

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on March 26, 2009 in Austin, Texas. The meeting opened at 9:06 a.m. with the following commissioners present:

Texas Transportation Commission:

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

Administrative Staff:

Amadeo Saenz, Jr., Executive Director
 Bob Jackson, General Counsel
 Roger Polson, Executive Assistant to the Deputy Executive Director

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

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 4:48 p.m. on March 18, 2009, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

ITEM 4. TRANSPORTATION ENHANCEMENT PROJECTS

Various Counties – Approve transportation enhancement projects to be funded from Texas' portion of the American Recovery and Reinvestment Act (MO)

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

111735
ADM

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act (ARRA). Texas' share of the funding for highway and bridge construction is expected to be approximately \$2.25 billion, based on the existing apportionment formula. Of that amount, three percent of the funds are set aside for the purposes described in Title 23, United States Code, §133(d)(2) (transportation enhancement activities).

Pursuant to Title 43, Texas Administrative Code, Chapter 11, Subchapter E, the Texas Transportation Commission (commission) may allocate funds to the Texas Department of Transportation (department) for use on the state highway system for transportation enhancement activities that provide a safe, effective, and efficient movement of people and goods. The commission will also make funds available in a statewide competitive program that enhances the surface transportation systems and facilities within the state for the benefit of all users of those systems.

The department has identified a list of transportation enhancement projects, set forth in Exhibit A, that are eligible for funding under the ARRA. The majority of the projects are sponsor projects from previous transportation enhancement program calls. These projects meet all federal requirements and have been approved for funding by the commission. Two safety rest area projects selected by the Maintenance Division have also been included on the list. The Federal Highway Administration (FHWA) has previously determined that these projects are eligible for funding under the transportation enhancement program. The list also includes a project identified in Rider 31 to the department's appropriations for Fiscal Years 2008-2009 (p. VII-28, General Appropriations Act, 2007) that the FHWA has deemed eligible for funding.

FHWA recently issued a guidance document on funding, project selection, eligible activities, and other specific requirements to assist states in implementing the ARRA. The transportation enhancement projects set forth in Exhibit A meet the project selection requirements established by the ARRA and the corresponding FHWA guidelines. These projects will be ready to proceed to contract within the time requirements stipulated in the ARRA, meaning that all environmental requirements, design work, and right of way acquisition are sufficiently complete or underway to allow projects to proceed to construction or a development agreement to be executed.

All projects are subject to federal and state laws, including the provisions of the ARRA.

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

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

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

IT IS FURTHER ORDERED that the department shall issue a new program call for candidate transportation enhancement projects under Title 43, Texas Administrative Code, Chapter 11, Subchapter E.

Note: Exhibit A on file with minute order clerk.

Note: The commission received comments from Representative David Swinford; Senator Kel Seliger; and City of Stratford City Manager Duane Mungia.

ITEM 1. Approval of Minutes of the February 25, 2009 special meeting, the February 26, 2009 regular meeting and the March 5, 2009 special meeting of the Texas Transportation Commission

Commissioner Underwood made a motion, seconded by Commissioner Holmes, and the commission approved the minutes of the February 25, 2009 special meeting, the February 26, 2009 regular meeting and the March 5, 2009 special meeting of the Texas Transportation Commission.

ITEM 2. REGIONAL REPORT**Report on transportation matters of regional significance by the Dallas-Fort Worth Partners in Mobility**

This report was presented by North Texas Commission Chairman Kenneth Barr; City of Cedar Hill Mayor Rob Franke; City of Burleson Mayor Ken Shetter; and Regional Transportation Chair Linda Koop.

ITEM 9. TOLL PROJECTS

e. Tarrant and Dallas Counties– Approve the selection of the proposer who submitted the best value, best and final offer proposal for the development, design, and construction, and potentially maintenance, and operation, of the DFW Connector Project from SH 114L Business to east of International Parkway and SH 121 from FM 2499 to SH 360, including tolled managed lanes along SH 114 from east of FM 1709 to east of International Parkway, as well as other facilities to the extent necessary for connectivity, mobility, safety, and financing; and authorize the executive director of the department to execute a comprehensive development agreement with the chosen developer (MO)

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

111736
TTA

Transportation Code, Chapter 223, Subchapter E, prescribes the process by which the Texas Department of Transportation (department) may enter into a comprehensive development agreement (CDA) with a private entity that provides for the design, development, construction, maintenance, repair, operation, extension, or expansion of a toll project on the state highway system.

On March 30, 2006, by Minute Order 110469, the Texas Transportation Commission (commission) authorized and directed the department to issue a request for qualifications (RFQ) to develop, design, and construct and to potentially finance, maintain, and operate SH 114 from SH 114L Business to east of International Parkway and SH 121 from FM 2499 to SH 360 (the SH 114/SH 121 corridor), including tolled managed lanes along SH 114 from east of FM 1709 to east of International Parkway, as well as other facilities to the extent necessary for connectivity, mobility, safety, and financing (DFW Connector Project). On December 29, 2006 the department issued a RFQ for the DFW Connector Project and subsequently determined that three of the teams submitting qualification statements in response to the RFQ were qualified to be on the short list of teams that will be requested to submit detailed proposals.

Transportation Code, §223.203 and 43 TAC §27.4 provide that, if authorized by the commission, the department will issue a request for proposals (RFP) from all private entities qualified for the short-list. On October 25, 2007, by Minute Order 111102, the commission authorized and directed the department to issue an RFP for the DFW Connector Project requesting detailed proposals from the short-listed teams, and authorized a payment for work product stipend of up to \$500,000 per unsuccessful responsive proposer, which amount was subsequently increased to \$750,000 on September 25, 2008, by Minute Order 111529. On March 28, 2008, the department issued the RFP.

On July 15, 2008, proposals were received from Gateway Connector Constructors J.V., NorthGate Constructors J.V., and Trinity Infrastructure L.L.C. All of the proposals were significantly over the amount of available public funds designated for the Project. It was determined that it was in the best interest of the state to issue revised RFP documents requesting a Best and Final Offer from each Proposer. To assure that the project could be funded with available public funds, each proposer was asked to submit a bid on three separate project configurations. Revised RFP documents were released on December 10, 2008.

On January 12, 2009, best and final offer proposals were received from the three proposer teams. 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 \$250,000,000 in ARRA funds to the DFW Connector Project. In light of the change in funding availability, on March 6, 2009, revised RFP documents were issued to each of the three proposers in order to correctly reflect the changed circumstances and obtain the best value for the State.

On March 16, 2009, proposal revisions were received from Gateway Connector Constructors J.V. and NorthGate Constructors, J.V. Trinity Infrastructure L.L.C. did not submit a proposal revision and was deemed non-responsive. From January 13, 2009 until March 19, 2009, the department evaluated development and price proposals from the proposers.

The proposals were evaluated concurrently in the following categories: (1) Pass/Fail and Responsiveness; (2) Technical Score; and (3) Price Score. The technical development proposals were evaluated using qualitative ratings of meets minimum, fair, good, very good, and excellent, and assigned adjectival ratings and numerical scores in each category. Points were assigned to the technical development proposals based on those ratings and the weightings of the individual evaluation criteria to arrive at the Technical Score. Points were assigned to the financial proposal using a formula that calculated a price score for each of the three configurations independently based on pre-assigned credits for the value of each configuration included in its proposal.

The Technical Score points assigned to the technical development proposals were then added to the Price Score points assigned to the financial proposal to determine the total number of points received by each proposal. The responsive proposal with the highest score was determined to provide the apparent best value.

The concurrent qualitative evaluation and scoring of each proposal under the Technical Score and Price Score categories, and the Pass/Fail and Responsiveness review, resulted in the proposals being ranked as follows: (1) NorthGate Constructors, J.V., and (2) Gateway Connector Constructors J.V. The proposal submitted by NorthGate Constructors, J.V., was accordingly determined to provide the apparent best value.

IT IS THEREFORE ORDERED by the commission that the determination that the proposal submitted by NorthGate Constructors, J.V., provides the apparent best value to the department is approved, and the department is authorized and directed to commence

and complete negotiations with NorthGate Constructors, J.V., necessary to finalize the project agreements to develop, design, and construct and to potentially finance, maintain, and operate the DFW Connector Project from SH 114L Business to east of International Parkway and SH 121 from FM 2499 to SH 360 (SH 114/SH 121 corridor), including tolled managed lanes along SH 114 from east of FM 1709 to east of International Parkway, as well as other facilities to the extent necessary for connectivity, mobility, safety and financing.

IT IS FURTHER ORDERED that the project agreements are awarded to NorthGate Constructors, J.V., subject to, and effective upon the occurrence of, all of the following: (1) the successful conclusion of negotiations; (2) the issuance of a Notice of Intent to Award by the department; (3) applicable FHWA approvals as identified by the department; (4) a determination by the Office of the Attorney General that the proposed comprehensive development agreement is legally sufficient, in accordance with Transportation Code, §371.051; (5) notification to, and written approval from, the Legislative Budget Board, in accordance with Transportation Code, §371.052(b) and Riders 40 and 43, Pages VII-30-VII-31, Chapter 1428, Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act); (6) notification to the State Auditor's Office, in accordance with Transportation Code, §371.052(c); and (7) the mutual execution and delivery of the comprehensive development agreement by the executive director of the department and the proposer.

IT IS FURTHER ORDERED that if the executive director determines that the negotiations with NorthGate Constructors, J.V., cannot be successfully completed, and that therefore the proposal submitted by NorthGate Constructors, J.V., will not provide the apparent best value, the department is authorized to commence and complete discussions with Gateway Connector Constructors J.V., the next highest ranked proposer, with award to the next highest ranked proposer subject to the terms and conditions in the immediately preceding paragraph of this order.

Note: The commission received comments from North Central Texas Council of Governments Director of Transportation Michael Morris; Northgate/Kiewit Constructors Manager Joe Wingerter; City of Grapevine Mayor William Tate; and Representative Vicki Truitt.

ITEM 3. REPORT

Discussion of the status of American Recovery and Reinvestment Act (ARRA) project delivery; discussion of the need to develop a list of potential substitute projects for ARRA funding, including a proposed methodology for prioritizing substitute projects; and discussion of the process used by staff to identify potential transportation enhancement projects for ARRA funding.

This report was presented by Assistant Executive Director for Engineering Operations John Barton:

ITEM 5. AVIATION

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

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

111737
AVN

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

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

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

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$1,796,000.

Note: Exhibit A on file with minute order clerk.

ITEM 6. DEPARTMENT ORGANIZATION

a. Authorize the creation of Regional Support Centers in Fort Worth, Houston, San Antonio, and Lubbock (MO)

Commissioner Holmes made a motion, seconded by Commissioner Underwood and the commission approved the following minute order presented by Assistant Executive Director for District Operations David Casteel:

111738
ADM

In 2007, the Texas Department of Transportation (department), as required by law, had independent audits performed as the department prepared for its scheduled review by the Sunset Commission. These independent audits recommended that the department review its organizational structure and consider regionalizing or centralizing support services where it made good business sense. These audits also recommended that the department develop standardized strategies and tools for managing the project development process.

Subsequent to these reports, the executive director formed restructuring study teams that recommended a phased approach to restructuring with Phase I being the formation of Regional Support Centers (RSCs) that would consolidate operations support and improve project development support. The executive director named interim regional directors and charged them with developing detailed implementation plans for review and consideration. More than 200 department functional experts developed implementation plans for each function being considered for regionalization. That plan was reviewed by an outside consultant to insure that it complied with the intent of the recommendations and to insure that the plan could be implemented. After consultant review, the entire plan was published to all department employees for their review and comment. Employee comments were considered and appropriate edits made to the plan.

Creating RSCs within the department for operational and project development support functions increase efficiency, improve project development accountability, and enhance transparency. More explicitly, creating RSCs:

- consolidates redundant operational support functions found in each district and serves as a vehicle for deploying best practices of these districts in a consolidated services environment;
- improves the department's ability to manage the project development process and deliver projects for construction on time and within budget; and
- develops centers responsible for providing information from the project development process that is accurate, timely, and meaningful.

IT IS THEREFORE ORDERED by the commission that the department create four RSCs to be located in Fort Worth, Houston, San Antonio and Lubbock and that the executive director develop and staff these RSCs.

Note: The commission received comments from Deloitte Consulting director Jay Riley.

b. Grant approval for the issuance of a Request for Proposals to solicit proposals from independent consultants and negotiate with a selected subset of responding consultants to conduct a thorough management and organizational review of the department (MO)

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

111739
ADM

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

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

In response to this request, the department developed an RFP to solicit bids from firms interested in providing the specified services. The department is prepared to evaluate the responses to the RFP and enter into negotiations with selected firms to secure a contract that will provide the best value to the department.

IT IS THEREFORE ORDERED by the commission that the department is directed to issue an RFP for the specified services.

IT IS FURTHER ORDERED by the commission that the executive director or his designee is authorized to enter into negotiations with selected firms to secure a contract that will provide the best value to the department. The executive director shall submit a summary of the final terms of the contract to the commission for review so that the commission may authorize execution of the contract.

ITEM 7. PROMULGATION OF ADMINISTRATIVE RULES Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

Proposed Adoption

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

Chapter 17 – Vehicle Titles and Registration (MO)

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

This item was deferred.

ITEM 8. CORRIDOR SEGMENT COMMITTEES

All Counties – Appoint additional individual members and designate entities that may appoint additional members to the I-35 and I-69 corridor segment committees (MO)

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

111740
TTA

Title 43, Texas Administrative Code (TAC), §24.13(c)(1) provides that the Texas Transportation Commission (commission), by order, will create a corridor segment committee before initiating the environmental review process for the construction of a proposed segment of the I-35 Corridor and I-69 Corridor.

The purpose of a corridor segment committee is to provide input, advice, and recommendations to the commission and the Texas Department of Transportation (department) regarding the designation of a route for the segment for which the committee was created, and regarding the construction of the proposed segment of the corridor or a facility that may become all or part of a segment of the corridor.

As provided in 43 TAC §24.13(c)(3), the department shall request the input of a corridor segment committee during the environmental review of a segment or facility proposed to be constructed. In conjunction with a hearing held under Transportation Code, §227.013, the department will request the input of a corridor segment committee on the designation of a route for a proposed segment.

A corridor segment committee shall report to the executive director its advice and recommendations on the route of the proposed segment, whether to construct the proposed segment or facility, and other segment level planning, development, and financing matters as requested by the department.

A corridor segment committee may provide information to, coordinate with, or request information from a corridor advisory committee created under 43 TAC §15.9 (relating to Corridor Advisory Committees). In developing advice and recommendations, a corridor segment committee will consider existing facilities, upgrades to existing facilities, new or planned facilities, multimodal solutions, and available financing options.

As provided in 43 TAC §24.13(c)(2), a corridor segment committee shall consist of the following members: (1) one member appointed by the county judge of each county in which the proposed segment or facility may be located, representing the general public

within the county; (2) one member appointed by each metropolitan planning organization within whose boundaries all or part of the proposed segment or facility may be located, representing the general public within the metropolitan planning organization; (3) additional members representing the general public within cities designated by the commission, in which all or part of a proposed segment or facility may be located, each of whom will be appointed by the mayor of a designated city; (4) additional members representing the ports, chambers of commerce, or economic development councils and corporations designated by the commission, within whose service area all or part of a proposed segment or facility may be located, each of whom will be appointed by the governing body of a designated entity, and (5) an individual who resides or has a business in the area in which the segment or facility may be located, has an interest in transportation, and is appointed to the committee by the commission

The entities listed in Exhibits A are designated by the commission so that they may appoint members to the I-35 Corridor Segment Committees and the I-69 Corridor Segment Committees. These designations will further the department's goal of achieving a diverse representation of community interests and stakeholders on each segment committee.

IT IS THEREFORE ORDERED by the commission that the entities identified in Exhibit A may appoint members to the I-35 and I-69 Corridor Segment Committees.

Note: Exhibit A on file with minute order clerk.

ITEM 9. TOLL PROJECTS

a. **Bexar County** – Authorize the Alamo Regional Mobility Authority to make improvements to the state highway system in connection with a project to improve US 281 by constructing an interchange at Loop 1604, and authorize the executive director to enter into a project agreement with the Alamo Regional Mobility Authority (MO)

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

111741
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 I-35.

Transportation Code, §370.033(f) authorizes a regional mobility authority to develop a project within its boundaries on behalf of the department. On March 24, 2009, the authority submitted a request to allow the authority to make improvements to US 281

by constructing an 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 \$60,000,000 in ARRA funds to the US 281 and Loop 1604 interchange project.

The commission finds 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 finds 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.

IT IS THEREFORE ORDERED by the commission that pursuant to Transportation Code, §370.033(f), the Alamo Regional Mobility Authority is authorized to construct improvements to the state highway system in connection with the design and construction of the US 281 and Loop 1604 interchange, and the executive director is authorized to enter into a project agreement with the Alamo Regional Mobility Authority that provides for such improvements to the state highway system.

b. Dallas County – Authorize the North Texas Tollway Authority to make improvements to the state highway system in connection with the SH 161 toll project, which extends from SH 183 south to I-20 (MO)

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

111742
TTA

The Texas Department of Transportation (department) has been proceeding with the development of a toll project that will extend SH 161 from SH 183 south to I-20 through the cities of Irving and Grand Prairie (SH 161 Project).

The SH 161 Project is located within the boundaries of the North Texas Tollway Authority (NTTA). The department and the NTTA have been working together to identify an approach to provide for the funding and development of the SH 161 Project and other transportation improvements within the boundaries of the NTTA and adjacent counties.

Transportation Code, §§228.002-228.003 authorize the department to enter into an agreement with a regional tollway authority, including the NTTA, that permits the regional tollway authority to design, develop, finance, construct, maintain, repair, or operate a toll project on the state highway system.

In Minute Order 111557, dated October 30, 2008, the Texas Transportation Commission (commission): (1) approved a term sheet for providing financial assistance to the NTTA for the SH 161 Project (Term Sheet), 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; (2) preliminarily approved financial assistance to the NTTA for the SH 161 Project; and (3) authorized the executive director of the department to negotiate a project agreement with the NTTA for the SH 161 Project.

Under the Term Sheet, the NTTA would be obligated to design, construct, operate, maintain and finance development of the SH 161 Project in accordance with the Negotiated Value Agreement between the department and the NTTA, except as modified by the Term Sheet. However, after exercising its option for the SH 161 Project, the NTTA retains the discretion to not proceed for any reason, including negative rating impacts to the NTTA System, with entering into a contract for the construction of the SH 161 Project and making the acquisition payment to the department, in which case the right to design, construct, operate, maintain and finance development of the SH 161 Project will revert to the department as provided in Transportation Code, §228.0111(i).

On October 15, 2008, the NTTA's Board of Directors (Board): (1) accepted the Term Sheet without qualification or condition; (2) elected to exercise the NTTA's option to develop, finance, construct, and operate the SH 161 Project pursuant to the Negotiated Value Agreement, as modified by the Term Sheet; and (3) authorized the executive director of the NTTA to negotiate with the department the project agreement for the SH 161 Project.

On February 18, 2009, in Resolution No. 09-60, the Board authorized and directed the NTTA's Interim Executive Director to finalize, complete, and, on behalf of the NTTA, enter into the project agreement on the same material terms as described in staff's briefing to the Board, but subject to such non-material modifications as the Interim Executive Director determines to be in the best interest of the NTTA, and further subject to satisfaction of all conditions and taking of all actions by the department and the commission that are required to permit the department to enter into and fulfill its obligations under the project agreement.

The project agreement contemplates that the main lane portion of the SH 161 Project (that is, exclusive of the portion required for project frontage roads) will be removed from the state highway system and transferred to the NTTA after (1) completion of the required public hearings pertaining to the transfer and approval of the commission and the Governor and (2) satisfaction of the other conditions and requirements set forth in the project agreement.

Transportation Code, §201.113(a) authorizes the commission to enter into an agreement with a regional tollway authority under which the regional tollway authority makes improvements to the state highway system. The commission's rules at Title 43, Texas Administrative Code, §27.44 prescribe requirements for commission approval of a regional tollway authority's request to make improvements to the state highway system.

In Minute Order 111704, dated February 26, 2009, the commission authorized the executive director of the department, subject to commission approval of the NTTA's construction of improvements to the state highway system and the approval of the connection of the SH 161 Project to the state highway system, to enter into the project agreement with the NTTA, and directed the department to present, for the commission's

consideration, a minute order providing for the NTTA's construction of improvements to the state highway system and the approval of the connection of the SH 161 Project to the state highway system.

Pursuant to 43 TAC §27.44, the NTTA has submitted a request to the executive director to make improvements to the state highway system required by the SH 161 Project. As the project agreement contemplates that the SH 161 project will remain on the state highway system until the substantial completion of the work required to be performed on each phase of the project, the commission has determined that the requirements of 43 TAC §11.56, concerning the connection of a regionally significant highway to a segment of the state highway system, do not apply to the SH 161 Project.

The department has prepared and approved the schematic design for the SH 161 Project. Under the project agreement, the plans, specifications, and estimates for the SH 161 Project must conform to the approved schematic, and the NTTA is obligated to comply with applicable federal, state, and department requirements.

The commission finds that the NTTA 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 finds that the NTTA's improvement of the state highway system will provide for the expeditious completion of a critically needed continuous express-lane facility within this corridor to relieve traffic congestion on the existing state highway system and improve mobility in a rapidly developing area of Dallas County.

Development of the SH 161 Project is a crucial element in responding to considerable population increases and associated development that have resulted in traffic increases that have created significant congestion in the SH 161 area and across the region. The SH 161 Project is designed to improve the transportation network and level of service in the SH 161 area and region, particularly by serving as a reliever route to SH 360. The SH 161 Project is included in the Dallas-Fort Worth Metropolitan Transportation Plan known as Mobility 2030 and has been in previous metropolitan transportation plans as well, dating back to the 1950s.

The successful funding of the SH 161 Project will benefit the state and the traveling public and improve the efficiency of the state's transportation system by providing for the timely completion of the NTTA's portion of the construction of the SH 161 Project, which will enhance mobility and operational efficiency, decrease congestion, increase safety, increase economic development opportunities, decrease travel time, decrease air pollution, and enhance quality of life in the SH 161 corridor. Without the department's assistance, the timeline to complete the SH 161 Project and realize those benefits could be delayed.

IT IS THEREFORE ORDERED by the commission that pursuant to Transportation Code, §201.113 and 43 TAC §27.44, the NTTA is authorized to construct improvements to the state highway system required as part of the SH 161 Project, and the executive director is authorized to enter into a project agreement with the NTTA that provides for such improvements to the state highway system. The provisions of Minute Order 111704 are superseded to the extent those provisions are inconsistent with this order.

c. El Paso County – Consider final approval of a request for financing from the Camino Real Regional Mobility Authority (CRRMA) to provide a loan to pay for the costs of project management, data collection and evaluation, and preparation of a regional toll plan to include engineering, environmental, legal, financial, and public outreach services associated with the development of potential toll projects in the El Paso metropolitan area identified as LP 375 Phase I, Phase II, and Phase III Southern Corridor projects, and development of the Northeast Parkway Phase I Corridor project from Loop 375 to FM 3255 at the Texas/New Mexico state line, all as outlined in El Paso’s 2008 Comprehensive Mobility Plan (MO)

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

111743
TTA

In Minute Order 110573, dated June 29, 2006, the Texas Transportation Commission (commission) authorized creation of the Camino Real Regional Mobility Authority (authority), with the boundaries of the authority to be the entire geographic area of the City of El Paso.

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

The authority’s goals are to improve mobility by implementing projects proposed within the authority’s 2008 Comprehensive Mobility Plan, which generally consist of the LP 375 Southern Corridor projects comprising seven distinct toll projects in three different phases, and the Northeast Parkway toll project connecting LP 375 in northeast El Paso with I-10 at the Texas/New Mexico state line. These projects would be accomplished by accelerating the delivery of individual segments and projects with innovative funding and partnerships.

Transportation Code, §370.301 authorizes the department to provide for or contribute to the payment of costs of the design, financing, construction, operation, or maintenance of a turnpike project by a regional mobility authority (RMA) on terms agreed to by the department and the RMA. Transportation Code, §222.103 authorizes the department to participate, by spending money from any available source, in the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the 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 111705, dated February 26, 2009, granted preliminary approval of financial assistance in the amount of \$1.1 million for the costs of project management, data collection and evaluation, and preparation of a regional toll plan for development of the LP 375 Phase I, Phase II, and Phase III Southern Corridor projects, and development of the Northeast Parkway Phase I Corridor project (projects) to include engineering, environmental, legal, financial, and public outreach services. The financial

assistance may also be used for necessary or incidental administrative and other expenses relating to the development, acquisition, construction, maintenance, or operation of the projects. The financial assistance was approved in the form of a loan.

In accordance with Section 27.54 of the toll equity rules, negotiations have been completed and a financial assistance agreement that complies with Section 27.55 of those rules will be developed. The agreement shall provide that the financial assistance is in the form of a loan, and shall also provide that if the projects are not constructed by the authority, all work product prepared by the authority in connection with projects shall be transferred to the department, and the transfer of this work product shall constitute repayment of the loan.

The projects will benefit the state and the traveling public and improve the efficiency of the state's transportation system by enhancing mobility and safety within this segment of the state transportation system.

The projects are consistent with the approved Statewide Transportation Plan and the Metropolitan Transportation Plan of the El Paso Metropolitan Planning Organization. The projects are in a nonattainment area and will also be consistent with the Statewide Transportation Improvement Program, with the conforming plan and Transportation Improvement Program for the El Paso Metropolitan Planning Organization, and with the State Implementation Plan.

The authority has indicated that they will fund a portion of the costs of developing the proposed projects through revenue bond sales, local contributions, and various loans. Accordingly, the projects have the potential to expand the availability of funding for transportation projects or reduce direct state costs.

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

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the Camino Real Regional Mobility Authority meets the applicable requirements of 43 TAC §27.53 and §27.54(a) and, in accordance with those provisions, the commission grants final approval of the request for financing in the amount of \$1.1 million, in the form of a loan, to be used for the costs of project management, data collection and evaluation, and preparation of a regional toll plan for the projects, and authorizes the executive director to enter into a financial assistance agreement with the Camino Real Regional Mobility Authority.

d. **Grayson County** – Consider final approval of a request for financing from the Grayson County Regional Mobility Authority to provide an in-kind grant of preliminary engineering documents, public outreach and education, and a loan to pay for the costs of financial advisory services, traffic and revenue studies, and project management services, including the costs of necessary administrative, legal, engineering, and other services associated with the development of a potential toll road facility from the Collin County line to US 75 north of the city of Denison (MO)

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

111744
TTA

In Minute Order 109645, dated April 29, 2004, the Texas Transportation Commission (commission) authorized the creation of the Grayson County Regional Mobility Authority (authority), with the boundaries of the authority to be the entire geographic area of Grayson County.

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

The authority's goals are to improve mobility by providing an extension of the Dallas North Tollway into Grayson County and to provide congestion relief to US 75. This would be accomplished by accelerating the delivery of individual segments and projects with innovative funding and partnerships.

Transportation Code, §370.301 authorizes the department to provide for or contribute to the payment of costs of the design, financing, construction, operation, or maintenance of a turnpike project by a regional mobility authority (RMA) on terms agreed to by the department and the RMA. Transportation Code, §222.103 authorizes the department to participate, by spending money from any available source, in the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission.

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

In accordance with Section 27.53 and 27.54(a) of the toll equity rules, the commission, in Minute Order 111706, dated February 26, 2009, granted preliminary approval of financial assistance in the amount of \$10 million to secure financial advisors and engineering consultants for the development of a turnpike facility from the Collin County line to US 75 north of the city of Denison (project). The request included an estimated \$6.5 million for the purposes of developing preliminary engineering documents, and public outreach and education efforts, and an estimated \$3.5 million for the purposes of financial advisory services, traffic and revenue studies, and project management services. The financial assistance may also be used for necessary or incidental administrative, legal, and other expenses relating to the development, acquisition, construction, maintenance, or operation of the project. The financial assistance was approved in the form of both a grant and a loan.

In accordance with Section 27.54 of the toll equity rules, a financial assistance agreement with the authority that complies with Section 27.55 of those rules has been developed. The agreement shall provide that \$3.5 million of the financial assistance is in the form of a loan, and shall also provide that if the project is not constructed by the authority, all work product prepared by the authority in connection with project shall be transferred to the department, and the transfer of this work product shall constitute repayment of the loan.

The project will benefit the state and the traveling public and improve the efficiency of the state's transportation system by enhancing mobility and safety within this segment of the state transportation system.

The project is consistent with the approved Statewide Transportation Plan and the Metropolitan Transportation Plan of the Sherman-Denison Metropolitan Planning Organization.

The authority has indicated that they will fund a portion of the costs of developing the proposed project through revenue bond sales, local contributions, and various loans, and will consider public private partnerships and other means of private funding. Accordingly, the project has the potential to expand the availability of funding for transportation projects or reduce direct state costs.

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

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the Grayson County Regional Mobility Authority meets the applicable requirements of 43 TAC §27.53 and §27.54(a) and, in accordance with those provisions, the commission grants final approval of the request for financial assistance in the total amount of \$10 million, with \$6.5 million to be provided as an in-kind grant to the authority in the form of preliminary engineering documents, and public outreach and education efforts, and \$3.5 million, in the form of a loan, to be used to fund the costs of financial advisory services, traffic and revenue studies, and project management services, including the costs of necessary administrative, legal, engineering, and other services associated with the development of the project, and authorizes the executive director to enter into a financial assistance agreement with the Grayson Regional Mobility Authority.

Note: The commission received comments from Grayson County Judge Drue Bynum; and Grayson County Regional Mobility Authority Chairman Jerdy Gary.

f. Tarrant County – Authorize the North Texas Tollway Authority to make improvements to the state highway system in connection with a project to improve SH 121 by constructing an interchange at I-20, and authorize the executive director to enter into a project agreement with the North Texas Tollway Authority (MO)

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

111745
TTA

The North Texas Tollway Authority (NTTA) has been proceeding with the development of a project that will extend SH 121 from I-30 to Alta Mesa Boulevard in the City of Fort Worth (Southwest Parkway).

The Texas Department of Transportation (department) and the NTTA have been working together to identify an approach to provide for the funding and development of the Southwest Parkway and other transportation improvements within the boundaries of the NTTA and adjacent counties.

Transportation Code, §201.113(a) authorizes the Texas Transportation Commission (commission) to enter into an agreement with a regional tollway authority under which the regional tollway authority makes improvements to the state highway system. The commission's rules at Title 43, Texas Administrative Code, §27.44 prescribe requirements for commission approval of a regional tollway authority's request to make improvements to the state highway system.

On March 20, 2009, the NTTA submitted a request under 43 TAC §27.44 to allow the NTTA to make improvements to a segment of the state highway system in connection with the design and construction of the SH 121 and I-20 interchange. The interchange with I-20 is within the limits of the Southwest Parkway project. The NTTA has committed to comply with applicable federal, state, and department requirements in making such improvements.

The commission finds that the NTTA 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 finds that the NTTA's improvement of the state highway system will provide for the expeditious completion of a critically needed project within the SH 121 corridor that will relieve traffic congestion on the existing state highway system and improve mobility in Tarrant County.

IT IS THEREFORE ORDERED by the commission that pursuant to Transportation Code, §201.113 and 43 TAC §27.44, the NTTA is authorized to construct improvements to the state highway system in connection with the design and construction of the SH 121 and I-20 interchange, and the executive director is authorized to enter into a project agreement with the NTTA that provides for such improvements to the state highway system.

g. **Travis County** – Authorize the Central Texas Regional Mobility Authority to make improvements to the state highway system in connection with a project to improve US 290 by constructing an interchange direct connection ramp at US 183, and authorize the executive director to enter into a project agreement with the Central Texas Regional Mobility Authority (MO)

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

111746
TTA

The Central Texas Regional Mobility Authority (CTRMA) was created pursuant to the request of Travis and Williamson Counties and in accordance with provisions of the Transportation Code and the petition and approval process established in Title 43, Texas Administrative Code, §26.01, et seq.

In Minute Order 110190, dated August 25, 2005, the Texas Transportation Commission (commission) authorized the Texas Department of Transportation (department) to negotiate and develop an agreement with the CTRMA for the planning, financing, design, construction, operation, and maintenance of the 290E toll project within the median of US 290 from east of US 183 to east of FM 734.

The department and the CTRMA 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 CTRMA.

Transportation Code, §370.033(f) authorizes a regional mobility authority to develop a project within its boundaries on behalf of the department. On March 24, 2009, the CTRMA submitted a request to allow the CTRMA to make improvements to US 290 by constructing an interchange direct connection ramp at US 183 (project). The interchange direct connection ramp will connect with the 290E toll project to be constructed by the CTRMA. 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 \$90,000,000 in ARRA funds to the project.

The commission finds that the CTRMA 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 finds that the CTRMA's improvement of the state highway system will provide for the expeditious completion of a critically needed project within the US 290 corridor that will relieve traffic congestion on the existing state highway system and improve mobility in Travis County.

IT IS THEREFORE ORDERED by the commission that pursuant to Transportation Code, §370.033(f), the Central Texas Regional Mobility Authority is authorized to construct improvements to the state highway system in connection with the design and construction of the US 290 interchange direct connection ramp at US 183, and the executive director is authorized to enter into a project agreement with the Central Texas Regional Mobility Authority that provides for such improvements to the state highway system.

h. Travis County – Establish the toll rates on SH 45 Southeast project from I-35 to US 183/SH 130 (MO)

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

111747
TTA

Title 43, Texas Administrative Code, §27.82(d) provides that the Texas Transportation Commission (commission) will establish toll rates for the use of a toll project on the state highway system. In setting toll rates, the commission considered: (1) the results of traffic and revenue studies and any schedule of toll rates established in a traffic and revenue report; and (2) vehicle classifications, type and location of the facility, and similar criteria that apply to a specific project.

SH 45 Southeast is a four-lane controlled-access toll road extending 7.4 miles from I-35 to US 183/SH 130 in Travis County. SH 45 Southeast is an all-electronic, open road tolling facility, and it will have a closed barrier/ramp system of toll collection under which no toll-free use of the roadway will be possible. The tolling configuration consists of one mainline toll gantry and three sets of ramp toll gantries.

The results of the toll rate analysis for SH 45 Southeast provides toll rates at each tolling point as set forth in Exhibit A.

IT IS THEREFORE ORDERED by the commission that the Texas Department of Transportation (department) is authorized to charge tolls on the SH 45 Southeast toll project from I-35 to US 183/SH 130 in the amounts stated in Exhibit A.

Note: Exhibit A n file with minute order clerk.

i. Travis and Williamson Counties – Accept the Report of Actual Traffic and Revenue for the Central Texas Turnpike System (MO)

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

111748
TTA

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

j. Webb County – Establish the toll rates on Camino Colombia toll project from FM 1472 to I-35 (MO)

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

111749
TTA

Title 43, Texas Administrative Code, §27.82(d) provides that the Texas Transportation Commission (commission) will establish toll rates for the use of a toll project on the state highway system. In setting toll rates, the commission considered: (1) the results of traffic and revenue studies and any schedule of toll rates established in traffic and revenue report; and (2) vehicle classifications, type and location of the facility, and similar criteria that apply to a specific project.

Camino Colombia Toll Road (SH 255) is a 22-mile tollway made up of two sections. The southern section, from FM 1472 to the roadside operations building, is a 3.5 mile, four-lane, divided roadway. The northern section, which continues from the operations building to I-35, is a 18.5 mile, two-lane, non-divided roadway. A new tolling system was installed in December 2008 converting Camino Colombia to an all-electronic, open road tolling facility.

The results of the toll rate analysis for SH 255 provides toll rates at each tolling point as set forth in Exhibit A.

IT IS THEREFORE ORDERED by the commission that the Texas Department of Transportation (department) is authorized to charge tolls on the Camino Colombia toll project from FM 1472 to I-35 in the amounts stated in Exhibit A.

Note: Exhibit A on file with minute order clerk.

Note: The commission received comments from San Antonio District Engineer Mario Medina.

ITEM 10. REGIONAL MOBILITY AUTHORITY

Hopkins County – Authorize the withdrawal of Hopkins County from the Sulphur River Regional Mobility Authority (MO)

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

111750
TTA

Pursuant to Chapter 370 of the Transportation Code, and 43 TAC Chapter 26 (Regional Mobility Authority rules), Delta, Hopkins, Hunt and Lamar Counties petitioned the Texas Transportation Commission (commission) for authorization to form a Regional Mobility Authority (RMA). The petition was filed on February 1, 2007.

By Minute Order 110975, dated June 28, 2007, the commission authorized the creation of the Sulphur River Regional Mobility Authority (authority).

43 TAC §26.22 provides that one or more counties may petition the commission for approval to withdraw from an RMA. The commission may approve the petition only if the RMA has no bonded indebtedness.

The department has received a request from Hopkins County to withdraw from the authority. By letter dated January 30, 2009, the authority accepted the resignation of Hopkins County.

The commission finds that the authority has no bonded indebtedness and that Hopkins County has no financial obligations to the authority that would prevent the county from being removed as a member.

IT IS THEREFORE ORDERED that the commission authorizes the withdrawal of Hopkins County from the Sulphur River Regional Mobility Authority.

ITEM 11. PROPOSITION 14 BONDS

Bexar, Dallas and Tarrant Counties - Approval of projects to be funded with the proceeds of State Highway Fund revenue bonds issued under Transportation Code, Section 222.003 (Proposition 14 Bonds) - US 281 at Loop 1604 interchange project in Bexar County and SH 121/SH 114 (DFW Connector) in Dallas and Tarrant Counties (MO)

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

111751
ADM

Section 49-n, Article III, of the Texas Constitution (constitutional provision) provides that the Texas Legislature may authorize the Texas Transportation Commission (commission) to issue bonds and other public securities and enter into bond enhancement agreements that are payable from revenue deposited to the credit of the state highway fund to fund state highway improvement projects.

Pursuant to the constitutional provision, the Texas Legislature enacted Section 222.003, Texas Transportation Code (Enabling Act), which authorizes the commission to issue bonds and other public securities secured by a pledge of and payable from revenue deposited to the credit of the state highway fund.

The Enabling Act, as amended, provides that (i) the aggregate principal amount of such bonds and other public securities may not exceed \$6 billion, (ii) the commission may issue bonds or other public securities in an aggregate principal amount of not more than \$1.5 billion each year, (iii) \$1.2 billion of the aggregate principal amount of such bonds or other public securities must be issued to fund safety projects that reduce accidents or correct or improve hazardous locations on the state highway system, and (iv) bonds and other public securities and credit agreements may not have a principal amount or terms that are expected to cause annual expenditures with respect thereto to exceed 10 percent of the amount deposited to the credit of the state highway fund in the preceding year. The commission has issued approximately \$3.1 billion in bonds and other public securities pursuant to the terms of the Enabling Act, leaving approximately \$2.9 billion in bonds and other public securities to be issued.

Pursuant to the Enabling Act, the commission has adopted rules, codified as 43 TAC §§15.170-1 5.174, that prescribe criteria for selecting projects (including safety projects) eligible for funding under the Enabling Act.

On August 29, 2008, the commission adopted Minute Order 111514, which authorized, subject to the approval of the Texas Bond Review Board, the issuance of additional bonds and other public securities pursuant to and in accordance with the terms of the Enabling Act, in an aggregate principal amount not to exceed \$1.5 billion.

In Minute Order 111550, dated October 30, 2008, and Minute Order 111680, dated January 29, 2009, the commission approved state highway improvement projects, and work to be performed in connection with state highway improvement projects, to be funded with the proceeds of bonds and other public securities issued pursuant to Minute Order 111514, and the additional bonds and other public securities to be issued pursuant to the terms of the Enabling Act.

The department has evaluated other projects for funding with the proceeds of bonds and other public securities issued pursuant to Minute Order 111514 and the additional bonds and other public securities to be issued pursuant to the terms of the Enabling Act, considering the criteria prescribed in 43 TAC §§15.73-15.74. Exhibit A to this order contains an additional candidate project that has been proposed by the department for development and construction.

IT IS THEREFORE ORDERED by the commission that the project listed in Exhibit A is approved for funding with the proceeds of bonds and other public securities issued pursuant to Minute Order 111514 and the additional bonds and other public securities to be issued pursuant to the terms of the Enabling Act.

Note: Exhibit A on file with minute order clerk.

ITEM 12. TRANSPORTATION PLANNING

a. Appoint two members to the Port Authority Advisory Committee (MO)

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

111752
TPP

Transportation Code, Section 55.006, requires the Texas Transportation Commission (commission) to appoint a seven-member Port Authority Advisory Committee (committee) to advise the commission and the Texas Department of Transportation (department) on port issues and to provide a forum for exchange of information between the commission, the department, and committee members representing the Texas port system.

The department's administrative rules governing advisory committees, Title 43, Texas Administrative Code, Section 1.84, provide that the committee members serve staggered three-year terms, unless removed sooner at the discretion of the commission.

The commission has determined that the individuals listed below fulfill the statutory requirements to serve as members of the committee for a three-year term expiring on February 29, 2012.

Gene Bouillion Orange County Navigation and Port District – Upper Coast
A. J. "Pete" Reixach Port Freeport – Upper Coast

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

b. Cameron County – Approve the transfer of Border Colonias Access Program funds from previously selected colonia projects to other eligible colonia projects (MO)

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

111753
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 Colonias 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.

Cameron County (county) has requested approval to transfer a portion of the non-competitive funds awarded to the county by Minute Order 111442 to other eligible colonia projects, as shown in Exhibit A.

IT IS THEREFORE ORDERED by the commission that the county's request to transfer a portion of the non-competitive funds awarded to the county by Minute Order 111442 to other eligible colonia projects, as shown in Exhibit A, is approved.

Note: Exhibit A on file with minute order clerk.

c. **Maverick County** – Approve the transfer of Border Colonias Access Program funds from a previously selected colonia project to another eligible colonia project (MO)

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

111754
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 Colonias 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.

Maverick County (county) has requested approval to transfer \$96,933 from Hopedale colonia of the non-competitive funds awarded to the county by Minute Order 111442 to Sauz Creek colonia project.

IT IS THEREFORE ORDERED by the commission that the county's request to transfer a portion of the non-competitive funds awarded to the county by Minute Order 111442 from the Hopedale colonia to the Sauz Creek colonia is approved.

IT IS FURTHER ORDERED that the authorized balance amount for the Hopedale colonia project is reduced to \$514,907 after the transfer to the Sauz Creek colonia project.

ITEM 13. STATE INFRASTRUCTURE BANK

a. Preliminary Approval

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

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

111755
FIN

The City of Rosenberg (city) submitted an application for \$450,000 in financial assistance from the State Infrastructure Bank (SIB) under Title 43 Texas Administrative Code, Chapter 6 (rules). The application satisfied all requirements of the rules, including passage by the city of a resolution authorizing submission of the application to the Texas Department of Transportation (department). The city intends to use the financial assistance to pay for sewer and water line relocation costs along SH 36 from US 90A to Avenue M.

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

Based on department review and analysis of the application, the Texas Transportation Commission (commission) makes the following findings: 1) the city has offered its ad valorem taxes as security to assure likely repayment of the financial assistance; 2) the project is consistent with the Statewide Transportation Plan; 3) the project is categorized as a Grouped Project and is consistent with the State Implementation Plan; 4) the project will improve both the safety and efficiency of state transportation systems; and 5) the repayment of the financial assistance under negotiated terms will expand the availability of funding for other transportation projects and reduce direct state costs.

NOW, THEREFORE, IT IS DETERMINED that the application for SIB financial assistance submitted by the City of Rosenberg meets the requirements of commission rules, and in accordance with those rules and applicable law, the commission grants preliminary approval of the application to borrow \$450,000 from the SIB, and directs the executive director to commence negotiations and other actions authorized and required by its rules.

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

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

111756
FIN

The City of Stamford (city) submitted an application for \$300,000 in financial assistance from the State Infrastructure Bank (SIB) under Title 43 Texas Administrative Code, Chapter 6 (rules). The application satisfied all requirements of the rules, including passage by the city of a resolution authorizing submission of the application to the Texas Department of Transportation (department). The city intends to use the financial assistance to pay for sewer and water line relocation costs along FM 1226.

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

Based on department review and analysis of the application, the Texas Transportation Commission (commission) makes the following findings: 1) the city has offered its water and sewer funds as security to assure likely repayment of the financial assistance; 2) the project is consistent with the Statewide Transportation Plan; 3) the project is categorized as a Grouped Project PE – Preventative Maintenance and Rehabilitation and is consistent with the State Implementation Plan; 4) the project will improve both the safety and efficiency of state transportation systems; and 5) the repayment of the financial assistance under negotiated terms will expand the availability of funding for other transportation projects and reduce direct state costs.

NOW, THEREFORE, IT IS DETERMINED that the application for SIB financial assistance submitted by the City of Stamford meets the requirements of commission rules, and in accordance with those rules and applicable law, the commission grants preliminary approval of the application to borrow \$300,000 from the SIB, and directs the executive director to commence negotiations and other actions authorized and required by its rules.

b. Final Approval

Hays County – **City of Kyle** – Consider granting final approval of an application from the City of Kyle to borrow \$11 million from the State Infrastructure Bank to pay for costs associated with projects on I-35 southbound frontage roads and ramps, and CR 210 overpass (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:

111757
FIN

On February 26, 2009, by Minute Order Number 111714, the Texas Transportation Commission (commission) granted preliminary approval of an application request for financial assistance from the City of Kyle (city) to borrow \$11 million to pay for

improvements to the I-35 southbound frontage roads and ramps between CR 210 and FM 1626, and the reconstruction of CR 210 overpass in Kyle.

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

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

IT IS THEREFORE ORDERED that the financial assistance application submitted by the City of Kyle to borrow \$11,000,000 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 4.25 percent interest per annum, with no principal or interest payments during the first three years.

ITEM 14. DISCUSSION

Update on the status of the implementation of recommendations made in the State Auditor's Office Cash Financial Forecasting and Fund Allocation Audit.

This item was presented by Finance Division Director Brian Ragland.

ITEM 15. CONSTRUCTION AND MAINTENANCE FUNDING REPORT

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

This item was presented by Chief Financial Officer James Bass.

ITEM 16. CONTRACTS

a. Award or Reject Highway Improvement Contracts

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

Commissioner Holmes made a motion, seconded by Commissioner Houghton and the commission approved the following minute order as recommended by staff and presented by Maintenance Interim Division Director Toribio Garza:

111758
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 March 10 and 11, 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 Maintenance Interim Division Director Toribio Garza:

111759
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 March 10 and 11, 2009.

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

ITEM 17. CONTESTED CASES

a. Hill County – Texas Department of Transportation Executive Director v. Magic Media, Inc. – Consider action on administrative law judge proposal for decision concerning cancellation of an outdoor advertising permit, final order (MO)

Commissioner Meadows made a motion, seconded by Commissioner Underwood and the commission approved the following minute orders presented by TxDOT Attorney Rich O'Connell:

111760
OGC

On March 26, 2009 the Texas Department of Transportation considered the staff's cancellation of Outdoor Advertising Permit Number 9613, held by Magic Media, Inc. Magic Media requested an administrative hearing and the matter was referred to the State Office of Administrative Hearings. The proposal for decision upheld the cancellation of the permit. 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 Texas Department of Transportation v. Magic Media, Inc., Docket No. 601-08-4312, and directs the executive director to uphold the enforcement action against Magic Media, Inc.

b. Sutton County – Texas Department of Transportation Executive Director v. Lamar Advantage Outdoor Co., L.P. – Consider action on administrative law judge proposal for decision concerning cancellation of an outdoor advertising permit, final order (MO)

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute orders presented by TxDOT Attorney Rich O'Connell:

111761
OGC

On March 26, 2009 the Texas Department of Transportation considered the staff's proposed cancellation of Outdoor Advertising Permit Number 36452, held by Lamar Advantage Outdoor Company, L.P. (Lamar). Lamar requested an administrative hearing and the matter was referred to the State Office of Administrative Hearings. The proposal for decision concluded that the permit should not be canceled. 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 Texas Department of Transportation v. Lamar Advantage Outdoor Company, L.P., Docket No. 601-07-1232, and directs the executive director to dismiss the enforcement action against Lamar.

ITEM 18. ROUTINE MINUTE ORDERS

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute orders presented by Assistant Executive Director Steven Simmons:

a. Donations to the Department

(1) Environmental Affairs Division – Acknowledge a donation from CalTrans for a department employee's travel expenses to participate and present at the Statewide Tri-Agency Biologist Training and Workshop, 2009 RoadEcology Meeting. The meeting was held in Concord, California, on February 24 – 26, 2009 (MO)

111762
GSD

This minute order acknowledges a donation of \$1,034 to the Texas Department of Transportation (department) from CalTrans for a department employee's travel expenses to participate and present at the Statewide Tri-Agency Biologist Training and Workshop, 2009 Road Ecology Meeting. The meeting was held in Concord, California, on February 24 – 26, 2009.

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

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

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503

prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

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

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

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

IT IS THEREFORE ORDERED by the commission that the donation for \$1,034 from CalTrans 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) Finance Division – Acknowledge a donation from the Specialized Public Finance, Inc. for a department employee's travel expenses to accompany Williamson County Officials, and staff, and their financial advisor and to participate in a meeting with bond rating agencies to describe the pass through toll agreement between the department and the county and the department's ability to meet its obligation specified in such agreement. The meeting was held in New York, NY, on February 4 – 6, 2009 (MO)

111763
GSD

This minute order acknowledges a donation of \$858.20 to the Texas Department of Transportation (department) from Specialized Public Finance, Inc. for a department employee's travel expenses to accompany Williamson County officials, and staff, and their financial advisor, Specialized Public Finance, Inc. to participate in meeting with bond agencies to describe the pass-through toll agreement between the department and the county and the department's ability to meet its obligation specified in such agreement. The meeting was held in New York, NY, from February 4 – 6, 2009.

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

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

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

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

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

IT IS THEREFORE ORDERED by the commission that the donation for \$858.20 from Specialized Public Finance, Inc. is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(3) Maintenance Division – Consider a donation from the newly re-established Lady Bird Legacy Wildflower Campaign, administered through the Austin Community Foundation for approximately \$25,000 worth of wildflower seeds to be planted within the state's right of way (MO)

111764
GSD

This minute order considers a donation to the Texas Department of Transportation (department) from the newly re-established Lady Bird Legacy Wildflower Campaign, administered through the Austin Community Foundation, for approximately \$25,000 worth of wildflower seeds. The wildflower seeds will be planted within the state's right of way to beautify the communities.

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

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

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

provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

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

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

IT IS THEREFORE ORDERED by the commission that the donation for approximately \$25,000 worth of wildflower seeds by the newly re-established Lady Bird Legacy Wildflower Campaign, administered through the Austin Community Foundation, is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(4) Texas Turnpike Authority Division – Acknowledge a donation from City & Financial Conference Services for a department employee's travel expenses to attend and speak on Texas Public Private Partnerships at the 5th Annual Public Private Partnerships USA Summit. The Summit was held in Washington, DC, on March 11 – 13, 2009 (MO)

111765
GSD

This minute order acknowledges a donation of \$664.30 to the Texas Department of Transportation (department) from City & Financial Conference Services for a department employee's travel expenses to attend and speak on Texas Public Private Partnerships at the 5th Annual Public Private Partnerships USA Summit. The Summit was held in Washington, DC on March 11 – 13, 2009.

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

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

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

acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

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

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

IT IS THEREFORE ORDERED by the commission that the donation for \$664.30 from City & Financial Conference Services 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)

111766
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
Brazoria	SH 35	12	0178-02-072	12
Collin	US 380	14	0135-05-024	19
Dallas	SH Loop 12	1	0581-02-115	15
Dallas	SH 183	6	0094-03-098	41
Dallas	SH 183	2	0094-03-098	48
Dallas	SH 183	19	0094-03-098	66
Dallas	SH 183	11	0094-03-098	18 & 18E
Dallas	SH 183	3	0094-03-098	64
Dallas	SH 183	4	0094-03-099	38
Dallas	SH 183	17	0094-03-099	35
Dallas	SH 183	7	0094-03-100	6
Dallas	SH 183	16	0094-03-100	4
Dallas	SH 183	8	0094-03-100	49
Dallas	SH 183	5	0094-03-100	64
Dallas	SH 183	13	0094-03-100	20
Dallas	SH 183	15	0094-03-100	26
Dallas	SH 183	18	0094-03-100	58
Denton	US 380	9	0134-09-057	4
Denton	US 380	10	0134-09-057	7

CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Caldwell	SH 130	V	3583-01-002	1639AC
Caldwell	SH 130	P	3583-01-002	642A

CONTROLLED ACCESS (CONTINUED)

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Caldwell	SH 130	Q	3583-01-002	642B
Caldwell	SH 130	R	3583-01-002	659
Caldwell	SH 130	S	3583-01-002	663
Caldwell	SH 130	N	3583-01-002	639
Caldwell	SH 130	O	3583-01-002	640
Caldwell	SH 130	EE	3583-01-002	1525E
Caldwell	SH 130	U	3583-01-002	1622
Caldwell	SH 130	W	3583-01-002	1641AC
Caldwell	SH 130	X	3583-01-002	1802
Caldwell	SH 130	M	3583-01-002	512
Caldwell	SH 130	T	3583-01-002	1552AC
Dallas	SH 183	E	0094-03-098	33
Dallas	SH 183	C	0094-03-098	9AC
Dallas	SH 183	D	0094-03-098	77
Dallas	SH 183	I	0094-03-099	39
Dallas	SH 183	F	0094-03-100	1
Dallas	SH 183	B	0094-03-100	69AC
Dallas	SH 183	A	0094-03-100	52
Dallas	SH 183	J	0094-03-100	59
Dallas	SH 183	H	0094-03-100	60
Dallas	SH 183	G	0094-03-100	54
Dallas	US 80	L	0095-02-106	5AC & 5TE
Guadalupe	SH 130	CC	3583-02-002	851
Guadalupe	SH 130	AA	3583-02-002	825
Guadalupe	SH 130	DD	3583-02-002	828
Guadalupe	SH 130	Y	3583-02-002	809
Guadalupe	SH 130	BB	3583-02-002	827
Guadalupe	SH 130	Z	3583-02-002	819
Midland	SH 349	K	1718-07-030	26EX

Note: Exhibits 1 through 19 and A through EE on file with minute order clerk.

c. Load Zones & Postings

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

111767
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.

Note: Exhibit A on file with minute order clerk.

d. Highway Designations

(1) Caldwell County – Designate FM 1386 along a new location (MO)

111768
TPP

In CALDWELL COUNTY, officials have requested that the designation of FARM TO MARKET ROAD 1386 be extended along a new location. To facilitate the flow of traffic, promote public safety, and maintain continuity of the state highway system, the county has requested that the new location be designated from the present terminus of FM 1322 to its east terminus, a distance of approximately 7.4 miles.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that the designation of FM 1386 be extended along a new location.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the designation of FM 1386 is extended along a new location from its present terminus of FM 1322 to its east terminus, a distance of approximately 7.4 miles.

(2) Hunt County – Designate a new section of US 380 and redesignate existing sections of US 380 as State Spur 137 and State Spur 138 (MO)

111769
TPP

In HUNT COUNTY, officials have requested a new location for US 380 on the state highway system, including a grade-separated railroad crossing.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended a segment of the existing US 380 be removed from the state highway system due to the closure of an at-grade railroad crossing. To facilitate the flow of traffic, promote public safety, and maintain the integrity of the state highway system, the remainder of the existing location will be re-designated as STATE SPUR 137 and STATE SPUR 138.

IT IS THEREFORE ORDERED by the Texas Transportation Commission (commission) that:

1. A segment of new location roadway be designated US 380, from a point 0.321 mile east of the existing intersection of CR 1063 to a point 0.479 mile west of the existing intersection of US 69, a distance of 0.8 mile.

2. A segment of the existing US 380 be removed from the state highway system due to the closure of an at-grade railroad crossing, a distance of 0.004 mile.
3. A segment of the existing US 380 be redesignated as State Spur 137, starting 0.667 mile west of Kansas City Railroad, eastward for a distance of approximately 0.667 mile.
4. A segment of the existing US 380 be redesignated as State Spur 138, starting 0.130 mile east of Kansas City Railroad, westward for a distance of approximately 0.130 mile.

IT IS FURTHER ORDERED that upon approval by the commission, this minute order, along with all other pertinent information, be forwarded to the American Association of State Highway and Transportation Officials Special Committee on U.S. Route Numbering for their consideration.

(3) Jefferson County – Remove FM 823 within the corporate city limits of the city of Port Arthur from the state highway system (MO)

111770
TPP

In JEFFERSON COUNTY in the City of Port Arthur, city officials have requested the removal of FARM TO MARKET ROAD 823 from the state highway system, a distance of approximately 0.281 mile.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that FM 823 be removed from the state highway system, but that the right of way be retained by the Texas Department of Transportation.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that FM 823 is removed from the state highway system, a distance of approximately 0.281 mile.

e. Right of Way Dispositions and Donations

(1) Bexar County – SH Loop 1604 at Old Bulverde Road in San Antonio – Consider the sale of surplus right of way (MO)

111771
ROW

In the city of San Antonio, BEXAR COUNTY, on STATE HIGHWAY LOOP 1604, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 4709, Page 485, Deed Records of Bexar 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.

Bulverde Marketplace, L.P., a Delaware limited partnership, is the abutting landowner and has requested that the surplus land be sold to the partnership for \$10,050.

The commission finds \$10,050 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 Bulverde Marketplace, L.P., a Delaware limited partnership, for \$10,050; 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.

(2) Harris County – Business SH 146D, known as W. Main and S. Broadway, in La Porte – Consider the quitclaim of surplus right of way to the city and removal from the state highway system (MO)

111772
ROW

In the city of La Porte, HARRIS COUNTY, Texas, on BUSINESS STATE HIGHWAY 146D, the state used certain land for highway purposes for which there is no record title in the name of the state or city.

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

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

The City of La Porte has requested that the surplus land be quitclaimed to the city.

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

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

(3) Tarrant County – I-30 at Center Street in Arlington – Consider the transfer of surplus right of way to the city in consideration of the cost of future maintenance (MO)

111773
ROW

In the city of Arlington, TARRANT COUNTY, on INTERSTATE 30, the State of Texas acquired certain land needed for highway purposes by instruments recorded in Volume 2890, Pages 454 and 365, Deed Records, Tarrant County, Texas, and in Volume 48, Page 379, Civil Minutes Records, Tarrant 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 waive payment for real property transferred to a governmental entity if the estimated cost of future maintenance on the property equals or exceeds the fair value of the property.

The fair value of the surplus land has been determined to be \$297,990, and the state's costs for maintenance and resurfacing over the next 28 years is estimated to be \$319,504.

The City of Arlington (city) has requested that the surplus land be transferred to the city in consideration of the savings to the state of future maintenance costs, since the future maintenance costs exceed the value of the surplus land.

The commission finds \$297,990 to be a fair and reasonable value of 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 transferring all of the state's rights, title and interest in the surplus land to the City of Arlington, Texas, in consideration of the savings to the state of future maintenance costs; **SAVE AND EXCEPT**, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

IT IS FURTHER ORDERED by the commission that the surplus land is removed from the state highway system and transferred to the city for control, jurisdiction and maintenance.

f. Speed Zones

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

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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 171 established by Minute Order 108409, dated January 25, 2001, and listed in Exhibit D, is no longer necessary.

IT IS THEREFORE ORDERED by the commission that the reasonable and safe prima facie maximum speed limits determined in accordance with the department's

"Procedures for Establishing Speed Zones" and shown on the attached Exhibits A and B are declared as tabulated in those exhibits. The executive director is directed to implement this order for control and enforcement purposes by the erection of appropriate signs showing the prima facie maximum speed limits.

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

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

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

Note: The commission did not meet in executive session.

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

The regular meeting of the Texas Transportation Commission adjourned at 1:42 p.m.

APPROVED:

Deirdre Delisi, Chair
Texas Transportation Commission

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I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on March 26, 2009, in Austin, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation