

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on August 27, 2009 in Austin, Texas. The meeting opened at 9:05 a.m. with the following commissioners present:

Texas Transportation Commission:

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

Administrative Staff:

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

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

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 3:03 p.m. on August 19, 2009, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

ITEM 1. RESOLUTIONS

- a. Resolution to recognize Jesse Ball, Director of the Civil Rights Office, upon his retirement after more than 17 years with the department
- b. Resolution to recognize Dick Rollins, D.C. Greer Building Manager, upon his retirement after more than 21 years with the department
- c. Resolution to recognize Bryan Wood, Bryan District Engineer, upon his retirement after more than 26 years with the department
- d. Resolution to recognize Phil Russell, Assistant Executive Director for Innovative Project Development, upon his retirement after more than 28 years with the department
- e. Resolution to recognize Ed Sims, Director of the Occupational Safety Division, upon his retirement after more than 29 years with the department
- f. Resolution to recognize Nancy Handrick, Executive Director's Executive Secretary, upon her retirement after more than 36 years with the department

These resolutions were presented by Executive Director Amadeo Saenz. Bryan District Engineer Bryan Wood and Occupational Safety Division Director Ed Sims were not present.

ITEM 2. Approval of Minutes of the July 30, 2009 regular meeting of the Texas Transportation Commission.

Commissioner Underwood made a motion, seconded by Commissioner Holmes, and the commission approved the minutes of the July 30, 2009 meeting of the Texas Transportation Commission.

ITEM 3. REPORT

Report from the Texas High Speed Rail and Transportation Corporation on its efforts to develop high speed rail in Texas

This report was presented by Assistant Executive Director for Innovative Project Development Phillip Russell. The commission received comments from Texas High Speed Rail and Transportation Corporation Chairman Robert Echols; Tarrant County Commissioner Gary Fickes; Brazos County Commissioner Kenny Mallard; and City of Temple Mayor Bill Jones.

ITEM 4. AVIATION

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

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

111917
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, July 23, 2009, a public hearing was held. No comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$16,970,248.

Note: Exhibit A on file with minute order clerk.

b. Various Counties – Approve the Routine Airport Maintenance Program (MO)

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

111918
AVN

The Texas Department of Transportation (department) is authorized under Texas Transportation Code, Chapter 21 and Chapter 22, to assist in the development and maintenance of airports in the state.

The Routine Airport Maintenance Program (RAMP) provides financial assistance for publicly owned or operated general aviation, reliever, and non-hub commercial service airports included in the Texas Airport System Plan.

Due to the success of this program, the department requests continuation of the program by providing funds for airport maintenance and small capital improvements on a 50-50 basis up to a maximum of \$50,000 in state funds for Fiscal Year 2010.

A public hearing regarding the funding of the RAMP was held on July 23, 2009, and no comments were received.

IT IS THEREFORE ORDERED by the commission that the airports listed in Exhibit A be awarded grants in accordance with the RAMP and that the executive director, or the director's designee, is authorized to enter into any necessary grant agreements with the appropriate local government agencies necessary to carry out the directives of this minute order.

Note: Exhibit A on file with minute order clerk.

c. Various Counties – Approve the Aviation Capital Improvement Program (MO)

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

111919
AVN

Pursuant to Transportation Code, §§21.108-21.111 and Title 43, Texas Administrative Code, §30.209, the Texas Department of Transportation (department) prepares an Aviation Facilities Development Program identifying the aviation facility requirements, locations, timing, eligibility for funding, and the investment necessary for a state-wide system of airports that will provide for the state's air transportation needs.

There continues to be a need for the construction, rehabilitation and upgrading of the state airport system.

As an element of the Aviation Facility Development Program, the department is required to prepare and update, at least annually, a multiyear Aviation Capital Improvement Program (CIP) to support aviation facilities development.

In June, the draft FY 2010-2012 Aviation CIP was submitted to the sponsors of airports included in the Texas airport system for review.

The Texas Aviation Advisory Committee recommended approval of the FY 2010-2012 CIP at its August meeting.

Comments received have been evaluated and, when appropriate, have been addressed in the CIP.

IT IS THEREFORE ORDERED by the commission that the attached FY 2010-2012 Capital Improvement Program (Exhibit A) is hereby adopted and the Executive Director is authorized to proceed with the development of the airport facilities included in the Capital Improvement Program.

Note: Exhibit A on file with minute order clerk.

ITEM 5. AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

Discussion of the status of ARRA project delivery; approve additional mobility, aviation, and public transit projects to be funded from Texas' portion of the ARRA (MO)

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

111920
ADM

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act (ARRA). The ARRA created an economic stimulus package that provides \$64.1 billion nationwide for infrastructure projects, including \$27.5 billion for highway and bridge construction, and \$1.5 billion for surface transportation grants to be administered by the Secretary of Transportation. The ARRA also includes \$1.3 billion for aviation projects and \$8.4 billion for transit projects.

Texas' share of the funding for highway and bridge construction is expected to be approximately \$2.25 billion, based on the existing apportionment formula. Texas' total share of funding for aviation projects is yet to be determined and the Federal Aviation Administration (FAA) will distribute these funds as discretionary grants. Texas' share of transit funds is estimated at \$372 million. The Texas Transportation Commission (commission) has been designated by the governor as the administering agency for the Federal Transit Administration (FTA) program under 49 USC § 5311, and has the authority to award approximately \$50 million in nonurbanized (rural) transit funds.

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

Time is a critical element with regard to the selection and execution of projects. States must have 100 percent of the funds obligated within one year of receiving the apportionment or grant, or the remaining funds will be redistributed to other states. The department received the Notice of Apportionment from FHWA on March 2, 2009, and the Notice of Apportionment from FTA on March 5, 2009. The department initially submitted data on projects to be funded completely or partially with ARRA funds to FHWA on March 17, 2009. The department submitted a grant application to FTA on March 23, 2009. States must continue to update the data on projects to be funded with ARRA funds in a timely manner.

In Minute Order 111734, dated March 5, 2009, the commission approved the funding, under the provisions of the ARRA, of approximately \$1.2 billion in mobility projects. In Minute Orders 111777, dated April 30, 2009, and 111808, dated May 28, 2009, the commission made revisions to the previously approved list of mobility projects.

In Minute Order 111716, dated February 26, 2009, the commission approved the funding of approximately \$50 million in aviation projects and approximately \$33 million in public transit projects. In Minute Order 111778, dated April 30, 2009, the commission approved the funding of approximately \$7.5 million in additional public transit projects.

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

Due to current national economic conditions and the accompanying effects on construction contracting and material supplies, the mobility projects that have gone to letting have experienced a significant underrun of the originally obligated ARRA funds. The underrun allows additional mobility projects to be brought forward for ARRA funding. The department has developed a proposed list of additional mobility projects, which is set forth in Exhibit A. No previously approved mobility projects are affected by the selection of the additional projects.

The department has selected an additional aviation project for submission to the FAA, which is set forth in Exhibit B. No previously approved aviation projects are affected by the selection of this additional project.

The department has developed a proposed list of additional public transit projects, which is set forth in Exhibit C. No previously approved public transit projects are affected by the selection of these additional projects.

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

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

IT IS FURTHER ORDERED that the executive director or the director's designee is authorized to proceed with project development and contract awards for the projects described in Exhibit A, presenting a recommendation to the FAA for consideration of funding for the projects described in Exhibit B, and transit agreements for the activities described in Exhibit C and to enter into any necessary agreements associated with these projects and activities.

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

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

ITEM 6. PROMULGATION OF ADMINISTRATIVE RULES Under Title 43, Texas
Administrative Code, and the Administrative Procedure Act, Government Code, Chapter
2001:

a. Proposed Adoption

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

(1) Chapter 1 – Management (MO)

**Amendments to §1.2, Texas Department of Transportation (Organization and
Responsibilities) and §1.4, Public Access to Commission Meetings (Public Meetings and
Hearings)**

Commissioner Houghton made a motion, seconded by Commissioner Holmes and
the commission approved the following minute order presented by General Counsel Bob
Jackson:

111921
OGC

The Texas Transportation Commission (commission) finds it necessary to propose
amendments to §1.2, Texas Department of Transportation and §1.4, Public Access to
Commission Meetings relating to management 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 - C, are incorporated by reference as though set forth verbatim in this minute
order, except that they are subject to technical corrections and revisions, approved by the
General Counsel, necessary for compliance with state or federal law or for acceptance by
the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §1.2
and §1.4 are proposed for adoption and are authorized for publication in the *Texas Register*
for the purpose of receiving public comments.

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

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

(2) Chapter 1 – Management and Chapter 24 – Trans-Texas Corridor (MO)

**Amendments to §1.82, Statutory Advisory Committee Operations and Procedures, §1.84,
Statutory Advisory Committees, and §1.85, Department Advisory Committees (Advisory
Committees); and Amendments to §24.13, Corridor Planning and Development
(Development of Facilities)**

Commissioner Houghton made a motion, seconded by Commissioner Underwood
and the commission approved the following minute order presented by General Counsel
Bob Jackson:

111922
OGC

The Texas Transportation Commission (commission) finds it necessary to propose
amendments to §1.82, statutory advisory committee operations and procedures, §1.84,
statutory advisory committees, §1.85, department advisory committees, and §24.13,
corridor planning and development, all relating to department advisory committees 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 -D, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §1.82, §1.84, §1.85, and §24.13 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

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

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

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

111923
VTR

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

The preamble and the 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 §17.40 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

Note: The commission received comments from Etech & Pinnacle President Steve Farrar.

(4) Chapter 21 – Right of Way (MO)

New §21.24, State Participation in Gas Pipeline Relocations (Utility Adjustment, Relocation, or Removal) and Amendments to §21.31, Definitions, §21.33, Applicability, §21.34, Scope, §21.36, Rights of Utilities, §21.37, Design, and New §21.42, Appeal Process (Utility Accommodation)

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order presented by Right of Way Division Director John Campbell:

111924
ROW

The Texas Transportation Commission (commission) finds it necessary to propose new §21.24, State Participation in Gas Pipeline Relocations, and amendments to §21.31, Definitions, §21.33, Applicability, §21.34, Scope, §21.36, Rights of Utilities, §21.37, Design, and new §21.42, Appeal Process, all concerning the installation and adjustment of utility facilities in state highway rights of way to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that new §21.24, the amendments to §21.31, §21.33, §21.34, §21.36, §21.37, and new §21.42 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

ITEM 7. REGIONAL MOBILITY AUTHORITY

Bexar County – Authorize the department to fund a portion of predevelopment and development costs incurred by the Alamo Regional Mobility Authority (ARMA) in connection with the ARMA's construction of the US 281-Loop 1604 interchange project, and authorize the executive director to enter into an amendment to the project agreement with the ARMA (MO)

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

111925
TTA

In Minute Order 109523, dated December 18, 2003, the Texas Transportation Commission (commission) authorized the creation of the Alamo Regional Mobility Authority (authority), formerly known as the Bexar County Regional Mobility Authority, with the boundaries of the authority to be the entire geographic area of Bexar County, Texas.

The Texas Department of Transportation (department) and the authority have worked together to identify an approach to provide for the funding and development of certain transportation system improvements within the jurisdictional limits of the authority.

The Metropolitan Transportation Plan of the San Antonio-Bexar County Metropolitan Planning Organization (MPO) identifies several projects within the jurisdictional limits of the authority that could be developed by the authority, including US 281 from Loop 1604 to the Comal County line, and Loop 1604 from SH 151 to 1-35.

Transportation Code, §§370.033(f) and (g) authorize a regional mobility authority to develop a state highway improvement project within its boundaries on behalf of the department, and provide that payments made to a regional mobility authority under a contract for a project described by Subsection (f) constitute operating expenses of the project. On March 24, 2009, the authority submitted a request to make improvements to the state highway system by constructing the US 281 interchange at Loop 1604. The authority is required to comply with applicable federal, state, and department requirements in making such improvements.

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act (ARRA). The ARRA created an economic stimulus package that provides \$64.1 billion nationwide for infrastructure projects, including \$27.5 billion for highway and bridge construction, and \$1.5 billion for surface transportation grants to be administered by the Secretary of Transportation. On March 5, 2009, by Minute Order 111734, the commission authorized and directed the department to commit \$60 million in ARRA funds to the US 281 and Loop 1604 interchange project.

On March 26, 2009, in Minute Order 111741, the commission authorized the authority to construct improvements to the state highway system in connection with the design and construction of the US 281 and Loop 1604 interchange project. In that minute order, the commission found: 1) that the authority is fully capable of awarding and managing the construction contract for the improvement of the state highway system in a cost effective and timely manner, consistent with applicable federal and state laws and regulations; and 2) that the authority's improvement of the state highway system will provide for the expeditious completion of a critically needed project within the US 281 and Loop 1604 corridors that will relieve traffic congestion on the existing state highway system and improve mobility in Bexar County.

On July 1, 2009, the department and the authority entered into a Project Development and Construction Agreement (PDA) for the US 281 and Loop 1604 interchange project.

On February 3, 2009, the department and the authority entered into a financial assistance agreement that provided for the department to loan the authority \$12.39 million in connection with the proposed Loop 1604 toll project. On February 3, 2009, the department and the authority entered into an amended and restated financial assistance agreement that provided for the department to grant \$19.8 million to the authority in connection with the 281 North Project.

On August 14, 2009, the authority submitted a request for funding to pay for certain predevelopment and development costs associated with the US 281 and Loop 1604 interchange project. These costs include the authority's administrative and management expenses, procurement and technical support costs, and construction oversight. The

authority has requested that, in the absence of new funds being made available by the commission, that a portion of the financial assistance approved for the Loop 1604 toll project and 281 North Project through the referenced financial assistance agreements be redirected to the US 281 and Loop 1604 interchange project.

IT IS THEREFORE ORDERED by the commission that the executive director is authorized to negotiate and enter into an amendment to the PDA with the Alamo Regional Mobility Authority that provides funding of up to \$825,000 for predevelopment and development costs incurred by the Alamo Regional Mobility Authority in connection with the authority's construction of the US 281 and Loop 1604 interchange project, to be funded by the redirection of funds previously approved for the Loop 1604 toll project and 281 North Project.

Note: The commission received comments from Don Dixon.

ITEM 8. TOLL PROJECTS

a. Harris County – Consider final approval of a request for financial assistance from Harris County to pay for a portion of the costs of constructing a 4-lane, controlled-access toll road running north-south for 15.4 miles on SH 99 Segment E (Grand Parkway) from I-10 to US 290 in northwest Harris County (MO)

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

111926
FIN

The Texas Department of Transportation (department) and Harris County (county) have been proceeding with the preliminary development of SH 99 (Grand Parkway) from I-10 to US 290 (project).

The project is located within the boundaries of Harris County, which is authorized to construct, operate, maintain, expand, or extend the project pursuant to Transportation Code, §228.0111, Transportation Code, Chapter 284, and other applicable law.

The county has proposed financing and developing the project as a planned 4-lane, controlled-access toll road, typically without frontage roads, which will run north-south for 15.4 miles from I-10 to US 290 in northwest Harris County. SH 99 will be grade separated with ramps to provide access at various major thoroughfares.

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act (ARRA). The ARRA created an economic stimulus package that provides \$64.1 billion nationwide for infrastructure projects, including \$27.5 billion for highway and bridge construction, and \$1.5 billion for surface transportation grants to be administered by the Secretary of Transportation. On March 5, 2009, by Minute Order 111734, the Texas Transportation Commission (commission) authorized and directed the department to commit \$181 million in ARRA funds to the project.

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.

In accordance with Sections §27.53 and 27.54(a) of the toll equity rules, the commission, in Minute Order 111888, dated July 30, 2009, granted preliminary approval of financial assistance in the amount of \$181 million, to be used for the construction of the project. The financial assistance was approved in the form of a grant, and is comprised of the \$181 million of ARRA funds authorized by the commission to be committed to the project.

In accordance with Section 27.54 of the toll equity rules, negotiations have been conducted and a financial assistance agreement that complies with Section 27.55 of those rules has been developed.

The department previously conducted environmental studies and analyses of the project, and the FHWA approved the Final Environmental Impact Statement on November 19, 2007. FHWA issued a Record of Decision for the project on June 24, 2008. The county has committed to describe and enforce EPIC in construction contracts for the project.

The completion of the project will benefit the state and the traveling public and improve the efficiency of the state's transportation system by relieving existing and projected congestion in northwest Harris County, thereby enhancing mobility and safety within this segment of the state transportation system.

The county has indicated that they will fund \$126 million of the \$307 million estimated cost of constructing the project through the issuance of revenue bonds. Accordingly, the project will expand the availability of funding for transportation projects or reduce direct state costs. The financial assistance will allow the development of the project to go forward, thereby improving the efficiency of the state transportation system.

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.

The county has not yet completed an investment grade traffic and revenue report for the project. The department has determined, pursuant to 43 TAC §27.54(b)(2), that the requirement for such a report is inapplicable or unnecessary due to the nature of the requested financial assistance.

The proposed project and work by the county is consistent with the approved Statewide Transportation Plan, included in the Statewide Transportation Improvement Program, and included in the approved conforming plan and transportation improvement program of the Houston-Galveston Area Council (H-GAC), and is consistent with the State Implementation Plan.

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by Harris County meets the requirements of 43 TAC §27.53 and §27.54 and, in accordance with those provisions, the commission final approval of financial assistance in the amount of \$181 million, in the form of a grant, to be used for the purposes described herein, and authorizes the executive director to enter into a financial assistance agreement with Harris County.

b. Tarrant County – Consider the approval of funds to pay certain construction and right-of-way costs related to the crossing of the Southwest Parkway, a toll project from I-30 to Altamesa Boulevard in the City of Fort Worth, over the Union Pacific Railroad's Davidson Rail Yard in Tarrant County, and to pay a portion of the costs of a traffic and revenue study prepared for the Southwest Parkway (MO)

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

111927
FIN

The Texas Department of Transportation (department) and the North Texas Tollway Authority (NTTA) have been proceeding with the preliminary development of the SH 121 toll project from the Fort Worth Central Business District at I-30 to Altamesa Boulevard in the city of Fort Worth (Southwest Parkway), and from Altamesa Boulevard to US 67 in the city of Cleburne (Chisholm Trail).

All of the Southwest Parkway project and a portion of the Chisholm Trail project are located within the boundaries of the NTTA, and the Chisholm Trail project is subject to the market valuation provisions set forth in Transportation Code, §228.0111. The NTTA is authorized to construct, operate, maintain, expand, or extend the Southwest Parkway and Chisholm Trail projects under Transportation Code, Chapter 366 and other applicable law.

The department and the NTTA have been working together to identify an approach to provide for the funding and development of these projects and other transportation improvements within the boundaries of the NTTA and adjacent counties.

The department and the NTTA negotiated a term sheet for providing financial assistance to the NTTA for the SH 161 project, for the NTTA delivery of the SH 161 project, and for the disposition of the Southwest Parkway and Chisholm Trail projects, by which the department and the NTTA outlined a transaction to, among other things, strengthen the ability of the NTTA to undertake additional projects if the NTTA elects to undertake the SH 161 Project.

The term sheet provides that to support the delivery of the Southwest Parkway and the Chisholm Trail, the department and the NTTA shall combine those two projects in a single project to be undertaken by the NTTA, subject to the NTTA establishing its feasibility and to potential phasing of development, and provides that the approach to financing and delivering the combined project will be defined at a later date, and the department and the NTTA will cooperatively develop and evaluate strategies to support and accelerate the financial feasibility of the combined project.

Under the term sheet, the department and the NTTA agreed to waive the development of a market valuation for the Chisholm Trail project, but the NTTA has not yet completed its feasibility analysis of the combined project or made a decision as to whether to undertake the delivery of either the Southwest Parkway or Chisholm Trail projects.

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

To acquire right-of-way interests needed for the Southwest Parkway, obtain access to the Davidson Yard to construct the Southwest Parkway, and otherwise close the settlement described in the Formal Agreement (obligations), the NTTA and the City agreed to each fund an equal share of the \$95 million cost of the obligations. The failure of the NTTA and the City to demonstrate by September 1, 2009 their ability to fund the \$95 million is one of several events entitling any party to the Formal Agreement, including UPRR, to terminate that agreement.

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

The NTTA previously submitted a request to the department for financial assistance for the purpose of funding the first \$49.87 million of the \$95 million obligation. On June 25, 2009, by Minute Order 111856, and on July 30, 2009, by Minute Order 111889, the Texas Transportation Commission (commission) gave preliminary and final approval, respectively, of the request for \$49.87 million.

In the event the NTTA does not establish feasibility for the Southwest Parkway or otherwise elects not to undertake the delivery of the Southwest Parkway, the RTC previously identified funds already dedicated to the project that would fund the remaining \$45.13 million balance. The department has been asked to provide a commitment to pay the remaining \$45.13 million balance. The balance would be paid by the department in the event the NTTA elects not to develop the Southwest Parkway.

The Formal Agreement provides, during the initial construction phase, of the construction by the NTTA of certain bridges crossing the Davidson Yard, retaining walls, and other structures. The department has been asked to participate in the cost of constructing these bridges, retaining walls, and other structures, by providing funding in the amount of \$40 million. This payment would be made by the department if the department develops the Southwest Parkway.

The NTTA previously contracted for the development of an investment grade traffic and revenue study for the Southwest Parkway and Chisholm Trail projects. The department has been asked to participate in the cost of the investment grade traffic and revenue study by funding 50 percent of those costs.

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

The Southwest Parkway and Chisholm Trail projects will expand the availability of funding for transportation projects or reduce direct state costs. The department's financial assistance as provided in this order will enhance the ability of Southwest Parkway and Chisholm Trail to go forward as toll facilities, improving the efficiency of the state transportation system. Without the financial assistance, the timeline to complete the Southwest Parkway and Chisholm Trail projects and realize the benefits described in the immediately preceding paragraph could be indefinitely delayed.

IT IS THEREFORE ORDERED by the commission that the department is authorized, under the conditions described in this order, to pay up to \$85.13 million for certain construction and right-of-way costs related to the crossing of the Southwest Parkway over the Union Pacific Railroad's Davidson Rail Yard in Tarrant County, and to pay up to 50 percent of the costs of a traffic and revenue study prepared by the NTTA for the Southwest Parkway, and authorizes the executive director to enter into any necessary agreements relating to the financial assistance approved under this order.

c. Various Counties – Approval of the funding of eligible project development costs under the work program created by Minute Order 111215 and concurrence in the selection of the project costs to be funded by the Regional Transportation Council. The project development costs are to be funded with payments received from the North Texas Tollway Authority for the right to develop, finance, design, construct, operate and maintain the SH 121 toll project from Business SH 121 in Denton County to US 75 in Collin County (MO)

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

111928
FIN

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

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

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

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

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

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

In Minute Order 110532, dated May 25, 2006, the commission authorized the department to pay to each proposer that submits a responsive but unsuccessful detailed proposal for the development, design, construction, financing, maintenance and operation of the SH 121 toll project an amount based on the value of the work product in the proposal that could be used by the department, up to a maximum per proposer of \$750,000.

In Minute Order 110863, dated February 28, 2007, the commission conditionally awarded the CDA for the SH 121 toll project to Cintra Concesiones de Infraestructuras de Transporte, S.A. (Cintra). After conditional award, the department and Cintra began CDA negotiations and engaged in other activities that were necessary in order to achieve commercial and financial close.

On May 18, 2007, the North Texas Tollway Authority (NTTA) submitted a proposal to finance, design, construct, operate, and maintain the SH 121 toll project to the RTC. After comparing the NTTA submission with the proposal submitted by Cintra, and considering input from the department, NTTA, Cintra, and advisors, the RTC approved the selection of the NTTA to undertake the development, design, construction, financing, operation, and maintenance of the SH 121 toll project and requested that the commission approve the selection of the NTTA.

In Minute Order 110968, dated June 28, 2007, the commission approved the RTC recommendation that the NTTA undertake the development, design, construction, financing, operation, and maintenance of the SH 121 toll project.

In Minute Order 111029, dated August 23, 2007, the commission determined that it would be in the best interest of the state to terminate CDA negotiations with Cintra, and cancelled the SH 121 procurement. As a result of the cancellation, Cintra's proposal was determined to be an unsuccessful proposal, and Cintra became entitled to payment for the work product in its proposal.

Consistent with applicable law and Minute Order 110532, the department determined that the Cintra proposal for the SH 121 project included at least \$750,000 of work product that could be used by the department in the performance of its functions. As requested by the department, Cintra also incurred costs associated with reaching commercial and financial close after conditional award by the commission but before the SH 121 procurement was cancelled. Those costs were incurred so that commercial and financial close could be reached in a timely manner in the event the RTC approved the selection of Cintra to undertake the development, design, construction, financing, operation, and maintenance of the SH 121 toll project.

The Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA) established a Federal credit program for eligible transportation projects of national or regional significance under which the U.S. Department of Transportation (U.S. DOT) may provide secured (direct) loans. The department sought to obtain a conditional commitment for a TIFIA loan for the SH 121 toll project.

Under the TIFIA Program, as modified by the Early Development Agreement between the U.S. DOT and the department, the U.S. DOT charges a credit processing fee that reimburses the government for its out-of-pocket costs for its outside legal counsel and financial advisors in connection with the evaluation of proposals and negotiating and closing the credit agreement. This fee must be paid regardless of whether the credit agreement is executed.

The TIFIA Joint Program Office of the U.S. DOT incurred costs in evaluating the SH 121 toll project and the SH 121 proposals in order to determine if TIFIA could provide, and if so in what amount, a loan to finance a portion of the SH 121 project costs.

The department has established a work program to account for and track projects and project costs in the Dallas District that are to be funded with the SH 121 payments. In Minute Order 111215, dated January 31, 2008; Minute Order 111439, dated July 31, 2008; Minute Order 111528, dated September 25, 2008; Minute Order 111553, dated October 30, 2008; Minute Order 111822, dated May 28, 2009; and Minute Order 111854, dated June 25, 2009, the commission concurred with certain projects identified by the RTC to be funded with those payments, and approved the placement of those projects in the work program. The RTC, through an extensive public involvement process, has identified additional project costs in the Dallas District to be funded with the SH 121 payments.

IT IS THEREFORE ORDERED by the commission that, pursuant to the MOU, it concurs with the recommendation of the RTC to use funds from the SH 121 payments to, as shown in Exhibit A, (1) pay Cintra Concesiones de Infraestructuras de Transporte, S.A. for work product contained in its detailed proposal for the development, design, construction, financing, maintenance and operation of the SH 121 toll project, (2) as reimbursement for costs incurred by Cintra after conditional award but before the SH 121 procurement was cancelled, and (3) to pay the TIFIA credit processing fee.

Note: Exhibit A on file with minute order clerk.

ITEM 9. STATE INFRASTRUCTURE BANK

Final Approval

Burnet County – City of Burnet – Consider granting final approval of an application from the City of Burnet to borrow \$1.02 million from the State Infrastructure Bank to pay for replacement of utilities along US 281 and the relocation of utilities along SH 29 in Burnet County (MO)

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

111929
ADM

On July 30, 2009, by Minute Order 111898, the Texas Transportation Commission (commission) granted preliminary approval of an application request for financial assistance from the City of Burnet (city) to borrow \$1.02 million. Proceeds of the financial assistance will be used to pay for the replacement of utilities along US 281 and the relocation of utilities along SH 29 in Burnet County.

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

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

IT IS THEREFORE ORDERED that the application for SIB financial assistance submitted by the City of Burnet to borrow \$1.02 million from the State Infrastructure Bank is granted final approval. The executive director is directed and authorized to enter into the financial assistance agreement as negotiated with the city. The loan will be repaid over a period of 20 years at 4.95 percent interest per annum.

ITEM 10. FINANCE

a. Approve the dollar amount of state highway funds that can be obligated to new and active projects in FY 2010 and adopt a draft FY 2010 12-month letting schedule for highway maintenance and construction contracts, including dollar amounts allocated to each district and certain statewide programs (MO)

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

111930
CFO

The Texas Department of Transportation has developed a Fiscal Year 2010 project obligation limit estimate that can be obligated to new and active highway construction and maintenance contracts. This obligation limit estimate applies to the costs of new state highway improvement projects that are let to contract, the costs of change orders on projects that have previously let to contract, toll equity commitments, pass-through toll commitments, and cost overruns on existing projects due to differences in actual and bid quantities.

The amount available for these activities is estimated at \$2.185 billion and is based upon current financial forecasts of available revenue for contract obligations after other department obligations are met. This amount includes an estimated \$585 million for comprehensive development agreement obligations leaving \$1.6 billion for FY 2010 commitments. The revenue available for contract obligations includes state taxes assessed on the sale of motor fuels, including gasoline, diesel, and liquefied gas, motor vehicle registration fees, local participation, and federal funds. No revenue from Texas Mobility Fund bonds is included in this estimate as this funding source has previously been fully obligated to its current capacity.

The amount available for these activities does not apply to projects: (1) funded by local bonds; (2) funded by the payment received from the SH 130 Concession Company, LLC, for the right to develop, finance, design, construct, operate, and maintain the SH 130 toll project from US 183 in Travis County to I-10 in Guadalupe County; (3) to be selected by the Regional Transportation Council (RTC), the transportation policy council of the North Central Texas Council of Governments, a federally designated MPO, to be funded by the payment 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; or (4) funded by the American Recovery and Reinvestment Act of 2009.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that a project obligation limit estimate of \$2.185 billion that can be obligated to new and active highway improvement contracts in Fiscal Year 2010 is approved.

b. Annual review and approval of the investment policy and investment strategies applicable to all funds of the commission not otherwise required to be invested by the comptroller (MO)

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

111931
FIN

Government Code, Chapter 2256 (Public Funds Investment Act) authorizes the Texas Transportation Commission (commission) to purchase, sell, and invest its funds and funds under its control in 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.

Pursuant to this legislation, in Minute Order 108970, dated July 25, 2002, the commission approved and adopted a written investment policy applicable to funds of the commission held by Bank One, N.A., (in such capacity with its successors, currently *Bank of New York Mellon*), as Trustee under the Indenture of Trust dated July 15, 2002 between the commission and the trustee.

Government Code, §2256.005(e) and Section 17.0 of the investment policy require the commission to review the investment policy and investment strategy on an annual basis, and to approve by order any modifications to the investment policy and investment strategy. The investment policy and investment strategies of the commission have been reviewed and revised annually by minute order since 2003, to update the investment policy and strategies to make it applicable to all funds under the control of the commission and not otherwise required to be invested by the Comptroller of Public Accounts (comptroller) including the Texas Mobility Fund and Central Texas Turnpike System.

The investment policy and investment strategies are attached as Exhibit A.

IT IS THEREFORE ORDERED by the commission that the investment policy and investment strategies applicable to all funds of the commission not otherwise required to be invested by the comptroller, attached as Exhibit A, has been reviewed and is hereby approved in accordance with Government Code Section §2256.005(e) and Section 17.0 of the investment policy.

c. Annual review of debt management policy and derivative management policy for financing programs of the department (MO)

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

111932
FIN

Pursuant to various provisions of Texas law, the Texas Transportation Commission (commission) is authorized to issue and incur obligations for transportation, mobility and other projects.

To ensure that all financing programs undertaken by the commission and/or the Texas Department of Transportation (department) are completed in accordance with the highest standards of industry, law and government practice and to confirm the intent of the commission and the department to adhere to sound financial management practices, the commission initially reviewed and adopted a Debt Management Policy through Minute Order 110656 on August 24, 2006. The policy requires an annual review and, if necessary, amendment. The amended policy is attached hereto as Exhibit A for consideration.

The Debt Management Policy establishes parameters in which to administer the commission's financing programs considering acceptable levels of risk, minimizing interest costs and optimizing future flexibility with consideration to achieving and maintaining the best possible credit ratings.

Pursuant to Chapter 1371, Texas Government Code, as amended, and other applicable Texas law, the commission is authorized to execute credit agreements including interest rate swap and other similar agreements.

To establish responsibilities, objectives and guidelines for the use of interest rate swap and other similar products in order to efficiently and prudently manage the commission's asset/liability profile for each financing program, the commission initially reviewed and adopted a Derivative Management Policy also pursuant to Minute Order 110656 on August 24, 2006. The policy requires annual review and, if necessary, modification. The amended policy is attached hereto as Exhibit B for consideration.

IT IS THEREFORE ORDERED by the commission that the Debt Management Policy and Derivative Management Policy have been reviewed and are hereby approved.

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

d. Travis and Williamson Counties – Adopt the annual operating budget, annual maintenance budget, and annual capital budget for the Central Texas Turnpike System (CTTS) (MO)

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

111933
FIN

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

In TRAVIS AND WILLIAMSON COUNTIES, pursuant to Minute Order 108873, dated April 25, 2002, STATE HIGHWAY 130 has been designated as a toll project and a controlled access state highway from I-35 at SH 195 to a southern terminus at US 183.

In TRAVIS AND WILLIAMSON COUNTIES, pursuant to Minute Order 108896, dated May 30, 2002, STATE HIGHWAY 45 has been designated as a toll project and a controlled access state highway from west of US 183 to SH 130.

In TRAVIS AND WILLIAMSON COUNTIES, pursuant to Minute Order 108896, dated May 30, 2002, LOOP 1 has been designated as a toll project and a controlled access state highway from the intersection of existing Loop 1 and FM 734 (Parmer Lane) in Austin to the intersection of Loop 1 and SH 45.

In 2002 the commission issued \$2,199,993,782 in obligations to finance a portion of the costs of the Central Texas Turnpike System (system), a toll project composed initially of the SH 130, SH 45, and Loop 1 project elements (2002 Project), pursuant to an Indenture of Trust and four supplemental indentures. The Indenture of Trust, dated July 15, 2002 (indenture), prescribes the terms, provisions and covenants related to the issuance of toll revenue bonds and obligations to finance a portion of the costs of the 2002 Project. In 2009 the commission issued \$149,275,000 in refunding bonds, pursuant to the Indenture of Trust and the fifth supplemental indenture.

Pursuant to Section 702 of the indenture, the commission has covenanted that on or before August 31 in each fiscal year, it will adopt an annual operating, maintenance and capital budget for the system for the ensuing fiscal year and provide copies of such budgets to the Trustee and the US DOT.

The Texas Department of Transportation has completed these budgets and they are attached as Exhibit A. In accordance with Section 702 of the indenture, the budgets were provided to the General Engineering Consultant for review and comment prior to adoption by the commission.

IT IS THEREFORE ORDERED by the commission that the annual operating, maintenance and capital budgets for the system are adopted for FY 2010.

IT IS FURTHER ORDERED that the executive director is hereby authorized to make necessary adjustments to spending levels in accordance with the indenture as may be necessary in the operations of the system.

Note: Exhibit A on file with minute order clerk.

ITEM 11. TRANSPORTATION PLANNING

a. All Counties – Appoint members to the Bicycle Advisory Committee (MO)

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

111934
TPP

The Bicycle Advisory Committee (committee) provides the Texas Transportation Commission (commission) with insight from the perspective of bicyclists. The primary mission of the committee is to advise the commission on bicycle issues and to provide a forum for communication among the Texas Department of Transportation, bicyclists and the public. The committee also evaluates projects submitted for the Safe Routes to School Program. The committee functions under Title 43, Texas Administrative Code, §1.85, concerning advisory committees.

The commission desires that the committee continue to advise the commission on bicycle issues, the Safe Routes to School Program and bicycle tourism trails.

The commission makes the following appointments:

Terms expiring August 31, 2011

Tommy Eden	Austin
Sheila Holbrook – White	Austin
Annie Melton	Dallas
Regina Garcia	Houston

Terms expiring August 31, 2012

Margaret Charlesworth	San Angelo
Howard Peak	San Antonio
Anne-Marie Williamson	Wichita Falls

IT IS THEREFORE ORDERED by the commission that the individuals identified above are appointed for the terms specified as members of the Bicycle Advisory Committee.

b. Various Counties – Appoint members to the Border Trade Advisory Committee (MO)

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

111935
TPP

Transportation Code, Section 201.114(b), requires the Texas Transportation Commission (commission) to appoint members to the Border Trade Advisory Committee (committee) to assist the commission in defining and developing a strategy and making recommendations for addressing the highest priority border trade transportation challenges.

The Texas Department of Transportation's (department) administrative rules governing advisory committees, Title 43, Texas Administrative Code, Section 1.84, provide that the committee members serve staggered three-year terms.

The commission has determined that the individuals or positions listed below fulfill the statutory requirements to serve as members of the committee and shall serve the terms specified:

Terms expiring August 31, 2012

- Robert Harrison, Deputy Director, College of Engineering, Center for Transportation Research, The University of Texas at Austin, or designee
- Rafael M. Aldrete, Ph.D., Program Manager, Center for International Intelligent Transportation Research, Texas Transportation Institute, The Texas A&M University System, El Paso, or designee
- David Allex, Chair, Cameron County Regional Mobility Authority, or designee
- The Honorable Chad Foster, Mayor, City of Eagle Pass, or designee
- Bill Summers, President/CEO, Rio Grande Valley Partnership, or designee
- Judy Hawley, Port Commissioner, Port of Corpus Christi, or designee
- Eddie Aldrete, Senior Vice President, International Bancshares Corp. (IBC Bank), or designee

- Jorge Canavati, Vice President, Business Development, Port of San Antonio, or designee
- Roger Creery, Executive Director, Laredo Development Foundation, or designee

IT IS THEREFORE ORDERED by the commission that the individuals or positions named above are appointed to the Border Trade Advisory Committee for the terms specified.

c. Cooke, Denton, and Tarrant Counties – Authorize an agreement with the National Railroad Passenger Corporation relating to the provision of passenger rail service on the Amtrak Heartland Flyer route and the department’s financial support for the operation of the service (MO)

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

111936
TPP

Transportation Code, §91.002 states that the financing and operation of a rail facility are public and governmental functions, exercised for a public purpose and matters of public necessity.

In May 2006, citing funding shortfalls, the National Railroad Passenger Corporation (Amtrak) announced its intent to eliminate the Heartland Flyer route which extends from Fort Worth, Texas to Oklahoma City, Oklahoma. Since federal fiscal year 2007, the Texas Transportation Commission (commission) has authorized the Texas Department of Transportation (department) to provide for the continuance of service. The State of Oklahoma also provided funding for each year.

Amtrak’s operating loss on the Heartland Flyer for the federal fiscal year beginning October 1, 2009, is projected to be \$2.86 million without fuel costs. Amtrak has requested that Texas provide \$1.95 million, including projected fuel costs, for the continuation of service for the federal fiscal year beginning October 1, 2009. The State of Oklahoma plans to provide \$1.95 million for the continuance of the service. Amtrak and the department will review expenditures at the end of May 2010 to determine if additional funding is sufficient to continue service. If additional funding is needed, the department will provide additional funding or work with Amtrak to implement necessary service modifications to comply with the limitations of the remaining funding.

Amtrak will cease providing passenger rail service on October 1, 2009, if the State of Texas does not provide \$1.95 million to offset the operating loss on the Heartland Flyer.

IT IS THEREFORE ORDERED by the commission that the executive director is authorized to enter into any necessary agreements to fund the Heartland Flyer passenger rail service for an amount not to exceed \$1.95 million for the federal Fiscal Year 2010.

d. La Salle County – Approve the transfer of Border Colonia Access Program funds from a previously selected colonia project to another eligible colonia project (MO)

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

111937
TPP

Government Code, §1403.002, requires the Texas Public Finance Authority (TPFA), as authorized by the Office of the Governor, to issue general obligation bonds and notes in an aggregate amount not to exceed \$175 million. The TPFA shall, as directed by the Texas Department of Transportation, distribute the proceeds to counties to provide financial assistance for colonia access roadway projects to serve border colonias. Government Code, §1403.002, further requires the Texas Transportation Commission (commission) to establish a program to administer the use of the proceeds of the bonds and notes.

The commission approved projects for funding under the third call of the Border Colonia Access Program by Minute Order 111442, dated July 31, 2008.

Title 43, Texas Administrative Code, §15.105(10), provides that a county may use unexpended funds from a project on any other commission-selected county colonia project. La Salle County (county) has requested approval to transfer \$163,410 of the non-competitive funds from Gardendale awarded to the county by Minute Order 111442 to Encinal.

IT IS THEREFORE ORDERED by the commission that the county's request to transfer \$163,410 of the non-competitive funds from Gardendale awarded to the county by Minute Order 111442 to Encinal, is approved.

e. All Counties – Award transportation development credits (TDCs) to provide the non-federal match of federal metropolitan planning funds and statewide planning and research funds (MO)

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

111938
TPP

Title 23 U.S.C. §134 establishes a metropolitan planning program for each state. The 25 participating metropolitan planning organizations (MPOs) in Texas receive federal metropolitan planning funds to carry out the provisions of the metropolitan planning program. The federal funds must be matched by non-federal share funds.

Title 23 U.S.C. §505 reserves a portion of federal apportionments for activities related to statewide planning and research activities. The federal funds must be matched by non-federal share funds.

Title 23 U.S.C. §120(j), as amended by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law 109-59 (2005), permits a state to use certain toll revenue expenditures, called transportation development credits, as a credit toward the non-federal share of certain programs authorized by Title 23 U.S.C. and Chapter 53 of Title 49 U.S.C.

In the past, the Texas Department of Transportation (department) provided the non-federal share match for the metropolitan planning program allowing MPOs to receive federal funds without having to provide a local match. In addition, the department also provided the non-federal share match for the Statewide Planning and Research (SPR) Work Program. Due to current financial constraints, the department desires to substitute the non-federal match with transportation development credits. It is estimated that \$5.6 million in transportation development credits is required to provide for the non-federal match of unexpended metropolitan planning program reimbursements and \$9.1 million in transportation development credits is required for the SPR Work Program through Fiscal Year 2010.

Title 43, Texas Administrative Code, §5.73(a) establishes a process by which transportation development credits may be awarded at the discretion of the Texas Transportation Commission (commission). In accordance with §5.73(b), the commission will consider the expressed opinion, if any, of MPOs regarding projects within their boundaries.

The commission finds that distribution of transportation development credits to meet the non-federal share match of metropolitan planning and SPR funds serves to meet the department's goals of reducing congestion, enhancing safety, expanding economic opportunity, improving air quality, and increasing the value of transportation assets.

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is authorized to utilize transportation development credits in support of the metropolitan planning program and the SPR Work Program in an amount not to exceed \$14.7 million.

ITEM 12. PRIVATE ACTIVITY BOND SURFACE TRANSPORTATION CORPORATION

Request the Texas Private Activity Bond Surface Transportation Corporation (corporation) perform the functions authorized by Transportation Code, Chapter 431, Texas Transportation Corporation Act (Act) and any other functions not specified by the Act necessary to promote and develop the transportation facilities and systems being developed by concession agreements with private developers through the issuance of tax-exempt private activity bonds by the corporation and transfer of inducement and volume cap allocation as necessary (MO)

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

ITEM 13. OBLIGATION LIMIT REPORT

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

This item was presented by Chief Financial Officer James Bass.

ITEM 14. CONTRACTS

a. Award or Reject Highway Improvement Contracts

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

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute presented by Construction Section Director Ken Barnett:

111940
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 August 11 and 12, 2009.

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

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

Commissioner Houghton made a motion, seconded by Commissioner Holmes and the commission approved the following minute order as recommended by staff and presented by Construction Section Director Ken Barnett:

111941
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 August 11 & 12, 2009.

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

Note: The commission received comments from V.K. Knowlton Paving Constsruction Inc. General Manager Lynn Field.

ITEM 15. CONTESTED CASE

Robertson County – Thelma Evans v. Texas Department of Transportation – Consider action on administrative law judge proposal for decision concerning additional compensation and proposed sanctions, final order (MO)

Commissioner Holmes made a motion, seconded by Commissioner Underwood and the commission approved the following minute order as recommended by staff and presented by Rich O'Connell:

111942
OGC

On August 27, 2009 the Texas Transportation Commission (commission) considered the department's proposed imposition of sanctions on Thelma Evans doing business as Thel E Construction (Evans), and Evans' request for additional compensation. The proceedings related to a July 2006 contract for tree trimming and brush removal in Robertson County. Evans requested an administrative hearing at the State Office of Administrative Hearings (SOAH) concerning each of the proceedings. After the referrals SOAH consolidated the two proceedings into one case. An administrative law judge prepared a proposal for decision which concluded that no sanction should be imposed and that no additional compensation should be paid to Evans. Under the Administrative Procedure Act and the commission's rules, the matter is now appropriate for entry of a final order by the commission.

IT IS THEREFORE ORDERED that the commission issues the attached order in the case of Thelma Evans v. Texas Department of Transportation, Docket No. 601-08-1712. The department shall not pay additional compensation to Thelma Evans, and no sanction is imposed on Ms. Evans.

ITEM 16. ROUTINE MINUTE ORDERS

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

a. Donations to the Department

(1) Bridge Division – Consider a donation from the Precast/Prestressed Concrete Institute for reimbursement of a department employee's travel expenses to attend the joint Precast/Prestressed Concrete Institute (PCI) and National Bridge Conferences being held in San Antonio, Texas, on October 13-15, 2009 (MO)

111943
GSD

This minute order considers a donation of \$577.25 from Precast/Prestressed Concrete Institute (PCI) for a Texas Department of Transportation (department) employee's travel expenses to participate at the joint PCI and National Bridge Conferences being held in San Antonio, Texas, on September 13-15, 2009.

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

Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personality, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th day after the date

the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

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

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

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

IT IS THEREFORE ORDERED by the commission that the donation of \$577.25 by PCI is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(2) Travel Information Division – Consider a donation from the Texas Travel Industry Association (TTIA) to provide lodging, food, beverage, and admission and transportation to area attractions, solicited from various sponsors, for department employee travel counselors to attend the TTIA Study Tour of the North Central Texas Region on October 18-22, 2009 (MO)

111944
GSD

This minute order considers a donation of an estimated \$25,000 from the Texas Travel Industry Association (TTIA) to the Texas Department of Transportation (department) to provide food, beverage, lodging, and admission and transportation to area attractions, solicited from various sponsors, for department employee travel counselors to attend the TTIA Study Tour of the North Central Texas Region on October 18 – 22, 2009.

The department has determined that acceptance of the donation is in the best interest and welfare of the traveling public and provided 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 \$25,000 by the Texas Travel Industry Association is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

b. Eminent Domain Proceedings

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

111945
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	FM 437	9	0590-04-037	12
Collin	FM 545	6	1012-02-031	14
Collin	US 380	4	0135-05-024	11
Collin	US 380	3	0135-05-024	43
Comal	SH 46	10	0215-02-050	11
Comal	SH 46	14	0215-02-050	37
Dallas	SL 12	5	0581-02-115	61
Dallas	SL 12	11	0581-02-115	36
Denton	FM 423	13	1567-02-030	71
Denton	FM 423	8	1567-02-030	67
Denton	FM 423	2	1567-02-030	39
Denton	FM 423	7	1567-02-030	38
El Paso	SS 601	12	1046-03-002	4
Webb	SL 20	1	0086-14-036	10

CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Caldwell	SH 130	K	3583-01-002	498 & 498E
Comal	SH 46	A	0215-02-050	31
Comal	SH 46	H	0215-02-050	33
Dallas	IH 30	D	1068-04-139	14
Dallas	IH 30	F	1068-04-139	16
Dallas	IH 30	C	1068-04-139	13
Dallas	SH 183	I	0094-03-098	1
Dallas	SH 183	B	0094-03-098	42
Dallas	SH 183	J	0094-03-098	57
Dallas	SH 183	E	0094-03-098	59
Guadalupe	SH 130	L	3583-02-002	805
Montgomery	IH 45	G	0675-08-089	119

Note: Exhibits 1 through 14 and A through L on file with minute order clerk.

c . Load Zones & Postings

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

111946
BRG

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

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

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

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

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

d. Right of Way Dispositions and Donations

(1) Dallas County – SH 352 at Gunter Avenue in Dallas – Consider the sale of surplus right of way to the abutting landowner (MO)

111947
ROW

In the city of Dallas, DALLAS COUNTY, on STATE HIGHWAY 352, the State of Texas acquired certain land for highway purposes by instruments recorded in Volume 1830, Page 177; Volume 75140, Page 313; and Volume 77142, Page 1585, Deed Records of Dallas County, Texas.

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

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

Mohamad Alaa Bakri is the abutting landowner and has requested that the surplus land be sold to him for \$26,750.

The commission finds \$26,750 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Mohamad Alaa Bakri for \$26,750; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(2) Franklin County – SH 37 at Yates Street in Mount Vernon – Consider the sale of surplus right of way to an abutting landowner (MO)

111948
ROW

In the city of Mount Vernon, FRANKLIN COUNTY, on STATE HIGHWAY 37, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 48, Page 278, Deed Records of Franklin County, Texas.

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

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

Mount Vernon Kwik Kleen, Inc., is an abutting landowner and has requested that the surplus land be sold to the corporation for \$4,700.

The commission finds \$4,700 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value of the surplus land is less than \$10,000 and authorizes the executive director to execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Mount Vernon Kwik Kleen, Inc., for \$4,700; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(3) Gillespie County – US 87, old alignment north of Fredericksburg – Consider the sale and quitclaim of surplus right of way to the abutting landowner (MO)

111949
ROW

In GILLESPIE COUNTY, on US 87, the State of Texas acquired an easement interest in certain land for highway purposes by instrument recorded in Volume 40, Page 14, Deed Records of Gillespie County, Texas, and the state used certain land for highway purposes to which there is no record title in the name of the state or county.

Portions of the easement (surplus easements), described in Exhibits A and B, and the surplus land to which there is no record title (surplus land), described in Exhibit C, 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 to the owner of the fee in the property and may recommend the quitclaim, if there is no record title, to the abutting landowner of any interest in surplus land that might have accrued to the state by use of the property at the request of the county.

Aaron T. Cox is the owner of the fee in the property and has requested that the surplus easements be sold to him for \$3,948.

The county has requested that the surplus land be quitclaimed to the abutting landowner, Aaron T. Cox.

The commission finds \$3,948 to be a fair and reasonable value for the state's rights and interest in the surplus easements.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus easements are no longer needed for a state highway purpose and that the value is less than \$10,000 and authorizes the executive director to execute a proper instrument partially releasing all of the state's rights and interest in the surplus easements to Aaron T. Cox for a cash consideration of \$3,948.

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 quitclaiming all of the state's rights and interest in the surplus land to Aaron T. Cox.

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

(4) Hardeman County – US 287 at FM 2363 east of Goodlett – Consider the sale of surplus right of way to the abutting landowners and the quitclaim of surplus right of way to the county (MO)

111950
ROW

In HARDEMAN COUNTY, on US 287, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 95, Page 190, Deed Records of Hardeman County, Texas, and the state used certain land acquired in the county's name for highway purposes.

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

The land acquired in the county's name (surplus county land), described in Exhibit B, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus land to the abutting landowner and may recommend the quitclaim to the county of any interest in land acquired and held by a county in its own name.

Wesley Smith and wife, Vicky Smith, are the abutting landowners and have requested that the surplus state land be sold to them for \$670.

Hardeman County has requested that the surplus county land be quitclaimed to the county.

The commission finds \$670 to be a fair and reasonable value for the state's rights, title and interest in the surplus state land.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus state land is no longer needed for a state highway purpose and that the value of the surplus state 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 Wesley Smith and wife, Vicky Smith, for a cash consideration of \$670; **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.

FURTHER, the commission finds that the surplus county 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 county land to Hardeman County, Texas.

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

(5) Harris County – I-10 at Washington Avenue in Houston – Consider the quitclaim and sale of surplus right of way (MO)

111951
ROW

In the city of Houston, HARRIS COUNTY, on INTERSTATE 10, the State of Texas acquired a railroad right of way easement in certain land by instrument recorded under County Clerk's File No. P019477, Official Public Records of Real Property, Harris County, Texas.

Portions of the railroad right of way easement (surplus interest), described in Exhibit A (Tract 1, Parts 1-6), and in Exhibit B (Tract 2, Parts 1-6), 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 quitclaim and sale of any interest in real property that is no longer needed for a state highway purpose.

The owners of the underlying fee in Tract 1, who are also the abutting landowners to Tract 2, have requested that the surplus interest described in Exhibit A be quitclaimed to them and that the surplus interest described in Exhibit B be sold to them for a total of \$661,000, as follows:

David G. Edgar and CG 7600, L.P., have requested that Tract 1, Part 1, be quitclaimed to them and that Tract 2, Part 1, be sold to them for \$93,115.

HCA Enterprises, L.P., has requested that Tract 1, Part 2, be quitclaimed to the partnership and that Tract 2, Part 2, be sold to the partnership for \$43,750.

RC Partners, L.P., has requested that Tract 1, Part 3, be quitclaimed to the partnership and that Tract 2, Part 3, be sold to the partnership for \$95,420.

John S. Beeson, Trustee, has requested that Tract 1, Parts 4 and 6, be quitclaimed to the trustee and that Tract 2, Parts 4 and 6, be sold to the trustee for \$264,920.

John Beeson and Paul Sirota have requested that Tract 1, Part 5, be quitclaimed to them and that Tract 2, Part 5, be sold to them for \$163,795.

The commission finds \$661,000 to be a fair and reasonable value for the state's rights and interest in Tract 2.

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

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

NOW, THEREFORE, the commission finds that the surplus interest is no longer needed for a state highway purpose and recommends, subject to approval of the attorney general, that the Governor of Texas execute proper instruments quitclaiming the surplus interest in Tract 1 to the underlying fee owners and proper instruments conveying the surplus interest in Tract 2 to the abutting landowners.

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

(6) **Smith County** – SH 64, west of SH Loop 323 in Tyler – Consider the sale of surplus right of way to the abutting landowner (MO)

111952
ROW

In the city of Tyler, SMITH COUNTY, on STATE HIGHWAY 64, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 330, Page 328, Deed Records of Smith County, Texas.

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

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

Southside Bank is the abutting landowner and has requested that the surplus land be sold to the bank for \$65,000.

The commission finds \$65,000 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Southside Bank for \$65,000; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(7) Travis County – FM 973 from US 290 to south of Manor – Consider the acceptance of a donation of land for a highway improvement project (MO)

111953
ROW

In TRAVIS COUNTY, on FARM TO MARKET ROAD 973 from US 290 to south of Manor, the Texas Department of Transportation (department) is acquiring the right of way for a highway improvement project.

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

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

Terrell Timmermann and wife, Geraldine Timmermann (owners) are the owners of the property described in Exhibit A. The owners want to donate this property, estimated at \$33,205, to the department for construction of a highway improvement project.

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

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

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

Note: Exhibit A on file with minute order clerk.

(8) Travis County – I-35 at W. Slaughter Lane in Austin – Consider the sale of surplus right of way and the quitclaim of surplus right of way to Capital Metropolitan Transportation Authority (Capital Metro) (MO)

111954
ROW

In the city of Austin, TRAVIS COUNTY, on INTERSTATE 35, the State of Texas acquired certain land for highway purposes by instruments recorded in Volume 488, Page 26; Volume 1436, Page 8; and Volume 1632, Page 223, Deed Records of Travis County, Texas, and the state used certain land for highway purposes to which there is no record title in the name of the city, county or state.

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

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus land to an entity with the authority to condemn the property and may recommend the quitclaim of any interest that may have accrued to the state by use of the property.

Capital Metropolitan Transportation Authority (Capital Metro) is an entity with the authority to condemn the property and has requested that the surplus land acquired in the name of the state, described in Exhibit A, be sold to Capital Metro for \$1,109,907 and has requested that the surplus land to which there is no record title, described in Exhibit B, be quitclaimed to Capital Metro.

The commission finds \$1,109,907 to be a fair and reasonable value for the state's rights, title and interest in the surplus land described in Exhibit A, and 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 described in Exhibit B to Capital Metro.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land described in Exhibit A to Capital Metropolitan Transportation Authority for \$1,109,907; 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.

FURTHER, the commission 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 described in Exhibit B to Capital Metropolitan Transportation Authority.

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

(9) Travis County – US 290 and FM 973 east of Manor – Consider the amendment of MO 111914, passed July 30, 2009, to correct the reference to the exhibits and to provide for the reservation of the mineral interest acquired by the state (MO)

111955
ROW

In TRAVIS COUNTY, on US 290, the State of Texas acquired certain land and easement interests for highway purposes by instruments recorded in Volume 622, Page 450, and Volume 622, Page 449, Deed Records of Travis County, Texas, and in Volume K, Page 35, Civil Minutes of Travis County, Texas.

The Texas Transportation Commission (commission) approved Minute Order 111914 on July 30, 2009, authorizing the exchange of surplus right of way for new land. The minute order made incorrect reference to the exhibits describing the new land, and it did not reserve the mineral interest originally acquired by the state. The reference to the exhibits and the reservation of the mineral interest is being corrected by this minute order.

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

Greenview Development 973, L.P. (owner), has conveyed to the state land needed for a state highway purpose on Farm to Market Road 973 (new land), described in Exhibits C and D, and desires to make a partial donation to the state of the difference in value between the new land and the surplus land and surplus easement.

NOW THEREFORE, IT IS ORDERED that Minute Order 111914 be amended only with respect to the incorrect reference to the exhibits describing the new land and the reservation of the mineral interest originally acquired by the state, and all other provisions of Minute Order 111914 are to remain unchanged.

FURTHER, in consideration of the foregoing premises and in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land and the surplus easement 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 conveying all of the state's rights, title and interest in the surplus land, described in Exhibit A, and releasing all of the state's rights and interest in the surplus easement, described in Exhibit B, to the owner in exchange and as consideration for the conveyance of the new land to the state; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

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

(10) Travis County – US 290, old alignment of SH 20 west of Oak Hill – Consider the quitclaim of surplus right of way to abutting landowners (MO)

111956
ROW

In TRAVIS COUNTY, on US 290, the State of Texas used certain land to which there is no record title in the name of the state or county.

Portions of the land (surplus land), described in Exhibit A and Exhibit B, 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 quitclaim of property to which there is no record title to abutting property owners at the request of the county or municipality.

Schmidt Investments, Ltd., a Texas limited partnership, is the abutting landowner to the surplus land described in Exhibit A and has requested that the surplus land be quitclaimed to the partnership.

Gerald D. Powell and wife, Bettina M. Powell, are the abutting landowners to the surplus land described in Exhibit B and have requested that the surplus land be quitclaimed to them.

The county has requested that the surplus land be quitclaimed to the abutting landowners.

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

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 described in Exhibit A to Schmidt Investments, Ltd., a Texas limited partnership, and a proper instrument quitclaiming all of the state's rights and interest in the surplus land described in Exhibit B to Gerald D. Powell and wife, Bettina M. Powell.

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

(11) Wise County – US 81/287 at South Trinity Street in Decatur – Consider the sale of surplus right of way to the abutting landowners (MO)

111957
ROW

In the city of Decatur, WISE COUNTY, on US 81/287, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 233, Page 8, Deed Records of Wise County, Texas.

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

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

James F. Wood and Shirley Wood are the abutting landowners and has requested that the surplus land be sold to them for \$72,469.

The commission finds \$72,469 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to James F. Wood and Shirley Wood for \$72,469; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(12) Wise County – US 81/287 and FM 51 at Business US 380 in Decatur – Consider the sale of surplus right of way and easements and the quitclaim of surplus right of way to comply with a reversionary clause (MO)

111958
ROW

In the city of Decatur, WISE COUNTY, on US 81/287 and FARM TO MARKET ROAD 51, the State of Texas acquired fee and easement interest in certain land for highway purposes by instruments recorded in Volume 250, Page 305; Volume 250, Page 307; Volume 173, Page 35; and Volume 173, Page 40, Deed Records of Wise County, Texas.

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

The instrument conveying a portion of the land to the state (surplus interest), described in Exhibit C, provided that if the state or city should abandon the use of the land as right of way, then the title shall revert to the grantor. The surplus interest is no longer needed for a state highway purpose.

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

Uptown Enterprises Acquisitions, LLC, a Texas limited liability company, is the abutting landowner to the surplus land and is the owner of the fee underlying the surplus easements and has requested that the surplus land and surplus easements be sold to the company for \$21,394.

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

NOW, THEREFORE, the commission finds that the surplus land and surplus easements are no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute proper instruments conveying all of the state's rights, title and interest in the surplus land and partially releasing the state's rights and interest in the surplus easements to Uptown Enterprises Acquisitions, LLC, a Texas limited liability company, for \$21,394; 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.

FURTHER, the commission finds that the surplus interest is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument quitclaiming all of the state's rights, title and interest in the surplus interest to Lucy Malone Bruton, her heirs or assigns.

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

(13) Zapata County – US 83 southwest of Zapata – Consider the sale of surplus way to the abutting landowners and determination that the service fee is unjust or unwarranted (MO)

111959
ROW

In ZAPATA COUNTY, on US 83, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 832, Page 718, Official Records of Zapata 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.

Fernando Gutierrez and wife, Elma Gutierrez, are the abutting landowners and have requested that the surplus land be sold to them for \$58,161.

The commission finds \$58,161 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

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

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

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Fernando Gutierrez and wife, Elma Gutierrez, for \$58,161, and that the service fee be waived; **SAVE AND EXCEPT**, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

f. Speed Zones

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

111960
TRF

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

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

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

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

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

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

The department, in consultation with the Texas Commission on Environmental Quality, has also determined that the environmental speed limit on the segment of STATE HIGHWAY 105 established by Minute Order 109064, dated October 31, 2002, and listed in Exhibit D, is no longer necessary.

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

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

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

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

Note: The commission did not meet in executive session.

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

The regular meeting of the Texas Transportation Commission adjourned at
11:26 a.m.

APPROVED:

Deirdre Delisi, Chair
Texas Transportation Commission

xxx

I hereby certify that the above and foregoing pages constitute the full, true and
correct record of all proceedings and official records of the Texas Transportation
Commission at its regular meeting on August 27, 2009, in Austin, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation