

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on January 27, 2011, in Austin, Texas. The meeting was called to order by Chair Delisi. The meeting opened at 9:07 a.m. with the following commissioners present:

**Texas Transportation Commission:**

Deirdre Delisi	Chair
Ted Houghton	Commissioner
Ned Holmes	Commissioner
Fed Underwood	Commissioner
Bill Meadows	Commissioner

**Administrative Staff:**

Steve Simmons, Deputy Executive Director  
 Bob Jackson, General Counsel  
 Roger Polson, Executive Assistant to the Deputy Executive Director  
 JoLynne Williams, Chief Minute Order Clerk

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

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 4:48 p.m. on January 19, 2011, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

**ITEM 1. Approval of Minutes of the December 15, 2010 workshop, December 16, 2010 regular meeting, and January 5, 2011 special meeting of the Texas Transportation Commission.**

Commissioner Houghton made a motion, which was seconded, and the commission approved the minutes of the December 15, 2010 workshop, December 16, 2010 regular meeting, and January 5, 2011 special meeting by a 5-0 vote.

**ITEM 2. Discussion Item**

**Discuss the TxDOT Restructure Council report presented at the January 5, 2011 special commission meeting.**

This item was introduced by Chair Delisi and presented by Jay Kimbrough.

**ITEM 2. RESOLUTION**

**Consider approval of comments to be submitted to the United States Securities and Exchange Commission (SEC) relating to the proposed rule implementing municipal advisor registration requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Resolution).**

Commissioner Houghton made a motion, which was seconded and the commission approved the resolution by a vote of 5 – 0. This item was presented by Chief Financial Officer James Bass.

**ITEM 4. I-35 Advisory Committee Report**

**Report on the activities and recommendations of the I-35 Advisory Committee**

This item was introduced by Assistant Executive Director for Engineering Operations John Barton. A report was presented by Bell County Commissioner Tim Brown, chairman of the I-35 Advisory Committee.. The commission also received comments from Temple Mayor Bill Jones. A written report was submitted by Austin's Director of Transportation Robert Spillar on behalf of the City of Austin.

**ITEM 5. Aviation**

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

Commissioner Underwood made a motion which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Aviation Division Director Dave Fulton.

112549  
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, December 9, 2010 and Wednesday, December 15, 2010, public hearings were 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 \$3,424,440.

Note: Exhibit A on file with minute order clerk.

**ITEM 6. Public Transportation**

**a. Various Counties – Award federal §5309 capital investment program funds and transportation development credits to rural transportation providers to purchase public transportation vehicles (MO)**

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Public Transportation Division Director Eric Gleason:

112550  
PTN

The Texas Transportation Commission (commission) takes special note of its designation by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, Bus and Bus Facilities Program (49 U.S.C. §5309), in a letter dated October 4, 2005; and further acknowledges that federal program regulations require the Texas Department of Transportation (department) to ensure that these grant funds are distributed fairly and equitably within the state.

On behalf of participating rural transit districts, the department submitted a project application and was awarded \$5 million under the FTA's §5309 federal capital grant program in support of FTA's State of Good Repair initiative.

The commission finds that the projects listed in Exhibit A are eligible for funding and desires to award \$5 million of federal §5309 funds and 780,415 in Transportation Development Credits (TDC) to participating rural transit districts for fleet replacement.

The commission finds that TDC investments in transit vehicles will improve air quality by replacing older vehicles with newer models which meet current emission standards; and increase the value of the transportation assets by investing into the replacement of depreciated rolling stock.

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

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

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

Note: Exhibit A on file with minute order clerk.

**b. Various Counties – Award federal §5311 funds, Nonurbanized Area Formula Program for FY 2011 (MO)**

This item was deferred.

**ITEM 7. Rail Transportation**

**Appoint a public member to the board of directors of the Lone Star Rail District (formerly known as the Austin-San Antonio Intermunicipal Commuter Rail District) (MO)**

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Rail Division Director Bill Glavin.

112551  
RRD

Article 6550c-1, VTCS, authorized the creation of a commuter rail district for the purpose of providing commuter rail service between two municipalities.

The commissioners' courts of Bexar and Travis Counties and the city councils of the cities of Austin and San Antonio adopted resolutions favoring the creation of a commuter rail district for the purpose of providing commuter rail service between Austin and San Antonio.

The Lone Star Rail District (district) is governed by a board of directors (board). The board is responsible for management, operation and control of the district. The district convened their first meeting in February 2003, and the appointed board members entered into a service term of two years. Commencing in December 2007 the board terms are now staggered in either one or two year periods.

Article 6550c-1 provides that the Texas Transportation Commission (commission) shall appoint two public members to the board of the district.

As one of the two appointees, the commission, by Minute Order 10921, dated December 19, 2002, originally appointed Mariano Camarillo of Austin to the board of the district based on his experience and knowledge of commuter rail transportation. The commission has reappointed him to a second two-year term by Minute Order 109929, dated January 27, 2005, a third two-year term by Minute Order 110814, dated January 25, 2007, and a fourth two-year term by Minute Order 111681, dated January 29, 2009.

The commission has determined that it is in the best interest of the citizens of Central Texas for Mr. Camarillo to be re-appointed for a fifth two-year term as a member of the board due to his exemplary service and the need for the district to continue uninterrupted in their current efforts to bring commuter rail to the region.

IT IS THEREFORD ORDERED by the commission that Mariano Camarillo be reappointed as a member of the Austin-San Antonio Commuter Rail District for a fifth term. The term will start February 1, 2011 and run through January 31, 2013.

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

**Proposed Adoption**

**a. Chapter 7 - Rail Facilities and Chapter 31 - Public Transportation (MO)**

New §7.80, Purpose, §7.81, Definitions, §7.82, Program Standard, §7.83, System Safety Program Plan, §7.84, System Security Plan, §7.85, Reviews, §7.86, Accident Notification and Corrective Action Plans, §7.87, Deadlines, and §7.88, Admissibility; Use of Information (Rail Fixed Guideway System State Safety Oversight Program); Amendments to §31.2, Organization, and §31.3, Definitions (General); Amendments to §31.48, Project Oversight (Program Administration); Repeal of Subchapter F, Rail Fixed Guideway System State Safety Oversight Program, §§31.60 - 31.63

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Rail Division Director Bill Glavin.

112552  
ADM

The Texas Transportation Commission (commission) finds it necessary to propose new §§7.80 - 7.88, amendments to §31.2, §31.3, and §31.48, and the repeal of §§31.60 - 31.63, all relating to rail fixed guideway system state safety oversight 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 - F, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that new §§7.80 - 7.88, amendments to §31.2, §31.3, and §31.48, and the repeal of §§31.60 - 31.63 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 are on file with minute order clerk.

**b. Chapter 25 Traffic Operations (MO)**

**Amendments to §25.901, Purpose, §25.902, Definitions, §25.903, Scope, and §25.906, Participation (Traffic Safety Program)**

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Deputy Executive Director Steve Simmons.

112553  
ADM

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§25.901 - 25.903 and §25.906, all relating to the traffic safety program 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 §§25.901 - 25.903 and §25.906 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 are on file with minute order clerk.

**c. Chapter 25 Traffic Operations (MO)**

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

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Traffic Operations Division Director Carol Rawson.

112554  
TRF

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §25.977 relating to reporting by investigating officers 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 §25.977 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 are on file with minute order clerk.

**ITEM 9. Public Involvement Policy and Implementation**

**Adopt the Public Involvement Policy developed in conjunction with an analysis of the department's public involvement processes. Authorize implementation of the policy, and authorize development and implementation of an action plan to enhance public involvement processes and practices throughout the department (MO)**

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Government and Public Affairs Division Director Coby Chase.

112555  
GPA

At its December 15, 2010 meeting, the Texas Transportation Commission (commission) received a report from Texas Southern University's (TSU) Center for Transportation Training and Research regarding its review of the public involvement processes and practices of the Texas Department of Transportation (department).

The report contained specific findings and recommendations to enhance public involvement efforts of the department (Exhibit A), and included a draft public involvement policy (Exhibit B) to guide department public involvement practices, processes and activities.

TSU's Public Involvement Study was initiated following the Sunset Advisory Commission's 2008 department review. The Sunset Advisory Commission noted that the department should review and update its public involvement policy.

Further, the Sunset Advisory Commission cited the public's high expectations for the department regarding consistent and meaningful public involvement, and stated that those high expectations were not being met.

IT IS THEREFORE ORDERED by the commission that the document as shown in Exhibit B is adopted as the Public Involvement Policy of the Texas Department of Transportation.

IT IS FURTHER ORDERED that the commission directs the executive director or his designee to develop an action plan to implement the Public Involvement Policy and the recommendations of TSU (Exhibit A)

Note: Exhibits are on file with minute order clerk.

#### **ITEM 10. Traffic Operations**

**Harris County** - Consider designating existing high occupancy vehicle (HOV) lanes on I-45 North, US 59 North, I-45 South, US 59 South, and US 290 in Harris County, as toll projects, authorizing the department to charge tolls from vehicles other than HOVs on those lanes, and authorizing the Metropolitan Transit Authority of Harris County (METRO) to set the amount of toll charges (MO)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Traffic Operations Division Director Carol Rawson.

112556  
TRF

The Metropolitan Transit Authority of Harris County (METRO), a metropolitan rapid transit authority created under Transportation Code, Chapter 451, currently operates high occupancy vehicle (HOV) lanes and related facilities on certain highways on the state highway system in Harris County pursuant to an agreement (HOV Agreement) with the Texas Department of Transportation (department). The HOV lanes were open to traffic as HOV lanes prior to May 1, 2005.

To increase mobility on the state highways described in Exhibit A, and to improve the efficiency of the HOV lanes, METRO has expressed a desire to operate the portions of the HOV lanes on the segments of the state highway system generally described in Exhibit A as high occupancy toll (HOT) lanes, which METRO would allow high occupancy vehicles occupied by a specified minimum number of passengers to continue to use free of charge, while charging tolls for use by all other vehicles.

Under Transportation Code, §228.051 and §228.201, the Texas Transportation Commission (commission) may designate the HOT lanes as toll projects, and the department may operate the HOT lanes as toll lanes, if the highway or segment was open to traffic as an HOV lane on May 1, 2005, and if the department or the entity operating the

lanes allows vehicles occupied by a specified number of passengers to use the lane without paying a toll.

Pursuant to Transportation Code, §228.007, if the commission authorizes the department to charge a toll for the use of the HOT lanes, the department may enter into an agreement with METRO to design, construct, operate and maintain the HOT lanes, and to charge a toll for the use of the HOT lanes. Under Section 228.007, the commission may authorize METRO to set the amount of the toll charges, which must be imposed in a reasonable and nondiscriminatory manner.

IT IS THEREFORE ORDERED by the commission that the HOT lanes are hereby designated as toll projects.

IT IS FURTHER ORDERED that the department is authorized to charge a toll for the use of the HOT lanes, provided that vehicles occupied by a specified number of passengers may use the HOT lanes without paying a toll.

IT IS FURTHER ORDERED that upon execution of the HOT Lanes Agreement between the department and METRO, METRO may set the amount of toll charges for use of the HOT lanes, which shall be imposed in a reasonable and nondiscriminatory manner and in accordance with the terms of this minute order and the HOT Lanes Agreement.

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

#### **ITEM 11. Toll Roads**

a. Establish fees to be charged for administering electronic toll collection customer accounts (MO)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Texas Turnpike Authority Division Director Mark Tomlinson.

112557  
TTA

Transportation Code, §228.057(d) provides that the Texas Department of Transportation (department) may charge reasonable fees for administering electronic toll collection customer accounts.

The Texas Transportation Commission (commission) adopted amendments to Title 43, Texas Administrative Code, §27.82, which become effective on March 1, 2011. Section 27.82(c) provides that the commission by minute order will establish customer account fees. In establishing customer account fees, the commission will consider the cost of operations, including the estimated cost to the department for labor, materials, storage, and bank fees, as well as the requirements of project bond covenants.

The department currently charges the following fees:

- Specialty tags: \$20.00 refundable deposit per tag
- Mailed or faxed account statements: \$1.00 per statement
- Checks returned for insufficient funds: \$25.00 per check

The department is in the process of reviewing and evaluating operational costs in order to determine the appropriate fee structure. The commission has considered the factors set forth in §27.82(c) and has concluded that it would be premature to modify the fee structure at this time.

IT IS THEREFORE ORDERED by the commission that the department is authorized to charge customer account fees in the amounts stated above, effective March 1, 2011.

b. **Harris County** - Consider the approval of the department's determination to exercise its option to develop, construct, and operate the portion of SH 99 (Grand Parkway) in Harris County (project), authorize the project with DEVELOP authority, and authorize the executive director to enter into an agreement with Harris County providing for the cooperative planning of the project and the protection of the proposed right of way for the project (MO)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Assistant Executive Director for Engineering Operations John Barton. The commission also received comments from Harris County Judge Ed Emmett, Board Chairman of the Grand Parkway Association William Burge, and Grand Parkway Association Executive Director David Gornet.

112558  
AEO

Transportation Code, §228.0111, establishes a process for providing local toll project entities, defined as regional tollway authorities, regional mobility authorities, or counties acting under Transportation Code, Chapter 284, with the first option to develop, construct, and operate toll projects located within the boundaries of the local toll project entity.

In Minute Order 111410, dated June 26, 2008, the Texas Transportation Commission (commission) adopted policies relating to the implementation of this process, which determines whether the Texas Department of Transportation (department) or a local toll project entity will develop, construct, and operate a toll project located within the boundaries of the local toll project entity.

In accordance with the requirements of Transportation Code, §228.0111 and the policies included in Minute Order 111410, the department and the counties in which State Highway 99 (Grand Parkway) is located entered into a Market Valuation Waiver Agreement, effective March 25, 2009, in which the parties agreed on the terms and conditions for the development, construction, and operation of the Grand Parkway, agreed to waive the development of a market valuation of the Grand Parkway, and agreed to certain other provisions applicable to the development, construction, and operation of the Grand Parkway.

As required by Transportation Code, §228.0111(e), the agreed terms and conditions were approved by the Houston-Galveston Transportation Policy Council, the metropolitan planning organization for the area in which the Grand Parkway is located, in Resolution No. 2008-08, dated August 22, 2008.

In accordance with the requirements of Transportation Code, §228.0111(g), on September 15, 2009, Harris County (county) elected to exercise its option to develop, construct, and operate the portion of the Grand Parkway located within the county (project). On January 11, 2011, the Harris County Commissioners Court rescinded the September 15,

2009, action to exercise the county's option, effectively failing to exercise its option, and providing for the reversion to the department of the right to develop, construct, and operate the project.

Transportation Code, §228.0111(i) provides that if a local toll project entity does not exercise the option to develop, finance, construct, and operate a toll project, or does not enter into a contract for the construction of the project and make a commitment described in Transportation Code, §228.0111(g)(2) within the prescribed two-year period, the department has the option to develop, finance, construct, and operate the toll project under the agreed terms and conditions.

The department has determined that its option to develop, finance, construct, and operate the portion of the Grand Parkway located within the county should be exercised. Minute Order 111410 provides that the commission must approve any department determination to exercise an option to develop, finance, construct, and operate a toll project under Transportation Code, §228.0111.

Transportation Code, §201.619 authorizes the department to enter into an agreement with a county identifying future transportation corridors within the county, and Local Government Code, §232.0033 authorizes a county to refuse to approve a plat of a subdivision if all or part of the subdivision is located within the area of the alignment of a transportation project as shown in the final environmental decision document that is applicable to a future transportation corridor identified in such an agreement, thereby limiting the impact of development on both the acquisition price and damage to property needed for the transportation project. Entering into the agreement will accordingly assist in reducing project costs by limiting the cost to acquire right of way needed for the project.

IT IS THEREFORE ORDERED by the commission that the department's determination to exercise its option to develop, finance, construct, and operate the portion of State Highway 99 (Grand Parkway) in Harris County, pursuant to Transportation Code, §228.0111(i), is approved, and the project is authorized with DEVELOP authority.

IT IS FURTHER ORDERED that the executive director of the department is authorized to enter into an agreement with Harris County under Transportation Code, §201.619 that includes the future transportation corridor in which the project is located.

c. **Johnson and Tarrant Counties** - Consider final approval of a request for financing from the North Texas Tollway Authority (NTTA) to pay for certain costs associated with the development and construction of the SH 121 toll project from the Fort Worth Central Business District at I-30 south to US 67 in Cleburne (Southwest Parkway/Chisholm Trail), including the costs of right-of-way acquisition (MO)

Commissioner Meadows made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Finance Division Director Brian Ragland.

112559  
FIN

The Texas Department of Transportation (department) and the North Texas Tollway Authority (NTTA) have been proceeding with the development of the SH 121 toll

project, a continuous express-lane facility extending from the Fort Worth Central Business District at I-30 to US 67 in Johnson County, a total length of approximately 27.6 miles (Southwest Parkway/Chisholm Trail Project).

In accordance with Sections 27.53 and 27.54(a) of the toll equity rules, the commission, in Minute Order 112548, dated January 5, 2011, granted preliminary approval of a request for financial assistance in the amount of \$25 million, to be used in the development and construction of, and acquisition of right of way for, the Southwest Parkway/Chisholm Trail Project. Section 1602 of the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) identified the Southwest Parkway/Chisholm Trail Project as a high priority project, and made available \$25 million to construct the project.

A portion of the Southwest Parkway/Chisholm Trail Project is located within the boundaries of the NTTA, and the southern section of the Southwest Parkway/Chisholm Trail Project is subject to the market valuation provisions set forth in Transportation Code §228.0111 (the northern section is exempt from the market valuation requirement). The NTTA is authorized to construct, operate, maintain, expand, or extend the portion of the Southwest Parkway/Chisholm Trail Project extending into Johnson County as it would be a continuation of the NTTA's turnpike project extending from an adjacent county that is part of the NTTA.

The department and the NTTA have been working together to identify an approach to provide for the funding and development of the Southwest Parkway/Chisholm Trail Project within the boundaries of the NTTA and adjacent counties. Transportation Code, §228.0111 grants the NTTA the first option to develop, finance, construct and operate the Southwest Parkway/Chisholm Trail Project. Pursuant to Transportation Code, §228.0111, the NTTA has exercised its option to develop, construct, and operate the project.

The department, the NTTA and the Regional Transportation Council (RTC) of the North Central Texas Council of Governments (NCTCOG) have cooperatively engaged in efforts to determine capital cost savings needed to make the Southwest Parkway/Chisholm Trail Project financially feasible. This includes the deferral of some of the direct connect bridges in Section 3B of the project and a reduction in the number of lanes to be constructed in Sections 5 and 6 of the project. This corridor configuration, which balances needed cost reductions with corridor functionality and mobility, has been titled Scenario 1C. The remaining direct connect bridges and additional lanes would be constructed when travel demand warrants.

In Minute Order 112142, dated February 24, 2010, the Texas Transportation Commission (commission) authorized the executive director to enter into an Agreement to Enter into Supplement to Toll Equity Loan Agreement (Agreement) that provides for the agreement of the department and the NTTA to enter into a supplement to the toll equity loan agreement for the SH 161 Project upon the fulfillment of the conditions precedent set forth in the Agreement. The supplement would amend the toll equity loan agreement to increase the amount of the toll equity loan commitment for the SH 161 Project to provide financial assistance for the Southwest Parkway/Chisholm Trail Project. The effect of the supplement is to provide a toll equity loan commitment for a single project comprising SH 161 and the Scenario 1C configuration of the Southwest Parkway/Chisholm Trail Project.

Minute Order 112142 also gave preliminary approval for \$91 million in financial assistance derived from Proposition 14 bond proceeds that have been identified for the Southwest Parkway/Chisholm Trail Project.

Transportation Code, §366.301 authorizes the department to provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, construction, operation, or maintenance of a turnpike project or system by the NTTA on terms agreed to by the department and the NTTA. Transportation Code, §222.103 authorizes the department to participate, by spending money from any available source, in the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission.

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

As required by Section 27.53, the NTTA has an internal ethics and compliance program that satisfies the requirements set forth in 43 TAC §1.8. In accordance with Section 27.54, negotiations have been conducted and a financial assistance agreement that complies with Section 27.55 of the toll equity rules has been developed.

The NTTA has committed that during construction of the portions of the Southwest Parkway/Chisholm Trail Project for which the NTTA is responsible, the NTTA will assume all liability and responsibility for existing and future environmental permits, issues, and commitments, including obtaining all environmental permits and approvals necessary for the development of that portion of the project, and to comply with applicable federal and state laws, regulations, and policies.

The department previously conducted environmental studies and analyses of the Southwest Parkway/Chisholm Trail Project, and has secured environmental clearance from FHWA, from I-30 to FM 1187. A Finding of No Significant Impact for the section of the project from FM 1187 to US 67 is currently being reevaluated.

Section 27.54(b) of the toll equity rules provides that prior to receiving final approval of the grant or loan of funds for the construction of a project, a study of the social, economic, and environmental impacts of the project be completed, and public involvement be provided for in the manner required in the department's rules relating to environmental review and public involvement for transportation projects. Accordingly, final approval of financial assistance for the construction of a project is subject to the environmental clearance of the project.

The Southwest Parkway/Chisholm Trail Project is consistent with the Statewide Transportation Plan, the Statewide Transportation Improvement Program, and the approved plan of the NCTCOG, the metropolitan planning organization of the Dallas-Fort Worth region, and is consistent with the transportation improvement program of the NCTCOG and with the State Implementation Plan.

The timely extension of SH 121 south and west from I-30 in Fort Worth to US 67 in Cleburne is a crucial element in the development of the cities of Fort Worth and Cleburne, Johnson and Tarrant counties, and the surrounding region. Development of the Southwest

Parkway/Chisholm Trail Project will benefit the region by reducing congestion and improving air quality in those areas.

The financial assistance for the Southwest Parkway/Chisholm Trail Project is critical to the NTTA's overall plan of finance. The successful funding of the Southwest Parkway/Chisholm Trail Project will benefit the state and the traveling public and improve the efficiency of the state's transportation system by providing for the timely completion of the Southwest Parkway/Chisholm Trail Project, which will enhance mobility and operational efficiency, decrease congestion, increase safety, increase economic development opportunities, decrease travel time, decrease air pollution, and enhance quality of life in the SH 121 Corridor. Without the department's assistance, the timeline to complete the Southwest Parkway/Chisholm Trail Project and realize those benefits could be delayed.

The request for financial assistance submitted by the NTTA indicates that a majority of the costs of developing the Southwest Parkway/Chisholm Trail Project will be funded through revenue bond sales, loans, and NTTA equity contributions. With the requested financial assistance, the project has the potential to expand the availability of funding for transportation projects or reduce direct state costs.

Based on the above information, the commission has determined that providing financial assistance will prudently provide for the protection of public funds, and that, given the level of project development to date, the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate adverse environmental impacts.

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the NTTA meets the applicable requirements of 43 TAC §27.53 and §27.54 and, in accordance with those provisions, the commission grants final approval of the request for financial assistance, in the form of a grant, in the amount of \$25 million, to be funded with federal funds as identified in Section 1602 of TEA-21, to be used for the purposes described herein on segments of the Southwest Parkway/ Chisholm Trail Project that have been environmentally cleared.

IT IS FURTHER ORDERED that the executive director is authorized to enter into a financial assistance agreement with the NTTA.

**d. Johnson and Tarrant Counties - Consider final approval of a portion of a request for financing from the North Texas Tollway Authority (NTTA) to pay for certain costs associated with the development and construction of the SH 121 toll project, from the Fort Worth Central Business District at I-30 south to US 67 in Cleburne (Southwest Parkway/Chisholm Trail), and authorize the executive director to enter into related agreements (MO)**

Commissioner Meadows made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Finance Division Director Brian Ragland.

112560  
FIN

Minute Order 112142 also gave preliminary approval for \$91 million in financial assistance derived from Proposition 14 bond proceeds that have been identified for the Southwest Parkway/Chisholm Trail Project.

Transportation Code, §366.301 authorizes the department to provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, construction, operation, or maintenance of a turnpike project or system by the NTTA on terms agreed to by the department and the NTTA. Transportation Code, §222.103 authorizes the department to participate, by spending money from any available source, in the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission.

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

As required by Section 27.53, the NTTA has an internal ethics and compliance program that satisfies the requirements set forth in 43 TAC §1.8. In accordance with Section 27.54, negotiations have been conducted and a financial assistance agreement that complies with Section 27.55 of the toll equity rules has been developed.

The NTTA has committed that during construction of the portions of the Southwest Parkway/Chisholm Trail Project for which the NTTA is responsible, the NTTA will assume all liability and responsibility for existing and future environmental permits, issues, and commitments, including obtaining all environmental permits and approvals necessary for the development of that portion of the project, and to comply with applicable federal and state laws, regulations, and policies.

The department previously conducted environmental studies and analyses of the Southwest Parkway/Chisholm Trail Project, and has secured environmental clearance from FHWA, from I-30 to FM 1187. A Finding of No Significant Impact for the section of the project from FM 1187 to US 67 is currently being reevaluated.

Section 27.54(b) of the toll equity rules provides that prior to receiving final approval of the grant or loan of funds for the construction of a project, a study of the social, economic, and environmental impacts of the project be completed, and public involvement be provided for in the manner required in the department's rules relating to environmental review and public involvement for transportation projects. Accordingly, final approval of financial assistance for the construction of a project is subject to the environmental clearance of the project.

The Southwest Parkway/Chisholm Trail Project is consistent with the Statewide Transportation Plan, the Statewide Transportation Improvement Program, and the approved plan of the NCTCOG, the metropolitan planning organization of the Dallas-Fort Worth region, and is consistent with the transportation improvement program of the NCTCOG and with the State Implementation Plan.

The timely extension of SH 121 south and west from I-30 in Fort Worth to US 67 in Cleburne is a crucial element in the development of the cities of Fort Worth and Cleburne, Johnson and Tarrant counties, and the surrounding region. Development of the Southwest Parkway/Chisholm Trail Project will benefit the region by reducing congestion and improving air quality in those areas.

The financial assistance for the Southwest Parkway/Chisholm Trail Project is critical to the NTTA's overall plan of finance. The successful funding of the Southwest

Parkway/Chisholm Trail Project will benefit the state and the traveling public and improve the efficiency of the state's transportation system by providing for the timely completion of the Southwest Parkway/Chisholm Trail Project, which will enhance mobility and operational efficiency, decrease congestion, increase safety, increase economic development opportunities, decrease travel time, decrease air pollution, and enhance quality of life in the SH 121 Corridor. Without the department's assistance, the timeline to complete the Southwest Parkway/Chisholm Trail Project and realize those benefits could be delayed.

The request for financial assistance submitted by the NTTA indicates that a majority of the costs of developing the Southwest Parkway/Chisholm Trail Project will be funded through revenue bond sales, loans, and NTTA equity contributions. With the requested financial assistance, the project has the potential to expand the availability of funding for transportation projects or reduce direct state costs.

Based on the above information, the commission has determined that providing financial assistance will prudently provide for the protection of public funds, and that, given the level of project development to date, the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate adverse environmental impacts.

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the NTTA meets the applicable requirements of 43 TAC §27.53 and §27.54 and, in accordance with those provisions, the commission grants final approval of the request for financial assistance, in the form of a grant, in the amount of \$25 million, to be funded with federal funds as identified in Section 1602 of TEA-21, to be used for the purposes described herein on segments of the Southwest Parkway/ Chisholm Trail Project that have been environmentally cleared.

IT IS FURTHER ORDERED that the executive director is authorized to enter into a financial assistance agreement with the NTTA.

e. **Travis County** - Authorize the department to enter into an agreement with the Central Texas Regional Mobility Authority for the development, construction, operation, and maintenance of the Manor Expressway, a 6.2-mile toll project located in Travis County along the existing US 290 facility from east of US 183 to east of SH 130, and approve the connection of the Manor Expressway with a segment of the state highway system (MO)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Texas Turnpike Authority Division Director Mark Tomlinson.

112561  
TTA

Pursuant to 43 TAC §26.32, the commission has determined that the Manor Expressway may be effectively integrated into the state's transportation system. The CTRMA is fully capable of awarding and managing the construction contract for the project in a cost effective and timely manner, consistent with applicable federal and state laws and regulations. The construction of the Manor Expressway will provide for the expeditious completion of a critically needed project within the US 290 corridor that will relieve traffic congestion on the existing state highway system and improve mobility in Travis County.

IT IS THEREFORE ORDERED by the commission that the executive director of the department is authorized to enter into an agreement with the Central Texas Regional Mobility Authority for the development, construction, operation, and maintenance of the Manor Expressway, a toll project located in Travis County along the existing US 290 facility from east of US 183 to east of SH 130.

IT IS FURTHER ORDERED that the connection of the Manor Expressway with a segment of the state highway system is approved.

**ITEM 12. Pass-Through Program**

a. **El Paso County** – Authorize the executive director to negotiate a pass-through toll agreement with Camino Real Regional Mobility Authority (CRRMA) to provide the department with partial funding for the department's construction of two direct connectors at the Loop 375/FM 659 intersection in the city of El Paso (MO)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Assistant Executive Director for Engineering Operations John Barton.

112562  
AEO

On January 20, 2011, the Camino Real Regional Mobility Authority (CRRMA) submitted a proposal for pass-through toll financing in the amount of \$7 million. The proposal provided for the CRRMA to supply the Texas Department of Transportation (department) with partial funding for the department's construction of two direct connectors at the Loop 375/FM 659 intersection in the city of El Paso (project).

Section 222.104(b), Transportation Code, authorizes the department to enter into an agreement with a public or private entity that provides for the payment of pass-through tolls to the public or private entity as reimbursement for the construction, maintenance, financing, or operation of a toll or non-toll facility on the state highway system by the public or private entity. A pass-through toll is a per-vehicle fee or a per-vehicle-mile fee that is determined by the number of vehicles using a facility.

On January 29, 2009, by Minute Order 111669, the Texas Transportation Commission (commission) adopted revised rules, codified as Title 43 Texas Administrative Code §§5.51-5.60 (rules), that prescribe the policies and procedures governing the department's implementation of the program under Section 222.104(b), Transportation Code.

On December 16, 2010, by Minute Order 112526, the 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 in the event that a critical transportation need arises which can be addressed with a pass-through toll agreement, or an alternative funding source becomes available for a specific transportation project, the commission may, at any time and irrespective of the limitations adopted under Minute Order 112526, authorize acceptance of an individual proposal for development of a pass-through toll project to meet that need or utilize those funds, provided that the proposal otherwise complies with the rules.

After considering the CRRMA proposal, the limitations and exceptions to the program call under Minute Order 112526, and the factors described by §5.55 of the commission's rules, it is determined that: (1) the proposal requests funding from Category 2 funds and the proposed project will satisfy a critical transportation need; (2) the proposal satisfies provisions under Minute Order 112526 for an exception to the program call; (3) the proposer will make a significant financial contribution to the project from sources other than the department; (4) the CRRMA's proposal indicated broad public support for the project and did not identify any significant opposition; (5) the project is in the current UTP; (6) the project demonstrates the potential to relieve congestion on the state highway system; (7) the project appears to provide potential benefits to safety; (8) the project appears to provide potential benefits to regional air quality but must be quantified and documented by the CRRMA through the air quality conformity process in accordance with all state and federal regulations; (9) the project is compatible with existing and planned transportation facilities; (10) the proposer will utilize a contiguous geographic area in the jurisdiction of the City of El Paso as a transportation reinvestment zone; (11) the project demonstrates the potential to provide economic development in the area; (12) the proposer appears to have sufficient financial strength to complete the project; (13) the CRRMA is gaining experience developing highway projects, but for this project has delegated development responsibility to the department; and (14) the project is compatible with the commission's stated goals.

Before the project in this proposal is planned, developed, or constructed using funds administered by the department, the project: (1) prior to construction, must be included in the department's Statewide Transportation Improvement Program; and (2) 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 the financial terms of a pass-through toll agreement for the project at the Loop 375/FM 659 intersection with Camino Real Regional Mobility Authority. If the negotiations are successful, the executive director shall submit to the commission a summary of the final terms of the agreement so that the commission may consider final approval under §5.57 of its rules.

- b. El Paso County – Authorize the executive director to negotiate a pass-through toll agreement with Camino Real Regional Mobility Authority (CRRMA) to provide the department with partial funding for the department's construction of Loop 375 mainlanes from approximately one mile west of US 54 to Business US 54 in far northeast El Paso County (MO)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Assistant Executive Director for Engineering Operations John Barton.

112563  
AEO

On January 20, 2011, the Camino Real Regional Mobility Authority (CRRMA) submitted a proposal for pass-through toll financing in the amount of \$5.7 million. The proposal provided for the CRRMA to supply the Texas Department of Transportation (department) with partial funding for the department's construction of Loop 375 mainlanes

from approximately one mile west of US 54 to Business US 54 in far northeast El Paso County.

Section 222.104(b), Transportation Code, authorizes the department to enter into an agreement with a public or private entity that provides for the payment of pass-through tolls to the public or private entity as reimbursement for the construction, maintenance, financing, or operation of a toll or non-toll facility on the state highway system by the public or private entity. A pass-through toll is a per-vehicle fee or a per-vehicle-mile fee that is determined by the number of vehicles using a facility.

On January 29, 2009, by Minute Order 111669, the Texas Transportation Commission (commission) adopted revised rules, codified as Title 43 Texas Administrative Code §§5.51-5.60 (rules), that prescribe the policies and procedures governing the department's implementation of the program under Section 222.104(b), Transportation Code.

On December 16, 2010, by Minute Order 112526, the 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 in the event that a critical transportation need arises which can be addressed with a pass-through toll agreement, or an alternative funding source becomes available for a specific transportation project, the commission may, at any time and irrespective of the limitations adopted under Minute Order 112526, authorize acceptance of an individual proposal for development of a pass-through toll project to meet that need or utilize those funds, provided that the proposal otherwise complies with the rules.

After considering the CRRMA proposal, the limitations and exceptions to the program call under Minute Order 112526, and the factors described by §5.55 of the commission's rules, it is determined that: (1) the proposal requests funding from Category 2 funds and the proposed project will satisfy a critical transportation need; (2) the proposal satisfies provisions under Minute Order 112526 for an exception to the program call; (3) the proposer will make a significant financial contribution to the project from sources other than the department; (4) the CRRMA's proposal indicated broad public support for the project and did not identify any significant opposition; (5) the project is in the current UTP; (6) the project demonstrates the potential to relieve congestion on the state highway system; (7) the project appears to provide potential benefits to safety; (8) the project appears to provide potential benefits to regional air quality but must be quantified and documented by the CRRMA through the air-quality conformity process in accordance with all state and federal regulations; (9) the project is compatible with existing and planned transportation facilities; (10) the proposer will utilize a contiguous geographic area in the jurisdiction of the City of El Paso as a transportation reinvestment zone; (11) the project demonstrates the potential to provide economic development in the area; (12) the proposer appears to have sufficient financial strength to complete the project; (13) the CRRMA is gaining experience developing highway projects, but for this project has delegated responsibility to the department; and (14) the project is compatible with the commission's stated goals.

Before the project in this proposal is planned, developed, or constructed using funds administered by the department, the project: (1) prior to construction, must be included in

the department's Statewide Transportation Improvement Program; and (2) 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 the financial terms of a pass-through toll agreement for the Loop 375 mainlane extension project with Camino Real Regional Mobility Authority. If the negotiations are successful, the executive director shall submit to the commission a summary of the final terms of the agreement so that the commission may consider final approval under §5.57 of its rules.

c. Val Verde County – Approve an amendment to the original pass-through toll agreement with Val Verde County that reduces the department's funding obligation for the county's construction of the SL 79 relief route to US 277, and obligates the department to construct an interchange at the intersection of SL 79 and US 90 at the northern terminus of the pass-through toll project(MO)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Assistant Executive Director for Engineering Operations John Barton. Comments were also received from Val Verde Precinct 3 County Commissioner Beau Nettleton.

112564  
AEO

The Texas Transportation Commission (commission) by Minute Order 110849, dated February 28, 2007, approved execution of a pass-through toll agreement with Val Verde County (county) to develop a relief route to US 277 designated as SL 79 and extending from US 90 north of Del Rio southward to US 277 southeast of the city (project). A Pass-Through Agreement for Payment of Pass-Through Tolls (agreement) between the county and the Texas Department of Transportation (department) for development of the project was executed by the parties and became effective on January 9, 2008.

On March 8, 2010 the county executed a contract with JC Evans Construction Co., LP, the low bidder, to construct the project. The amount of the construction contract was \$32,329,917 which is substantially lower than the cost of construction anticipated by the parties at the time the agreement was executed. The department proposes that the agreement be amended to reduce the department's total reimbursement obligation to the county from \$128 million to \$77.2 million. The amount of \$44,870,083 out of the total \$77.2 million payment to the county will be reimbursed through pass-through tolls. The balance will be reimbursed directly to the county for actual construction expenditures. The actual construction expenditures may be increased by mutually approved change orders not to exceed \$1 million. The reimbursement rate for payment of pass-through tolls under the agreement will remain at 15 cents per vehicle mile, as will the minimum amount to be reimbursed in any year at \$3.75 million and the maximum amount per year at \$7.5 million.

In addition to the reimbursement modifications, the proposed amendment includes an obligation for the department to construct a partial cloverleaf or similar design type of overpass interchange at the intersection of SL 79 and US 90 that will connect to the northern

terminus of the project. The department will be solely responsible for all construction related costs which are estimated to be approximately \$5 million and not to exceed \$6 million. The county will be solely responsible for all other costs required to develop the interchange, including design, environmental documentation and mitigation, right of way acquisition, and utility adjustments.

The commission finds that the agreement between the county and the department, as amended by the proposed terms, is in the best interest of the state.

IT IS THEREFORE ORDERED that the executive director or his designee is authorized to execute an amendment to the Pass-Through Agreement for Payment of Pass-Through Tolls with Val Verde County in accordance with the proposal described in this minute order and such other terms the department determines are necessary.

IT IS FURTHER ORDERED that this authorization is subject to Val Verde County Commissioners Court approval of the same proposal and the county's execution of the amendment, and if these actions are not performed by the county within 90 days after the date of this minute order, the authorization contained in this minute order is automatically revoked and cancelled.

**ITEM 13. I-69 Corridor Segment Committee**

**Various Counties - Consider the designation of the Alabama-Coushatta Tribe of Texas as an additional entity that may appoint members of the I-69 Corridor Segment Committee 2 (MO)**

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Texas Turnpike Authority Division Director Mark Tomlinson.

112565  
TTA

Title 43, Texas Administrative Code, §1.87 provides that the Texas Transportation Commission (commission) by order will create corridor segment advisory committees to assist the Texas Department of Transportation (department) in the transportation planning process for the I-35 corridor and in the corridor planned as part of I-69, and may create corridor segment advisory committees for any other corridor.

The purpose of corridor segment advisory committees is to facilitate and achieve support and consensus from affected communities, governmental entities, and other interested parties in the planning of transportation improvements in the segment of a corridor for which it is created and in the establishment of development plans for that segment.

Each of the corridor advisory committees will provide to the department its advice and recommendations on transportation improvements to be made in the segment of a corridor for which it is created, including facilities to be included in a development plan for that segment, and upgrades and other improvements to be made to existing facilities located in that segment, and other segment level planning, development, and financing matters as requested by the department.

In developing advice and recommendations, a corridor segment advisory committee will evaluate economic, political, societal, and demographic population trends affecting

transportation, and will consider existing facilities, upgrades to existing facilities, new or planned facilities, multimodal solutions, and available financing options.

A corridor segment advisory committee's advice and recommendations will provide the department with an enhanced understanding of public, business, and private concerns about the segment for which it is created, facilitating the department's communications and project development objectives and resulting in greater cooperation between the department and all affected parties during project planning and development.

As provided in 43 TAC §1.87(b), a corridor segment advisory committee may consist of the following members: (1) one member appointed by the county judge of each county in which the proposed segment may be located, representing the general public within the county; (2) one member appointed by each metropolitan planning organization within whose boundaries all or part of the proposed segment may be located, representing the general public within the metropolitan planning organization; (3) additional members representing the general public within cities designated by the commission, in which all or part of a proposed segment may be located, each of whom will be appointed by the mayor of a designated city; (4) additional members representing the ports, chambers of commerce, economic development councils and corporations, and other organizations that have an interest in transportation that are designated by the commission, within whose service area all or part of a proposed segment may be located, each of whom will be appointed by the governing body of a designated entity, and (5) an individual who resides or has a business in the area in which the segment may be located, has an interest in transportation, and is appointed to the committee by the commission.

In Minute Order 112113, dated January 28, 2010, the commission created the I-69 Corridor Segment Advisory Committees, and identified entities that may appoint members to those committees.

The Alabama-Coushatta Tribe of Texas has been contacted about the I-69 Segment 2 Committee, and has requested that they be allowed to be involved in the committee and to participate in the planning process. The designation of the Alabama-Coushatta Tribe of Texas as an additional entity that may appoint a member to the I-69 Segment 2 Committee will further the department's goal of achieving a diverse representation of community interests and stakeholders on each corridor segment advisory committee.

IT IS THEREFORE ORDERED by the commission that the Alabama-Coushatta Tribe of Texas may appoint a member to the I-69 Segment 2 Committee created under Minute Order 112113.

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

#### **ITEM 14. Property Exchange**

**Lee County - Exchange a portion of a maintenance site in the Austin district for a new site containing no less than 10 acres from the Giddings Independent School District (MO)**

This item was deferred.

**ITEM 15. Transportation Planning**

**a. Coryell and Lampasas Counties - Ratify, confirm and approve an Advance Funding Agreement (AFA) with the City of Copperas Cove, in which the department will reimburse the city for the costs of constructing the US 190 Copperas Cove Relief Route along the south and east side of Copperas Cove, from US 190 near FM 2657 to US 190 near Clarke Road (the project), and authorize designated department officials to take all action necessary and appropriate in connection with the city's delivery of bonds to pay the up-front costs of the project (MO)**

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Assistant Executive Director for Engineering Operations John Barton.

112566  
AEO

On April 29, 2010 the Texas Transportation Commission (commission) passed Minute Order 112237, which approved the 2010 Unified Transportation Program and included authorization to undertake and complete the construction of the US 190 Copperas Cove Relief Route along the south and east side of Copperas Cove, from US 190 near FM 2657 to US 190 near Clarke Road (project).

Transportation Code, Sections 201.103 and 222.052 authorize the Texas Department of Transportation (department) to design, construct and operate a system of highways in cooperation with local governments, and Transportation Code 222.051, authorizes the department to contract to reimburse a governmental unit that provides financing for the construction of an approved project on the state highway system.

The City of Copperas Cove (city) intends to provide financing for the construction of the project through the issuance of bonds (bonds) pursuant to Government Code, Section 1510.002.

The assistant executive director for engineering operations and his designees have negotiated terms of an advance funding agreement (funding agreement) between the department and the city, attached hereto as Exhibit A, which provides for the department to reimburse the city for costs of construction of the project using Category 3 funds allocated by the local Metropolitan Planning Organization, Killeen-Temple MPO, in an amount not to exceed \$42,318,000, subject to legislative appropriation in respect of payments to be made after the current biennium.

The city may use reimbursements received pursuant to the funding agreement for project costs as a source of repayment for the bonds.

The commission finds that the funding agreement and the local government reimbursements provided for under the funding agreement serve the public interest, are in the best interest of the state, serve to further statewide transportation needs and the needs of the local government and provide economic benefit to the state.

IT IS THEREFORE ORDERED by the commission that the funding agreement and the commission's financial commitment to the project are hereby ratified, confirmed, and approved by the commission, and the executive director or his designee is hereby authorized and directed to execute and deliver the funding agreement, in substantially the form

presented to the commission with this order, with such changes as shall be approved by the executive director or his designee.

IT IS FURTHER ORDERED by the commission that the commitment and expenditure of state funds in an amount not to exceed \$42,318,000 to reimburse the city for the costs of construction of the project in accordance with the funding agreement are hereby ratified, confirmed, and approved by the commission.

IT IS FURTHER ORDERED by the commission that, in connection with the city's issuance of bonds to provide financing for the construction of the project, the chief financial officer is authorized and directed to execute a continuing disclosure undertaking and to execute and deliver any other documents, instruments, or certificates as shall be determined by the chief financial officer to be necessary or appropriate.

IT IS FURTHER ORDERED by the commission that the executive director or his designee are each authorized and directed to perform such acts, to obtain such approvals, and to execute such agreements, instruments, certificates, and other documents as they deem necessary to carry out the intent of this order.

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

**b. Tom Green County – Approve the redesignation of the San Angelo Metropolitan Planning Organization (MPO) (MO)**

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Transportation Planning & Programming Division Director Jim Randall.

112567  
TPP

In accordance with Title 23, USC §134, as implemented by Title 23, CFR §450.310, an existing Metropolitan Planning Organization (MPO) may be redesignated only by an agreement between the governor and units of general purpose local government that together represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city).

On October 4, 2005, Governor Perry delegated authority to the Texas Transportation Commission (commission) to approve an MPO redesignation.

On December 9, 2010, the San Angelo MPO Policy Board approved a resolution to redesignate the MPO by separating the MPO from the City of San Angelo. The city will continue to serve as the fiscal agent for the MPO. The city, which is the only incorporated city within the MPO boundary, represents at least 75 percent of the population of the existing metropolitan planning area.

The commission has reviewed and accepted the resolution supporting the San Angelo MPO redesignation.

IT IS THEREFORE ORDERED by the commission that the proposed San Angelo MPO redesignation, as described in Exhibit A, is hereby approved.

IT IS FURTHER ORDERED that the executive director is authorized to enter into any necessary agreements associated with the redesignation process.

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

c. Various Counties – Concurrence with the Regional Transportation Council of the North Central Texas Council of Governments' funding of construction and other project development costs of projects to be advanced through the use of payments received from the North Texas Tollway Authority for the right to develop, finance, design, construct, operate and maintain the SH 121 toll project from Business SH 121 in Denton County to US 75 in Collin County (MO)

Commissioner Meadows made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Finance Division Director Brian Ragland.

112568  
FIN

The Texas Department of Transportation (department) and the North Texas Tollway Authority (NTTA) have been proceeding with the development of the SH 121 toll project, a continuous express-lane facility extending from the Fort Worth Central Business District at I-30 to US 67 in Johnson County, a total length of approximately 27.6 miles (Southwest Parkway/Chisholm Trail Project).

In accordance with Sections 27.53 and 27.54(a) of the toll equity rules, the commission, in Minute Order 112548, dated January 5, 2011, granted preliminary approval of a request for financial assistance in the amount of \$25 million, to be used in the development and construction of, and acquisition of right of way for, the Southwest Parkway/Chisholm Trail Project. Section 1602 of the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) identified the Southwest Parkway/Chisholm Trail Project as a high priority project, and made available \$25 million to construct the project.

A portion of the Southwest Parkway/Chisholm Trail Project is located within the boundaries of the NTTA, and the southern section of the Southwest Parkway/Chisholm Trail Project is subject to the market valuation provisions set forth in Transportation Code §228.0111 (the northern section is exempt from the market valuation requirement). The NTTA is authorized to construct, operate, maintain, expand, or extend the portion of the Southwest Parkway/Chisholm Trail Project extending into Johnson County as it would be a continuation of the NTTA's turnpike project extending from an adjacent county that is part of the NTTA.

The department and the NTTA have been working together to identify an approach to provide for the funding and development of the Southwest Parkway/Chisholm Trail Project within the boundaries of the NTTA and adjacent counties. Transportation Code, §228.0111 grants the NTTA the first option to develop, finance, construct and operate the Southwest Parkway/Chisholm Trail Project. Pursuant to Transportation Code, §228.0111, the NTTA has exercised its option to develop, construct, and operate the project.

The department, the NTTA and the Regional Transportation Council (RTC) of the North Central Texas Council of Governments (NCTCOG) have cooperatively engaged in efforts to determine capital cost savings needed to make the Southwest Parkway/Chisholm Trail Project financially feasible. This includes the deferral of some of the direct connect bridges in Section 3B of the project and a reduction in the number of lanes to be constructed in Sections 5 and 6 of the project. This corridor configuration, which balances needed cost reductions with corridor functionality and mobility, has been titled Scenario 1C. The

remaining direct connect bridges and additional lanes would be constructed when travel demand warrants.

In Minute Order 112142, dated February 24, 2010, the Texas Transportation Commission (commission) authorized the executive director to enter into an Agreement to Enter into Supplement to Toll Equity Loan Agreement (Agreement) that provides for the agreement of the department and the NTTA to enter into a supplement to the toll equity loan agreement for the SH 161 Project upon the fulfillment of the conditions precedent set forth in the Agreement. The supplement would amend the toll equity loan agreement to increase the amount of the toll equity loan commitment for the SH 161 Project to provide financial assistance for the Southwest Parkway/Chisholm Trail Project. The effect of the supplement is to provide a toll equity loan commitment for a single project comprising SH 161 and the Scenario 1C configuration of the Southwest Parkway/Chisholm Trail Project.

Minute Order 112142 also gave preliminary approval for \$91 million in financial assistance derived from Proposition 14 bond proceeds that have been identified for the Southwest Parkway/Chisholm Trail Project.

Transportation Code, §366.301 authorizes the department to provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, construction, operation, or maintenance of a turnpike project or system by the NTTA on terms agreed to by the department and the NTTA. Transportation Code, §222.103 authorizes the department to participate, by spending money from any available source, in the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission.

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

As required by Section 27.53, the NTTA has an internal ethics and compliance program that satisfies the requirements set forth in 43 TAC §1.8. In accordance with Section 27.54, negotiations have been conducted and a financial assistance agreement that complies with Section 27.55 of the toll equity rules has been developed.

The NTTA has committed that during construction of the portions of the Southwest Parkway/Chisholm Trail Project for which the NTTA is responsible, the NTTA will assume all liability and responsibility for existing and future environmental permits, issues, and commitments, including obtaining all environmental permits and approvals necessary for the development of that portion of the project, and to comply with applicable federal and state laws, regulations, and policies.

The department previously conducted environmental studies and analyses of the Southwest Parkway/Chisholm Trail Project, and has secured environmental clearance from FHWA, from I-30 to FM 1187. A Finding of No Significant Impact for the section of the project from FM 1187 to US 67 is currently being reevaluated.

Section 27.54(b) of the toll equity rules provides that prior to receiving final approval of the grant or loan of funds for the construction of a project, a study of the social, economic, and environmental impacts of the project be completed, and public involvement

be provided for in the manner required in the department's rules relating to environmental review and public involvement for transportation projects. Accordingly, final approval of financial assistance for the construction of a project is subject to the environmental clearance of the project.

The Southwest Parkway/Chisholm Trail Project is consistent with the Statewide Transportation Plan, the Statewide Transportation Improvement Program, and the approved plan of the NCTCOG, the metropolitan planning organization of the Dallas-Fort Worth region, and is consistent with the transportation improvement program of the NCTCOG and with the State Implementation Plan.

The timely extension of SH 121 south and west from I-30 in Fort Worth to US 67 in Cleburne is a crucial element in the development of the cities of Fort Worth and Cleburne, Johnson and Tarrant counties, and the surrounding region. Development of the Southwest Parkway/Chisholm Trail Project will benefit the region by reducing congestion and improving air quality in those areas.

The financial assistance for the Southwest Parkway/Chisholm Trail Project is critical to the NTTA's overall plan of finance. The successful funding of the Southwest Parkway/Chisholm Trail Project will benefit the state and the traveling public and improve the efficiency of the state's transportation system by providing for the timely completion of the Southwest Parkway/Chisholm Trail Project, which will enhance mobility and operational efficiency, decrease congestion, increase safety, increase economic development opportunities, decrease travel time, decrease air pollution, and enhance quality of life in the SH 121 Corridor. Without the department's assistance, the timeline to complete the Southwest Parkway/Chisholm Trail Project and realize those benefits could be delayed.

The request for financial assistance submitted by the NTTA indicates that a majority of the costs of developing the Southwest Parkway/Chisholm Trail Project will be funded through revenue bond sales, loans, and NTTA equity contributions. With the requested financial assistance, the project has the potential to expand the availability of funding for transportation projects or reduce direct state costs.

Based on the above information, the commission has determined that providing financial assistance will prudently provide for the protection of public funds, and that, given the level of project development to date, the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate adverse environmental impacts.

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the NTTA meets the applicable requirements of 43 TAC §27.53 and §27.54 and, in accordance with those provisions, the commission grants final approval of the request for financial assistance, in the form of a grant, in the amount of \$25 million, to be funded with federal funds as identified in Section 1602 of TEA-21, to be used for the purposes described herein on segments of the Southwest Parkway/ Chisholm Trail Project that have been environmentally cleared.

IT IS FURTHER ORDERED that the executive director is authorized to enter into a financial assistance agreement with the NTTA.

Note: Exhibits are on file with minute order clerk.

**ITEM 16. Finance**Accept the annual continuing disclosure report for the Texas Mobility Fund (MO)

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Finance Division Director Brian Ragland.

112569  
FIN

Article III, Section 49-k of the Texas Constitution created the Texas Mobility Fund (Mobility Fund) within the treasury of the State of Texas (state) to be administered by the Texas Transportation Commission (commission) as a revolving fund to (i) provide a method of financing the construction, reconstruction, acquisition, and expansion of state highways, including costs of any necessary design and costs of acquisition of rights of way, as determined by the commission in accordance with standards and procedures established by law and (ii) provide participation by the state in the payment of a portion of the costs of constructing and providing publicly-owned toll roads and other public transportation projects in accordance with the procedures, standards, and limitations established by law.

Pursuant to a Master Resolution, a First Supplemental Resolution, and a Second Supplemental Resolution each adopted on May 4, 2005; a Third Supplemental Resolution adopted on May 25, 2006; a Fourth Supplemental Resolution and Fifth Supplemental Resolution each adopted on September 28, 2006; a Sixth Supplemental Resolution adopted on May 24, 2007; a Seventh Supplemental Resolution adopted on September 27, 2007; and an Eighth Supplemental Resolution adopted on December 18, 2008 and amended, restated and adopted on April 30, 2009, the commission issued eight series of bonds under Transportation Code, Chapter 201 and other applicable law, which bonds are secured by and payable from a pledge of and lien on all or part of the moneys in the Mobility Fund, and a full faith and credit pledge of the state, and which bonds were issued in the name and on behalf of the state to (i) pay all or part of the costs of constructing, reconstructing, acquiring, and expanding State highways, including any necessary design and acquisition of rights of way, in the manner and locations determined by the commission that, according to conclusive findings of the commission, have an expected useful life, without material repair, of not less than 10 years; (ii) provide participation by the state in the payment of part of the costs of constructing and providing publicly owned toll roads and other public transportation projects that are determined by the commission to be in the best interests of the state in its major goal of improving the mobility of the residents of the state; and (iii) pay the costs of issuance.

Under provisions of the First, Third, Fourth, Sixth, Seventh and Eighth Supplemental Resolutions, the commission has covenanted to provide annually, within six months after the end of each fiscal year, financial information and operating data with respect to the Mobility Fund of the general type in the attached Exhibit A.

IT IS THEREFORE ORDERED by the commission that the annual report of financial information and operating data, attached as Exhibit B, is accepted.

Note: Exhibits are on file with minute order clerk.

**ITEM 17. Unified Transportation Program (UTP)****Approve preliminary funding levels for the UTP for the fiscal years 2012 through 2021 (MO)**

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Finance Division Director Brian Ragland.

112570  
FIN

Transportation Code, §201.103, requires the Texas Transportation Commission (commission) to plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads.

Transportation Code, §203.002, authorizes the commission to layout, construct, maintain, and operate a modern state highway system, with emphasis on the construction of controlled access highways, and to plan for future highways.

The commission has adopted new rules located in Title 43, Texas Administrative Code, Chapter 16, governing the planning and development of transportation projects, which became effective January 1, 2011.

The Unified Transportation Program (UTP) created by the Texas Department of Transportation (department) is a 10-year program that guides the development and authorizes construction of transportation projects and projects involving aviation, public transportation, and the state's waterways and coastal waters.

Based on the current financial forecast, the department recommends that the funding allocations set forth in Exhibit A be utilized during the development of the 2012 UTP. Exhibit A reflects only preliminary funding levels within each category and is subject to change based on input from the department's strategic partners and members of the public, as well as updated financial forecast information.

IT IS THEREFORE ORDERED by the commission that the preliminary funding levels for fiscal years 2012 through 2021 set forth in Exhibit A are approved, and the executive director or his designee is directed to proceed with the development of the 2012 UTP utilizing those preliminary funding levels.

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

**ITEM 18. Obligation Limit Report****a. Status report on the FY 2011 Obligation Limit, the actual obligations utilized through the current month, proposed remaining highway maintenance and construction contract letting for the fiscal year and an update on motor fuel tax receipts**

The report was given by Finance Division Director Brian Ragland.

**b. Quarterly report on FY 2011 State Highway Fund 6 cash status.**

The report was given by Finance Division Director Brian Ragland.

**ITEM 19. Contracts****a. Award or Reject Highway Improvement Contracts****(1) Highway Maintenance and Department Building Construction (MO)**

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Construction Division Director Russel Lenz.

112571  
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 January 4 and 5, 2011.

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

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

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

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

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

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

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

**a. Award or Reject Highway Improvement Contracts****(2) Highway and Transportation Enhancement Building Construction (MO)**

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Construction Division Director Russel Lenz.

112572  
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 January 4 and 5, 2011.

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

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

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

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

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

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

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

**b. Award Contract to Second-Lowest Bidder**

**(1) Bowie County - Project RMC 6217-05-001. Award of right-of-way mowing and litter pickup contract to second lowest bidder (MO)**

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Construction Division Director Russel Lenz.

112573  
MNT

Project RMC 6217-05-001 (Mowing Right of Way Tract 18) was let on December 1, 2010, in the Atlanta District. Perry M. West was the low bidder but has failed to execute the contract. The second-lowest bidder, Brydl Contracting, Inc., has indicated in writing that they are willing to perform the work at the unit bid prices set forth in the lowest bid.

Section 221.0041 of the Transportation Code allows the Texas Transportation Commission (commission), under certain conditions, to award a maintenance contract of less than \$300,000 to the second-lowest bidder when the lowest bidder does not execute a contract.

Title 43, Texas Administrative Code §9.17(d) allows the commission to accept the withdrawal of the lowest bid and award the contract to the second-lowest bidder on the recommendation of the executive director when the executive director determines that the second-lowest bidder is willing to perform the work at the unit bid prices of the lowest bidder, the unit bid prices of the lowest bidder are reasonable, and delaying award of the contract may result in significantly higher unit bid prices.

The memorandum attached as Exhibit A to this minute order and incorporated in this order by reference contains the executive director's recommendation and written determination, required by 43 TAC §9.17(d), that the contract is eligible for award to the second-lowest bidder in accordance with the law and the rules.

The commission concurs with the executive director's determinations as set forth in attached Exhibit A.

IT IS THEREFORE ORDERED by the commission that Perry M. West be allowed to withdraw his bid for the contract for Project RMC 6217-05-001.

IT IS FURTHER ORDERED that the contract for Project RMC 6217-05-001 be awarded to Brydl Contracting, Inc. in the low bid amount of \$84,352.00.

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

**(2) Hopkins County - Project RMC 6218-36-001. Award of cleaning and sweeping contract to second lowest bidder (MO)**

Commissioner Houghton made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was recommended by staff and presented by Construction Division Director Russel Lenz.

112574  
MNT

Project RMC 6218-36-001 (Cleaning and Sweeping of Highways) was let on November 10, 2010, in the Paris District. CNR Ground Solutions was the low bidder but has failed to execute the contract. The second-lowest bidder, Catocon, Inc., has indicated in writing that they are willing to perform the work at the unit bid prices set forth in the lowest bid.

Section 221.0041 of the Transportation Code allows the Texas Transportation Commission (commission), under certain conditions, to award a maintenance contract of less than \$300,000 to the second-lowest bidder when the lowest bidder does not execute a contract.

Title 43, Texas Administrative Code §9.17(d) allows the commission to accept the withdrawal of the lowest bid and award the contract to the second-lowest bidder on the recommendation of the executive director when the executive director determines that the second-lowest bidder is willing to perform the work at the unit bid prices of the lowest bidder, the unit bid prices of the lowest bidder are reasonable, and delaying award of the contract may result in significantly higher unit bid prices.

The memorandum attached as Exhibit A to this minute order and incorporated in this order by reference contains the executive director's recommendation and written determination, required by 43 TAC §9.17(d), that the contract is eligible for award to the second-lowest bidder in accordance with the law and the rules.

The commission concurs with the executive director's determinations as set forth in attached Exhibit A.

IT IS THEREFORE ORDERED by the commission that CNR Ground Solutions be allowed to withdraw its bid for the contract for Project RMC 6218-36-001.

IT IS FURTHER ORDERED that the contract for Project RMC 6218-36-001 be awarded to Catocon, Inc. in the low bid amount of \$72,225.00.

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

## **ITEM 20. Routine Minute Orders**

Commissioner Underwood made a motion, which was seconded, and the commission approved the following routine minute orders by a 5-0 vote. The items were recommended by staff and presented by Executive Director Amadeo Saenz.

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

(1) Administration – Consider a donation from the Association for the Advancement of Cost Engineering International for a department employee's lodging and travel expenses to attend the 50<sup>th</sup> Annual Western Winter Workshop in Pebble Beach, California on February 3-6, 2011. (MO)

112575  
GSD

This minute order considers a donation of an estimated \$2,750 from the Association for the Advancement of Cost Engineering International (ACEI) for a Texas Department of Transportation (department) employee's lodging and travel expenses to attend the 50<sup>th</sup> Annual Western Winter Workshop in Pebble Beach, California on February 3-6, 2011.

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

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

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation,

notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

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

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

IT IS THEREFORE ORDERED by the commission that the donation of an estimated \$2,750 by the AACEI is considered. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

(2) Construction Division – Acknowledge a donation from the Texas Asphalt Pavement Association for a department employee's travel expenses to participate and speak at the Southeastern Asphalt User Producer Group Annual Meeting and the Board of Directors meeting. The meeting was held in Oklahoma City, Oklahoma from December 6-9, 2010 (MO)

112576  
GSD

This minute order acknowledges a donation of an estimated \$688.77 from the Texas Asphalt Pavement Association (TxAPA) for a Texas Department of Transportation (department) employee's travel expenses to participate and speak at the Southeastern Asphalt User Producer Group's Annual Meeting and the Board of Directors meeting. The meeting was held in Oklahoma City, Oklahoma, from December 6-9, 2010.

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 of an estimated \$688.77 from the TxAPA is acknowledged. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(3) **Houston District** – Consider a donation from Landmark Industries to process an environmental document for advance acquisition of right of way (MO)

112577  
GSD

This minute order considers a donation of an estimated \$5,000 to the Department of Transportation (department) from Landmark Industries to process an environmental document for the advance acquisition of right of way.

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 of an estimated \$5,000 from Landmark Industries is accepted. The executive director or the

executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

**b. Eminent Domain Proceedings**

**Various Counties – noncontrolled and controlled access highways (MO)**

112578  
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

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Bell	SH 317	4	0398-04-064	38
Blanco	US 281	3	0253-03-065	63
Dallas	SH 78	5	0009-02-056	25
Dallas	SH 78	2	0009-02-056	14
Denton	FM 2181	13	2054-02-018	46
El Paso	FM 76	9	0674-01-058	53
El Paso	FM 76	11	0674-01-058	58
Fort Bend	FM 2218	12	2093-01-025	7
Lamar	FM 137	1	0749-01-053	3
Tarrant	SH 26	6	0363-01-123	21
Tarrant	SH 26	8	0363-01-123	5
Tarrant	SH 26	10	0363-01-123	79
Tarrant	SH 26	7	0363-01-123	12

## CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Bell	IH 35	HH	0015-06-082	99
Bell	IH 35	CCC	0015-06-082	27
Bell	IH 35	BBB	0015-06-082	25
Bell	IH 35	ZZ	0015-07-078	19
Bell	IH 35	AAA	0015-07-078	51
Ellis	US 287	D	0172-08-054	19AC
Gregg	SL 281	H	1763-03-039	13, 13E
Gregg	SL 281	GG	1763-03-039	11
Harris	IH 10	FF	0271-07-260	800
McLennan	IH 35	CC	0014-08-082	59, 59E
McLennan	IH 35	EE	0014-08-082	72
McLennan	IH 35	G	0014-08-082	68,68E, 68AC
McLennan	IH 35	DD	0014-08-082	63
McLennan	IH 35	DDD	0014-08-082	54AC
Montgomery	IH 45	R	0675-08-093	108
Tarrant	IH 820	L	0008-14-093	164
Tarrant	IH 820	W	0008-14-093	94
Tarrant	IH 820	X	0008-14-093	114
Tarrant	IH 820	U	0008-14-093	143

## CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Tarrant	IH 820	BB	0008-14-093	115
Tarrant	IH 820	J	0008-14-093	173
Tarrant	IH 820	V	0008-14-093	92
Tarrant	IH 820	T	0008-14-093	38
Tarrant	IH 820	Y	0008-14-093	93
Tarrant	IH 820	P	0008-14-093	108
Tarrant	IH 820	M	0008-14-093	103
Tarrant	IH 820	MM	0008-14-093	27
Tarrant	IH 820	LL	0008-14-093	111
Tarrant	IH 820	KK	0008-14-093	156
Tarrant	IH 820	JJ	0008-14-093	32
Tarrant	IH 820	II	0008-14-093	100
Tarrant	SH 121	K	0364-01-119	598
Tarrant	SH 121	O	0364-01-119	690
Tarrant	SH 121	AA	0364-01-119	524
Tarrant	SH 121	I	0364-01-119	600
Tarrant	SH 121	C	0364-01-119	514
Tarrant	SH 121	E	0364-01-119	621
Tarrant	SH 121	Z	0364-01-119	554
Tarrant	SH 121	N	0364-01-119	688
Tarrant	SH 121	TT	0364-01-119	518A
Tarrant	SH 121	SS	0364-01-119	515
Tarrant	SH 121	YY	0364-01-119	689
Tarrant	SH 121	RR	0364-01-119	512
Tarrant	SH 121	XX	0364-01-119	602
Tarrant	SH 121	WW	0364-01-119	590
Tarrant	SH 121	VV	0364-01-119	583
Tarrant	SH 121	UU	0364-01-119	518B
Tarrant	SH 121	QQ	0364-01-119	695
Tarrant	SH 183	Q	0364-05-038	657
Tarrant	SH 183	B	0364-05-038	663
Tarrant	SH 183	S	0364-05-038	632
Tarrant	SH 183	F	0364-05-038	651
Tarrant	SH 183	A	0364-05-038	654
Tarrant	SH 183	OO	0364-05-038	670
Tarrant	SH 183	NN	0364-05-038	668
Tarrant	SH 183	PP	0364-05-038	641

Note: Exhibits are on file with minute order clerk.

**c. Load Zones & Postings**

**(1) Roadways - Lavaca and Colorado Counties – Revise load restrictions on roadways on the state highway system (MO)**

112579  
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 load limit on a bridge on the state- highway system in Ochiltree County should be removed.

IT IS THEREFORE ORDERED by the commission that the maximum load limits which may be transported or moved on, over or upon the roads described in Exhibit A be removed for the month of January 2011, as set forth therein, superseding any portion of a previous action in conflict. The executive director shall proceed with the removal of signs as appropriate, making the removal of this load limitation effective and operative.

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

**(2) Bridges - Various Counties – Revise load restrictions on bridges on the state highway system (MO)**

112580  
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 load limit on the bridges described on Exhibit A should be removed.

IT IS THEREFORE ORDERED by the commission that the maximum load limits which may be moved over the bridges described in Exhibit A be 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 removal of these load limitations effective and operative.

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

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

**(1) Aransas County - FM 1781 and SH 35 at Aransas County Airport -**

**Consider the removal from the system of a section of FM 1781 and transfer of control, jurisdiction and maintenance to Aransas County. The MO also provides for the transfer and quitclaim of surplus right of way on FM 1781 and SH 35 to the county (MO)**

112581  
ROW

In ARANSAS COUNTY, on FARM TO MARKET ROAD 1781 and STATE HIGHWAY 35, the State of Texas used certain land for state highway purposes.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended, as shown in Exhibit A, that a segment of FM 1781 be removed from the state highway system and that control, jurisdiction and maintenance be transferred to the county.

Portions of the land (surplus land), described in Exhibit B (surplus state land) and Exhibit C (surplus no-title land), are no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may 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 state land has been determined to be \$1.7 million, and the cost of future maintenance over the next 20 years is estimated to be \$3.4 million.

The county has requested that the surplus state land be transferred to the county and the surplus no-title land be quitclaimed to the county.

The commission finds \$1.7 million to be a fair and reasonable value of the state's rights, title and interest in the surplus state land.

IT IS THEREFORE ORDERED by the commission that a segment of FM 1781 is removed from the state highway system from FM 3036 to SH 35, a distance of approximately 5.8 miles, and that control, jurisdiction and maintenance is transferred to the county.

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 state land to Aransas County, Texas, in consideration of the savings to the state of future maintenance costs, and a proper instrument quitclaiming the surplus no-title land to Aransas County, Texas; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus state land.

Note: Exhibits are on file with minute order clerk.

(2) Bexar County SH 16 at Triana Parkway northwest of Helotes - Consider the quitclaim of surplus right of way to the county (MO)

112582  
ROW

In BEXAR COUNTY, on STATE HIGHWAY 16, the State of Texas used certain land an easement interest in certain land acquired in the county's name for highway purposes.

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

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the quitclaim to a county or municipality any interest in property acquired and held by the county or municipality in its own name for use by the state.

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

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

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

(3) Brazos County - SH 6 at Arrington Road in College Station - Consider the sale of surplus portions of a drainage easement (MO)

112583  
ROW

In the city of College Station, BRAZOS COUNTY, on STATE HIGHWAY 6, the State of Texas acquired an easement interest in certain land needed for highway purposes by instrument recorded in Volume 1153, Page 137, Official Records of Brazos County, Texas.

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

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

College Station Marketplace, L.P., is the underlying fee owner and has requested that the surplus easements be sold to the company for \$52,700.

The commission finds \$52,700 to be a fair and reasonable value for the state's rights and interest in the surplus easements.

NOW, THEREFORE, the commission finds that the surplus easements are no longer needed for a state highway purpose and recommends, subject to approval of the attorney general, that the governor of Texas execute a proper instrument releasing the state's rights and interest in the surplus easements to College Station Marketplace, L.P., for \$52,700.

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

**(4) Dewitt County - US 87 at Westhoff Cemetery Road southeast of Westhoff - Consider the sale of surplus right of way to the abutting landowner (MO)**

112584  
ROW

In DEWITT COUNTY, on US 87, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 146, Page 678, Deed Records of DeWitt County, Texas.

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.

Westhoff Cemetery Association is the abutting landowner and has requested that the surplus land be sold to the association for \$80.

The commission finds \$80 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 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 Westhoff Cemetery Association for \$80; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land

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

**(5) Fort Bend County - US 59 at FM 762 in Rosenberg - Consider the grant of surplus access rights in exchange for new right of way (MO)**

112585  
ROW

In the city of Rosenberg, FORT BEND COUNTY, on US 59, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instruments recorded in Volume 494, Page 341, and Volume 494, Page 358, Deed Records of Fort Bend County, Texas, and the state owns and controls certain access rights to the highway facility to and from the abutting lands.

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

The George Foundation, a charitable trust created by indenture dated August 18, 1945 by Albert P. George and Mamie E. George, recorded in Volume 348, Page 633 of the Deed Records of Fort Bend County, Texas (the foundation), is the owner of certain land (new land), shown on Exhibit B, needed by the state.

The foundation is the landowner abutting the property line along which access is proposed to be released, being the owner of: a 97.339-acre tract of land conveyed by instrument recorded in Volume 135, Page 280; land out of the residue of a called 42-acre tract of land conveyed by instrument recorded in Volume 287, Page 260; and land out of the residue of a called 23.1-acre tract of land conveyed by instrument recorded in Volume 359,

Page 416, Deed Records of Fort Bend County, Texas (George Tract). The foundation has conveyed the new land to the state and has requested that the surplus access rights be granted to the foundation. Pursuant to an executed exchange agreement, the foundation will pay to the state the \$7,829 cash difference in value between the surplus access rights and the new land.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the exchange of an interest acquired but not needed for a highway purpose for another interest needed for a state highway purpose.

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

It is the opinion of the commission that it is proper and correct that the state grant the surplus access rights to the abutting landowner in exchange for the conveyance of the new land to the state and the cash payment to the state of \$7,829.

NOW, THEREFORE, the commission finds that the surplus access rights are no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument granting the state's interest in the surplus access rights to The George Foundation, a charitable trust created by indenture dated August 18, 1945 by Albert P. George and Mamie E. George, recorded in Volume 348, Page 633 of the Deed Records of Fort Bend County, Texas, in exchange and as consideration for the Foundation's conveyance to the state of the new land and payment to the state of a cash consideration of \$7,829.

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

Note: Exhibits are on file with minute order clerk.

**(6) San Patricio County - SH 361 at Hackberry Street in Ingleside - Consider the quitclaim of surplus right of way to correct an error (MO)**

112586  
ROW

In the city of Ingleside, SAN PATRICIO COUNTY, on STATE HIGHWAY 361, the State of Texas acquired certain land for highway purposes by instruments recorded in Volume 158, Page 73, and Volume 159, Page 181, Deed Records of San Patricio County, Texas.

A portion of the land (surplus land), described in Exhibit A, was not intended to be acquired and is not needed for a highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend that surplus land be quitclaimed to resolve an error in an instrument that conveyed an interest in real property to the state for a highway right of way.

The commission finds that an error in the legal description resulted in the acquisition of real property not intended to be included and not needed for a highway purpose.

NOW, THEREFORE, the commission finds that the surplus land was acquired in error and is not needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument quitclaiming all of the state's rights, title and interest in the surplus land to correct the error.

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

**(7) Tarrant County - US 287 south of I-30 in Arlington - Consider the sale of a surplus drainage easement (MO)**

112587  
ROW

In the city of Arlington, TARRANT COUNTY, on US 287, the State of Texas acquired an easement interest in certain land needed for highway drainage purposes by instrument recorded in Volume 4847, Page 262, Deed Records of Tarrant County, Texas.

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

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

Carrizo Oil & Gas, Inc., is the fee owner and has requested that the surplus easement be sold for \$62,000.

The commission finds \$62,000 to be a fair and reasonable value for the state's rights and interest in the surplus easement.

NOW, THEREFORE, the commission finds that the surplus easement is no longer needed for a state highway purpose and recommends, subject to approval of the attorney general, that the governor of Texas execute a proper instrument releasing the state's rights and interest in the surplus easement to Carrizo Oil & Gas, Inc., for \$62,000.

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

**e. Release of Access Rights**

**Navarro County – I-45 in Corsicana - Consider designating permitted access along the I-45 southbound frontage road for an intersecting City of Corsicana public street (MO)**

112588  
DES

In NAVARRO COUNTY, on INTERSTATE 45, a designated controlled-access highway, the State of Texas controls the access to or from such facility. The City of Corsicana (city) proposes constructing a new public street, to intersect the I-45 frontage road. The proposed access point is planned at approximately 400 feet north of the Highpoint Drive, an existing city street, intersection point with the I-45 frontage road.

Transportation Code, §201.103 empowers the Texas Transportation Commission (commission) to plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads.

Transportation Code, §203.002 authorizes the commission to layout, construct, maintain, and operate a modern state highway system, with an emphasis on the construction of controlled access highways. Transportation Code, §203.031 authorizes the commission to designate locations on a controlled access highway at which access to or from the highway is permitted and determine the type and extent of access permitted at each location.

It is the opinion of the commission that the designation of this access point as a location where access is permitted for a local public street will enhance mobility, safety and operation of the state highway facility along this segment of I-45, as well as improve traffic circulation on the local street network.

IT IS THEREFORE ORDERED by the commission that the proposed location of the new access point for the city street is necessary for the mobility, safety and operation of the I-45 highway facility and that it is designated as a public roadway access point where ingress and egress is permitted to and from the I-45 frontage road.

**f. Finance**

**(1) Accept the quarterly cash report (MO)**

112589  
FIN

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

The cash statement will be prepared for each quarter of the department's fiscal year. A quarterly cash report for the department for the first quarter of FY 2011, ending November 30, 2010, 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 is on file with minute order clerk.

**(2) Accept the quarterly investment report (MO)**

112590  
FIN

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

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

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

known as the 2002 Project. The commission has designated the department's Chief Financial Officer as investment officer. In the absence of the Chief Financial Officer, the Director of Finance, Deputy Director of Finance or the Debt Management Director is authorized to act as investment officer.

Pursuant to Government Code §2256.005(e) and Section 20 of the investment policy, the investment policy and investment strategies of the commission have been reviewed and revised annually by minute order since 2003, most recently by Minute Order 112401, dated August 26, 2010.

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

Section 9.0 of the investment policy requires the investment officer to prepare and submit to each member of the commission and the executive director of the department an investment report on no less than a quarterly basis. The report must be prepared in accordance with the requirements of that section, including containing sufficient information to provide for a comprehensive review of investment activity and current investment instruments and performance for the reporting period. A quarterly investment report for the department for the period ending November 30, 2010, attached as Exhibit A, has been prepared in accordance with Government Code, §2256.023 and Section 9.0 of the investment policy.

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

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

#### **e. Speed Zones**

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

112591  
TRF

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

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

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

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

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

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

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

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

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

Note: Exhibits are on file with minute order clerk.

**ITEM 21. Executive Session Pursuant to Government Code, Chapter 551, Section 551**

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

**b. Section 551.074 - Discuss the duties of one or more persons who fill a position of Executive Director, Deputy Executive Director, Chief Financial Officer, Assistant Executive Director, General Counsel, Audit Office Director, Director of Government and Public Affairs, Director of Strategic Policy and Performance Management, and other division and office directors.**

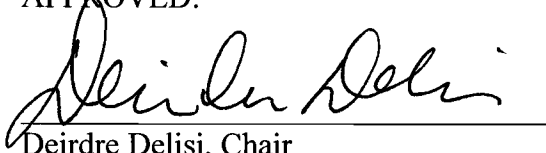
There was an executive session on Item 21.b. The commission adjourned the open meeting at 11:30 a.m. and entered executive session.

The commissioned reconvened the open meeting at 12:17 p.m. and adjourned at 12:18 p.m.

**OPEN COMMENT PERIOD**

There were no open comments.

APPROVED:

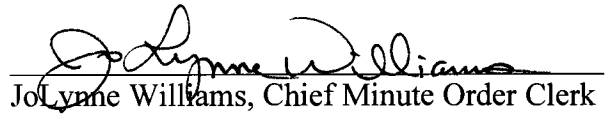


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Deirdre Delisi, Chair  
Texas Transportation Commission

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I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on January 27, 2011, in Austin, Texas.



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JoLynne Williams, Chief Minute Order Clerk  
Texas Department of Transportation