ports in the region, analyze how the ports currently function in relation to existing infrastructure in the regional transportation system, and analyze how all of the transportation components can be integrated in a comprehensive and strategic manner. The goal of the study is to develop a transportation plan that will drive economic development for the region by improving trans-border mobility and to guide not only the management and operations of the existing port infrastructure, but also the development of new facilities. The study and proposed transportation plan will be multi-modal with a focus on highways, turnpike projects, toll bridges, transit and rail (both freight and passenger).

Transportation Code, Sections 201.103 and 201.6011 authorize the department to plan and make policies for the location, construction and maintenance of a comprehensive system of state highways and public roads, including coordination with appropriate entities to develop an integrated international trade corridor plan involving border ports of entry, highways, and railroads.

IT IS THEREFORE ORDERED by the commission that the executive director is hereby authorized to: develop a comprehensive transportation study and plan for the El Paso region that will improve international and regional mobility, including analysis of the various international bridges and ports of entry, existing and proposed state highways and other roadways, toll facilities, transit, and rail services; coordinate with the appropriate local entities to provide maximum expense and performance efficiencies; and negotiate and execute any agreements reasonably required to implement this minute order, on such terms as the department determines to be necessary.

b. Various Counties – Certify eligible counties for the 2010 Economically Disadvantaged Counties Program and establish local match adjustment for each county (MO)

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Transportation Planning and Programming Division Deputy Director Wayne Dennis.

112018
TPP

Transportation Code, §222.053, defines an “economically disadvantaged county” as a county that has, in comparison to other counties in the state: (1) below average per capita taxable property value; (2) below average per capita income; and (3) above average unemployment.

Transportation Code, §222.053 directs the Texas Transportation Commission (commission), when evaluating a proposal for a highway project in a political subdivision that consists of all or a portion of an economically disadvantaged county, to adjust the minimum local matching funds requirement after evaluating the political subdivision's effort and ability to meet the requirement. The commission is also required to certify a county as an economically disadvantaged county on an annual basis as soon as possible after the comptroller reports on the economic indicators listed above.

43 TAC §15.55 establishes the criteria that the commission will consider in determining the adjustment to the local matching funds requirement and a local government's effort and ability to meet the requirement.

The Comptroller of Public Accounts has provided the data needed to determine the counties eligible for the Economically Disadvantaged Counties Program for 2010. The counties' efforts and ability to provide a local match has been considered using the criteria set forth in 43 TAC §15.55. Exhibit A lists the eligible counties and their respective recommended local match adjustments.

IT IS THEREFORE ORDERED that the 2010 list of counties eligible for the Economically Disadvantaged Counties Program, as shown in Exhibit A, is certified and the local match adjustment for each county is established.

Note: Exhibit A on file with minute order clerk.

c. Various Counties – Approve revisions to the North Central Texas Council of Governments (NCTCOG) Metropolitan Area Boundary (MO)

Commissioner Meadows made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Transportation Planning and Programming Division Deputy Director Wayne Dennis.

112019
TPP

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

In accordance with Title 23, CFR §450.312, a MPA boundary shall, at a minimum, cover the urbanized area and the contiguous geographic area(s) expected 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 October 8, 2009, the North Central Texas Council of Governments (NCTCOG) Metropolitan Planning Organization (MPO) approved the adjusted metropolitan planning area boundary based on a technical evaluation process that supported the expansion of the MPA to include 12 full counties in north central Texas. The evaluation looked at NCTCOG MPO's responsibility to have a planning boundary that included the area expected to become urbanized in 20 years. An outreach process to the public and local elected officials was conducted. It culminated in resolutions and letters of support from cities and counties to be included in the expanded MPA.

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

IT IS THEREFORE ORDERED by the commission that the proposed NCTCOG MPA 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.

d. Adopt the FY 2010 12-month letting schedule for highway maintenance and construction contracts, including dollar amounts allocated to each district and certain statewide programs (MO)

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

112020
CFO

The Texas Department of Transportation (department) has developed a proposed Fiscal Year 2010 Letting Schedule for highway maintenance and construction projects that are anticipated to be ready to proceed to contract letting through August 2010.

These projects were identified during the department's planning process, with input from members of the general public, local transportation partners, metropolitan planning organizations, the Texas Transportation Commission (commission), members of the Texas Legislature, and department staff. Projects included in the schedule have progressed through the development process and each district has identified the projects that have the greatest likelihood of moving forward to bid opening and contract award in the month identified in the schedule.

The proposed letting schedule identifies the location of each project, including roadway designation and limits, the current engineer's construction estimate, funding sources, and the month the project will move toward contract letting. Funding for these projects will be based on financial forecasts provided by the department's Chief Financial Officer. Financial conditions may result in more or less revenue received by the department or an increase or decrease in expenditures by the department. Other conditions that affect the forecast include bids on projects being higher or lower than project estimates and increasing or decreasing costs associated with change orders or quantity overruns on existing contracts. In addition, it may be necessary to add or delete projects due to project development issues associated with environmental clearance or right of way acquisition as well as changes in priorities at the local or statewide level.

The department recommends approval of the proposed Fiscal Year 2010 Letting Schedule as set forth in Exhibit A. Following approval, the schedule will be available for public inspection on the department's web site.

IT IS THEREFORE ORDERED by the commission that the Fiscal Year 2010 Letting Schedule set forth in Exhibit A is approved.

IT IS FURTHER ORDERED that the Executive Director, or his designee, is authorized to revise the Fiscal Year 2010 Letting Schedule as necessary in order to effectively and efficiently manage the department's resources and ensure that projects proceed to contract letting and award in an appropriate manner.

Note: Exhibit A on file with minute order clerk.

ITEM 12. TRAFFIC OPERATIONS

Various Counties – Proposed lane use restrictions for trucks on I-20 in Dallas, Kaufman and Tarrant Counties, I-30 in Tarrant County, I-45 in Dallas and Ellis Counties and I-820 in Tarrant County (MO)

Commissioner Houghton made a motion, seconded by Commissioner Meadows and the commission approved the following minute order presented by Traffic Operations Division Interim Director Carol Rawson:

112021
TRF

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

The department, working in conjunction with local jurisdictions developed proposed lane restrictions shown in Exhibit A. In accordance with §25.604(e)(3), the department conducted traffic studies to evaluate the impact of the lane restrictions. In accordance with §25.604(d), the department published a notice in the Texas Register for a 30 day comment period and held public hearings in the local jurisdictions on the proposed restrictions. Ten people commented on the proposed lane restrictions. Five individuals opposed the restrictions, stating that the restrictions would likely cause more traffic problems; result in more tailgating and unsafe passing maneuvers; discourage smart, safe driving practices; and result in more motor vehicle crashes. One commenter also stated that restricting truck traffic to the left lanes would be more beneficial. Three individuals voiced their support of the lane restrictions and one commenter raised issues with enforcement of the restrictions and truck speed limits.

Texas currently has lane restrictions in place on various highways in Bexar, Comal, Dallas, El Paso, Harris, Hays, Tarrant, Travis and Williamson counties. These existing lane restrictions have not produced increased congestion or safety problems. Lane restrictions for trucks are generally considered to improve safety by reducing differential vehicle speeds, lane changes, and passing maneuvers. A traffic study was performed by the Texas Transportation Institute after a restricted truck lane was enacted on I-10 East in Houston. Although there are several factors that impact crash rates, the lane restriction likely had a role in reducing vehicle crashes by 68 percent along the highway mainlanes during the 36 weeks that were monitored. Additional studies have been performed on I-20 and I-30 in Dallas and Fort Worth and shown beneficial results from lane restrictions. These studies showed that the rate of motor vehicle crashes decreased by 78 percent on I-20 and 22 percent on I-30.

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

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

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

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

Note: Exhibit A on file with minute order clerk.

ITEM 13. OBLIGATION LIMIT REPORT

Status report on the FY 2010 Obligation Limit and report on the actual October 2009 and proposed November 2009 highway maintenance and construction contract letting.

This item was presented by Chief Financial Officer James Bass.

ITEM 14. 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 and the commission approved the following minute presented by Deputy Executive Director Steve Simmons:

112022
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 October 20 and 21, 2009.

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

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

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order with the exception of Project NH 2010 (122) in Travis County which was deferred, as recommended by staff and presented by Deputy Executive Director Steve Simmons:

112023
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 October 20 & 21, 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, with the exception of Project Number NH 2010(122) (Travis County), be and are hereby respectively awarded to the lowest bidder or rejected as indicated therein. The award or rejection of Project Number NH 2010(122) is hereby deferred to a later date.

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

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

Note: Exhibit A on file with minute order clerk.

ITEM 15. ROUTINE MINUTE ORDERS

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

a. Donation to the Department

Bryan District – Consider a donation from Keep Brazos Beautiful for approximately \$8,000 worth of wildflower seeds to be planted within the state’s right of way (MO)

112024
GSD

This minute order considers a donation to the Texas Department of Transportation (department) from Keep Brazos Beautiful for approximately \$8,000 worth of wildflower seeds. The wildflower seeds will be used to plant within the state’s right of way to beautify the community.

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.

IT IS THEREFORE ORDERED by the commission that the donation for approximately \$8,000 worth of wildflower seeds from Keep Brazos Beautiful 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.

b. Eminent Domain Proceedings**Various Counties – noncontrolled and controlled access highways (see attached itemized list) (MO)**112025
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>
Bell	FM 437	2	0590-04-037	18
Bell	SH 317	1	0398-04-064	1
Bell	SH 317	5	0398-04-064	29 & 29E
Denton	FM 423	4	1567-02-029	7
Denton	US 380	7	0134-09-059	45
Denton	US 380	6	0134-09-059	44
Montgomery	FM 1774	9	1400-04-026	209
Montgomery	FM 1774	8	1400-04-026	208
Montgomery	FM 1774	10	1400-04-027	109
Webb	SL 20	3	0922-33-115	3

CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Bell	IH 35	E	0015-07-079	5 & 5E
Bell	IH 35	C	0015-07-079	1
Bell	IH 35	K	0015-07-079	2 & 2E
Bell	IH 35	J	0015-07-079	8AC
Bell	IH 35	I	0015-07-079	7 & 7E
Bell	IH 35	M	0015-07-079	6AC
Caldwell	SH 130	P	3583-01-002	477A
Caldwell	SH 130	O	3583-01-002	801
El Paso	IH 10	N	2121-04-078	20
El Paso	IH 10	S	2121-04-078	8A
El Paso	IH 10	Q	2121-04-078	13
El Paso	IH 10	H	2121-04-078	24A
El Paso	IH 10	R	2121-04-078	24B
Maverick	SL 480	A	0299-14-019	9
McLennan	IH 35	B	0015-01-219	2 & 2E
McLennan	IH 35	F	0015-01-219	36
McLennan	IH 35	G	0015-01-219	4AC
McLennan	IH 35	D	0015-01-219	43 & 43E
McLennan	IH 35	L	0015-01-219	38

Note: Exhibits 1 through 10 and A through S on file with minute order clerk.

c. Finance**(1) Accept the quarterly cash report (MO)**112026
FIN

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

The cash statement will be prepared for each quarter of the department's fiscal year. A quarterly cash report for the department for Fiscal Year 2009, ending August 31, 2009, attached as Exhibit A, has been prepared in accordance with Texas Transportation Code, §201.107.

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

Note: Exhibit A on file with minute order clerk.

(2) Accept the Quarterly Investment Report (MO)112027
FIN

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

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

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

Pursuant to this legislation, in Minute Order 108970, dated July 25, 2002, the commission approved and adopted a written investment policy and written investment strategy applicable to funds of the commission held under the Indenture of Trust dated July 15, 2002 securing the outstanding bonds, notes or other obligations issued by the commission to finance a portion of the cost of the initial phase of the Central Texas Turnpike System, also known as the 2002 Project. The investment policy and investment

strategy have been amended pursuant to Minute Order 109066, dated October 31, 2002, Minute Order 109339, dated July 31, 2003, Minute Order 109462, dated October 30, 2003, Minute Order 109732, dated July 29, 2004, Minute Order 109963, dated February 24, 2005, Minute Order 110087, dated May 26, 2005, Minute Order 110145, dated July 28, 2005, Minute Order 110617, dated July 27, 2006, Minute Order 111003, dated July 26, 2007, Minute Order 111490, dated August 28, 2008, and Minute Order 111931, dated August 27, 2009. The commission has designated the department's Chief Financial Officer, Director of Finance and Deputy Director of Finance as investment officers. The Debt Management Director is authorized to act as investment officer in the absence of the Chief Financial Officer, Director of Finance and the Deputy Director of Finance.

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

Quarterly investment reports will be prepared for each quarter of the department's fiscal year. A quarterly investment report for the 2002 Project for the period ending August 31, 2009, attached as Exhibit A, has been prepared in accordance with Government Code, §2256.023 and Section 9.0 of the investment policy.

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

Note: Exhibit A on file with minute order clerk.

d. Load Zones & Postings

Various Counties – Revise load restrictions on various bridges on the state highway system (MO)

112028
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) Collin County – FM 545 from SH 5 to SH 121 in Melissa – Consider the transfer of surplus right of way and the quitclaim of surplus right of way to the city, removal of a segment of highway from the state highway system and transfer of control, jurisdiction and maintenance to the city (MO)

112029
ROW

In the city of Melissa, COLLIN COUNTY, on FARM TO MARKET ROAD 545, the State of Texas acquired certain land for highway purposes by instruments recorded in Volume 358, Pages 39, 41, 43, 49, 45, 51, 53 and 55, Deed Records of Collin County, Texas, and the state used certain land for highway purposes to which there is no record title.

Portions of the land (surplus land), described in Exhibits A and B, are no longer needed for a state highway purpose.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that a segment of FM 545 from SH 5 to SH 121, shown in Exhibit C, be removed from the state highway system and that control, jurisdiction and maintenance be transferred to the City of Melissa (city).

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may waive payment for real property transferred to a governmental entity if the estimated cost of future maintenance on the property equals or exceeds the fair value of the property.

The fair value of the surplus land to which the state holds title, described in Exhibit A, has been determined to be \$254,960, and the state's costs for maintenance and resurfacing the surplus land over the next 20 years is estimated to be \$1 million.

The city has requested that the surplus land described in Exhibit A be transferred to the city in consideration of the savings to the state of future maintenance costs, since the future maintenance costs exceed the value of the surplus land.

The commission finds \$254,960 to be a fair and reasonable value of the state's rights, title and interest in the surplus land described in Exhibit A and recommends that the state transfer the surplus land to the city.

IT IS THEREFORE ORDERED by the commission that a segment of FM 545 is removed from the state highway system and transferred to the city for control, jurisdiction and maintenance from SH 5 east to the intersection of SH 121, a distance of approximately 0.706 mile.

FURTHER, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute proper instruments transferring all of the state's rights, title and interest in the surplus land described in Exhibit A to the City of Melissa, Texas, in consideration of the savings to the state of future maintenance costs, and quitclaiming the state's interest in the surplus land described in Exhibit B to the City of Melissa, Texas.

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

(2) Gaines County – FM 1066 from FM 303 to FM 1067 north of Cedar Lake – Consider the quitclaim of surplus right of way to the county, transfer of surplus right of way to the county and removal from the state highway system (MO)

112030
ROW

In GAINES COUNTY, on FARM TO MARKET ROAD 1066, the State of Texas acquired an easement interest in certain land and the state used certain easements acquired in the county's name for highway purposes.

The state's easements (surplus state easements), described in Exhibit A, and county's easements (surplus county easements), described in Exhibit B, are no longer needed for a state highway purpose.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that a segment of FM 1066, shown in Exhibit C, be removed from the state highway system and that control, jurisdiction and maintenance be transferred to Gaines County.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may waive payment for real property transferred to a governmental entity if the estimated cost of future maintenance on the property equals or exceeds the fair value of the property and may recommend the quitclaim to the county of any interest in property acquired and held by a county in its own name that might have accrued to the state by use of the property.

The fair value of the surplus state easements has been determined to be \$26,115, and the state's costs for maintenance and resurfacing the surplus easements over the next 20 years is estimated to be \$102,200.

The county has requested that the surplus state easements be transferred to the county, that the surplus county easements be quitclaimed to the county, and that control, jurisdiction and maintenance be transferred to the county.

The commission finds \$26,115 to be a fair and reasonable value of the state's rights and interest in the surplus state easements.

IT IS THEREFORE ORDERED by the commission that a segment of FM 1066 is removed from the state highway system and transferred to the county for control, jurisdiction and maintenance from FM 303 eastward to the intersection of FM 1067, a distance of approximately 9.37 miles.

FURTHER, the commission finds that the surplus state and county easements are no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute proper instruments transferring the state's rights and interest in the surplus state easements to Gaines County, Texas, in consideration of the savings to the state of future maintenance costs, and quitclaiming the surplus county easements to Gaines County, Texas.

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

(3) Gaines County – FM 1429 south of US 180 – Consider the removal from the state highway system and transfer of surplus right of way to the county (MO)

112031
ROW

In GAINES COUNTY, on FARM TO MARKET ROAD 1429, the State of Texas acquired fee and easement interests in certain land by instruments recorded in the Deed Records of Gaines County, Texas.

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

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that a segment of FM 1429, shown in Exhibit B, be removed from the state highway system and transferred to Gaines County for control, jurisdiction and maintenance.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may waive payment for real property transferred to a governmental entity if the estimated cost of future maintenance on the property equals or exceeds the fair value of the property.

The fair value of the surplus land has been determined to be \$73,915, and the state's costs for maintenance and resurfacing the surplus land over the next 20 years is estimated to be \$96,600.

The county has requested that the surplus land be transferred to the county in consideration of the savings to the state of future maintenance costs, since the future maintenance costs exceed the value of the surplus land, and that control, jurisdiction and maintenance be transferred to the county.

The commission finds \$73,915 to be a fair and reasonable value of the state's rights, title and interest in the surplus land and recommends that the state transfer the surplus easements to the county.

IT IS THEREFORE ORDERED by the commission that a segment of FM 1429 is removed from the state highway system and transferred to the county for control, jurisdiction and maintenance from US 180 southward to the end of FM 1429, a distance of approximately 8.369 miles.

FURTHER, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument transferring the state's rights, title and interest in the surplus land to Gaines County, Texas, in consideration of the savings to the state of future maintenance costs.

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

(4) Gillespie County – US 87, old alignment north of Fredericksburg – Consider the amendment of MO 111949, passed August 27, 2009, to correct the interest acquired by and to be sold by the state (MO)

112032
ROW

In GILLESPIE COUNTY, on US 87, the State of Texas acquired fee title to certain land for highway purposes by instrument recorded in Volume 40, Page 14, Deed Records of Gillespie County, Texas.

The Texas Transportation Commission (commission) approved Minute Order 111949 on August 27, 2009, incorrectly authorizing the sale of surplus highway easements. The reference to the interest acquired by and to be sold by the state is being corrected by this minute order.

Portions of the land (surplus land), described in Exhibits A and B, are no longer needed for a state highway purpose.

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

NOW, THEREFORE, IT IS ORDERED that Minute Order 111949 be amended only with respect to the incorrect interest acquired by and to be sold by the state, and all other provisions of Minute Order 111949 are to remain unchanged.

FURTHER, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value of the surplus land is less than \$10,000 and authorizes the executive director to execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Aaron T. Cox for \$3,948; 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: Exhibits A and B on file with minute order clerk.

(5) Somervell County – US 67 at Mesquite Street in Glen Rose – Consider the sale of surplus right of way to the abutting landowners (MO)

112033
ROW

In the city of Glen Rose, SOMERVELL COUNTY, on US 67, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 3, Page 93, Civil Court Minutes of Somervell County, Texas.

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

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

Glenn Wilson dba Wilson Development, Co. and Renee Wilson are the abutting landowners and have requested that the surplus land be sold to them for \$14,500.

The commission finds \$14,500 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 Glenn Wilson dba Wilson Development, Co. and Renee Wilson for \$14,500; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(6) Tarrant County – SH 121 at SH 183 in Fort Worth – Consider the amendment of MO 111877, passed June 25, 2009, to revise the size of the tract benefitting from the sale of surplus access rights and to authorize the waiver of the service fee (MO)

112034
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 needed 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.

The Texas Transportation Commission (commission) approved Minute Order 111877 (MO) on June 25, 2009, authorizing the sale of surplus access rights. The MO did not include all of the abutting landowner's property to benefit from the sale nor authorize the waiver of the service fee.

Fort Worth Country Day School, Inc., a Texas non-profit corporation (FWCDS), is the owner of the following tracts of land conveyed by the corresponding instruments: 10 acres by Volume 3758, Page 376; 20.0 acres by Volume 3954, Page 251; 24.972 acres (Tract 2) by Volume 4523, Page 79; 26.928 acres by Volume 4746, Page 252, Deed Records of Tarrant County, Texas; and 11.689 acres by Volume 13646, Page 22, Official Public Records of Tarrant County, Texas, (FWCDS Tract). FWCDS 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 commission may recommend the sale of surplus access rights to the abutting landowner.

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.

NOW, THEREFORE, IT IS ORDERED that MO 111877 be amended only with respect to the size of the FWCDS Tract and to authorize the waiver of the service fee, and all other provisions of MO 111877 are to remain unchanged.

FURTHER, the commission finds that the service fee is unjust or unwarranted 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 and that the service fee be waived.

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.

f. Speed Zones

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

112035
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 through C on file with minute order clerk.

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

Note: The commission did not meet in executive session.

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

The regular meeting of the Texas Transportation Commission adjourned at 12:55 p.m.

APPROVED:

Deirdre Delisi, Chair
Texas Transportation Commission

xxx

I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on October 29, 2009, in Fort Worth, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation