

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on May 28, 2009 in Austin, Texas. The meeting opened at 9:03 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:

Phillip Russell, Assistant Executive Director for Innovative Project Development
 Angie Parker, Office of General Counsel
 Roger Polson, Executive Assistant to the Deputy Executive Director
 Dee Hernandez, Chief Minute Order Clerk

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

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 4:46 p.m. on May 20, 2009, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

ITEM 1. Approval of Minutes of the April 30, 2009 regular meeting of the Texas Transportation Commission and the corrected minutes of the March 5, 2009 special meeting and the March 26, 2009 regular meeting.

Commissioner Underwood made a motion, seconded by Commissioner Holmes, and the commission approved the minutes of the April 30, 2009 regular meeting of the Texas Transportation Commission and the corrected minutes of the March 5, 2009 special meeting and the March 26, 2009 regular meeting.

ITEM 2. REPORTS

a. Presentation of the collaborated results of Texas Association of Metropolitan Planning Organizations (TEMPO) and the department's evaluation of revenue forecasts for 2030 using the Texas Transportation Institute's Transportation Revenue Estimator and Needs Determination System, known as TRENDS

This report was presented by Assistant Executive Director for District Operations David Casteel. The commission also received comments from North Texas Council of Governments Assistant Director Dan Kessler; Special Assistant for Strategic Policy and Performance Management Mary Meyland; and David Ellis, Texas Transportation Institute.

The commission recognized students from The University of North Texas Master of Public Administration Class with Dr. Benavides.

b. Update on the development of the department's Internal Compliance Program

This report was presented by Internal Compliance Office Interim Director Suzanne Mann.

ITEM 3. AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

Discussion of the status of ARRA project delivery; approve changes to the lists of mobility, preventive maintenance and rehabilitation, and transportation enhancement projects previously approved for funding from Texas' portion of the ARRA (MO)

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

111808
ADM

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

Texas' share of the funding for highway and bridge construction is expected to be approximately \$2.25 billion, based on the existing apportionment formula. Of that amount, 3 percent of the funds are set aside for transportation enhancement activities.

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

Time is a critical element with regard to the selection and prosecution of projects. The ARRA requires that 50 percent of the discretionary funds allocated to the state for highway and bridge projects must be obligated within 120 days of receiving the apportionment from FHWA or the funds will be redistributed to other states. In addition, states must have 100 percent of the funds obligated within one year or the remaining funds will be redistributed. The department received the Notice of Apportionment from FHWA on March 2, 2009. States initially submitted data on projects to be funded completely or partially with ARRA funds to FHWA on March 17, 2009. States must continue to update the data on projects to be funded with ARRA funds in a timely manner.

In Minute Order 111734, dated March 5, 2009, the Texas Transportation Commission (commission) approved the funding, under the provisions of the ARRA, of approximately \$1.2 billion in mobility projects and approximately \$500 million in preventive maintenance and rehabilitation projects. In Minute Order 111735, dated March 26, 2009, the commission approved the funding of approximately \$73 million in transportation enhancement projects. In Minute Order 111777, dated April 30, 2009, the commission made revisions to the previously approved lists of mobility and preventive maintenance and rehabilitation projects.

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

As a result of those efforts, a revised list of mobility projects has been developed and is set forth in Exhibit A. The following revision has been made:

- One Pharr District project has a technical correction to the project limits. The ARRA funding for this project did not change.

No other projects listed in Exhibit A have been changed.

A list of mobility projects previously deleted from Minute Order 111734 is shown in Exhibit D. No additional mobility projects were removed from the list shown in Minute Order 111777.

The department has also developed a revised list of preventive maintenance and rehabilitation projects, which is set forth in Exhibit B. The following revisions have been made:

- Two linked projects in the Abilene District have been removed from the list. These projects have previous federal obligations on record and the ARRA does not allow for project deobligation. The SH 36 project in the Abilene District (CSJ 0181-03-024, etc., Callahan County) has been added to the list to replace the projects that have been removed.
- Three linked projects in the Corpus Christi District have been removed from the list. These projects have previous federal obligations on record. The US 77 project in the Corpus Christi District (CSJ 0372-01-093, San Patricio County) has been added to the list to replace the projects that have been removed.
- Two linked projects in the Dallas District have been removed from the list. These projects have previous federal obligations on record. The BI 45-G project in the Dallas District (CSJ 0092-08-015, Ellis County) has been added to the list to replace the projects that have been removed.

No other projects listed in Exhibit B have been changed or removed.

A list of preventive maintenance and rehabilitation projects deleted from Minute Orders 111734 and 111777 is shown in Exhibit E.

The department has also developed a revised list of transportation enhancement projects, which is set forth in Exhibit C. These revisions consist of technical corrections to account for the use of previously obligated federal funds that covered a portion of the project cost. Eligible reimbursements to the project sponsors will not change. In addition, the following substantive revisions have been made:

- Four projects have been removed from the list. These projects have previous federal obligations on record. These projects will be funded with conventional category funding.
- Five sponsor projects from previous transportation enhancement program calls have been added to the list. These five projects are in the Houston District at Allen's Landing (CSJ 0912-71-705, Harris County), Dallas District at Tenison Trail (CSJ 0918-45-643, Dallas County), San Antonio District at Salado Creek Trail (CSJ 0915-12-402, Bexar County), Laredo District at San Felipe Trail (CSJ 0922-11-027, Val Verde County), and Childress District at Knox County Pedestrian and Bike Trail (CSJ 0925-17-006, Knox County).
- Five department landscape projects have been added to the list. FHWA has determined that these projects are eligible for funding under the transportation enhancement program. One project is in the Houston District on US 59 (CSJ 0912-34-148, Fort Bend County). Four projects are in the San Antonio District on SH 16 (CSJ 0291-10-097, Bexar County), I-10 (CSJ 0521-04-261, Bexar County), I-10 (CSJ 0915-46-036, Guadalupe County), and on SH 16 (CSJ 0613-02-055, Atascosa County).
- One linked project was added to a previously approved project. The added project is in the El Paso District at Placita Park (CSJ 2552-04-036, El Paso County).

No other projects listed in Exhibit C have been changed or removed.

A list of transportation enhancement projects deleted from Minute Order 111735 is shown in Exhibit F.

All projects are subject to federal and state laws, including the provisions of the ARRA. No matching funds are required for mobility or preventive maintenance and rehabilitation projects. The normal local matching funds will be required for transportation enhancement projects.

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

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

IT IS FURTHER ORDERED that Exhibits A and B in Minute Order 111777 are rescinded and replaced with Exhibits A and B to this minute order.

IT IS FURTHER ORDERED that Exhibit A in Minute Order 111735 is rescinded and replaced with Exhibit C to this minute order.

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

Note: The commission received comments from Ashby Johnson, Houston Galveston Area Council deputy MPO director, and Coby Chase, director of the Government & Public Affairs Division.

ITEM 4. PUBLIC TRANSPORTATION**a. Various Counties – Award federal §5311, Nonurbanized Area Formula Program, funds to rural transit districts (MO)**

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

111809
PTN

The Texas Transportation Commission (commission) takes special note of its designation by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, “Formula Grant Program for Areas Other than Urbanized” (49 U.S.C. §5311), in a letter dated October 4, 2005; and further acknowledges that federal program regulations require the Texas Department of Transportation (department) to ensure that these grant funds are distributed fairly and equitably within the state.

The commission may award funds from the commission discretionary §5311 program funds on a pro rata basis, competitively, or a combination of both in accordance with 43 Texas Administrative Code §31.36 (g) (3).

The commission desires to award \$7,586,307 in §5311 program funds to rural operators.

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

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

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

Note: Exhibit A on file with minute order clerk.

Note: The commission received comments from Texas Transit Association Executive Director Ben Herr.

b. Various Counties – Award federal §5304 and state match, §5311, §5311(f), §5316, §5317, Rural Transportation Assistance Program funds and award transportation development credits for FY 2009 coordinated call for projects (MO)

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

111810
PTN

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

Title 43, Texas Administrative Code, Sections §31.17, §31.18, §31.22, §31.36 and §31.37 establishes the process by which program proposals shall be evaluated and funds distributed. On July 11, 2008, the department published a Notice of Request for Proposal for projects in the *Texas Register*. Project criteria included project planning and coordination; demonstration of need; benefits of the project; and project management.

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

The commission finds that the projects in Exhibit A are eligible for funding and awards a total of \$20,459,101 in federal program funds, \$10,370 in state matching funds and in 875,594 in TDC.

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

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

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

Note: Exhibit A on file with minute order clerk.

Note: The commission received comments from Texas Transit Association Executive Director Ben Herr.

c. Various Counties – Award federal §5303 Metropolitan Transportation Planning funds, and award transportation development credits for FY 2010 (MO)

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

111811
PTN

The Texas Transportation Commission (commission) was designated by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, Metropolitan Planning Program (49 U.S.C. §5303) in a letter dated October 4, 2005, and is required to ensure that these grant funds are distributed and utilized in accordance with guidance from the FTA.

Title 43, Texas Administrative Code (TAC), §31.21(c) establishes a formula through which section 5303 program funds shall be distributed to the metropolitan planning organizations (MPO) of the state by the Texas Department of Transportation (department). The distribution of the FY 2009 apportionment is shown in Exhibit A and has been calculated in accordance with the provisions of §31.21(c).

The commission further recognizes that state and federal law permits the substitution of transportation development credits (TDC) as the required non-federal match for eligible projects. Title 43, Texas Administrative Code (TAC), §5.73 establishes a process by which TDC may be awarded at the discretion of the commission. The commission finds that these projects and associated distribution of the TDC has been reviewed to ensure eligibility, overall benefit to public transportation initiatives and ability to further the goals of the department, as outlined in 43 TAC §5.72 (e).

The commission finds that these projects will: reduce congestion by including planning for transit options thereby increasing levels of ridership; expand economic opportunity by increasing the level of service access; enhance safety by promoting greater use of the transit system with professional operators; improve air quality by reducing emissions from single occupant vehicles; and increase the value of the transportation assets by promoting greater use of existing and proposed assets.

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

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

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the award of \$6,872,871 in federal FY 2009 §5303 FTA allocations and 1,374,574 in TDC as described in Exhibit A, submit the necessary state application to the FTA, and enter into any necessary contracts in accordance with the priorities established in this minute order.

Note: Exhibit A on file with minute order clerk.

d. Various Counties – Award federal §5310 funds, Elderly Individuals and Individuals with Disabilities Program, and award transportation development credits for FY 2009 (MO)

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

111812
PTN

The Texas Transportation Commission (commission) takes special note of its designation by the governor as the administering agency for the Federal Transit Administration (FTA) grant program, "Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities" (49 U.S.C. §5310), in a letter dated October 4, 2005; and further acknowledges that federal program regulations require the Texas Department of Transportation (department) to ensure that grant funds are distributed fairly and equitably within the state.

The commission passed Minute Order 111700, on February 26, 2009, awarding the available portion, along with prior year deobligated funds, of the FY 2009 federal §5310 program funds in accordance with the Continuing Appropriation Resolution passed by the United States Congress.

On March 11, 2009, the United States Congress approved the FY 2009 Omnibus Appropriations Bill and the FTA has announced the total available funds for FY 2009

§5310 federal apportionment for Texas. The balance of the FY 2009 §5310 federal apportionment for Texas, including deobligated funds from previous awards, is awarded under this minute order.

Title 43, Texas Administrative Code, §31.31 establishes a formula by which §5310 program funds shall be distributed. The distribution of the remaining FY 2009 allocation is shown in Exhibit A and has been calculated in accordance with the provisions of §31.31.

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

The commission finds that the projects in Exhibit A are eligible for funding and awards a total of \$5,185,322 in federal Formula Grant funds for Special Needs of Elderly Individuals and Individuals with Disabilities and 549,180 in TDC. The projects receiving TDC awards will reduce congestion by improving reliable transit options thereby increasing levels of ridership; expand economic opportunity by increasing the level of service access for the transit dependent populations to jobs and other necessary activities; enhance safety by reducing mechanical breakdowns; improve air quality by reducing emissions with technological advances in the bus industry; and increase the value of the transportation assets by investing in the replacement of depreciated rolling stock thus yielding savings and efficiencies which can be reinvested into additional trips.

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

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

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the awards as described in Exhibit A, amend the necessary state application to FTA, enter into the necessary contracts for the FY 2009 program of projects.

Note: Exhibit A on file with minute order clerk.

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

Proposed Adoption

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

Chapter 25 – Traffic Operations (MO)

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

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

111813
TRF

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

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

IT IS THEREFORE ORDERED by the commission that the amendments to §25.977 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

ITEM 6. TOLL ROAD PROJECTS

a. Tarrant County – Consider approval of the designation as a toll project of Segment 1 of the North Tarrant Express Managed Lanes Project along I-820 from the I-820/I-35W Interchange to the Northeast Interchange at SH 121/SH 183 in Tarrant County, including all managed lane connections (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:

111814
TTA

In Minute Order 111661, dated January 29, 2009, the Texas Transportation Commission (commission) conditionally awarded the Comprehensive Development Agreements (CDAs) for the North Tarrant Express Managed Lanes Project (NTE Project) to NTE Mobility Partners. The agreements are to develop, design, construct, finance, maintain and operate the North Tarrant Express Project along I-820 and SH 121/SH 183 from I-35W to SH 161, along I-820 east from SH 121/SH 183 to Randol Mill Road, and along I-35W from I-30 to SH 170 in Tarrant and Dallas counties.

The Texas Department of Transportation received final environmental clearance from the Federal Highway Administration for Segment 1 of the NTE Project in December 2008. Segment 1 of the NTE Project consists of the portion of the NTE Project along I-820 from the I-820/I-35W Interchange to the Northeast Interchange at SH 121/SH 183 in Tarrant County.

Segment 1 of the corridor will continue as a controlled-access facility and will consist of 1) two general-purpose lanes reconstructed in each direction; 2) two new managed lanes in each direction with direct connector ramps between I-35W northbound and southbound and I-820 eastbound; 3) two reconstructed and extended frontage road lanes in each direction; 4) future widening of one additional general-purpose lane in each direction; and 5) future completion of the remaining portion of I-820/I-35W Interchange.

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

IT IS THEREFORE ORDERED by the commission that the tolled managed lanes along I-820 from the I-820/I-35W Interchange to the Northeast Interchange at SH 121/SH 183, including all managed lane connections, are designated as a toll project on the state highway system.

b. Tarrant and Dallas Counties – Consider approval of the designation as a toll project of the DFW Connector Project along SH 114 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 in Tarrant and Dallas counties (MO)

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

111815
TTA

In Minute Order 111736, dated March 26, 2009, the Texas Transportation Commission (commission) awarded the Comprehensive Development Agreement (CDA) for the DFW Connector Project to NorthGate Constructors, J.V. The agreement is 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 (SH 114/SH 121 corridor), including tolled, managed lanes along SH 114 from east of FM 1709 to east of International Parkway in Dallas and Tarrant Counties.

The Texas Department of Transportation received final environmental clearance from the Federal Highway Administration for the DFW Connector Project on April 23, 2009.

The facilities along SH 114 from SH 114L Business to east of International Parkway and SH 121 from FM 2499 to SH 360 (SH 114/SH 121 corridor) that are part of the DFW Connector Project, including tolled, managed lanes along SH 114 from east of FM 1709 to east of International Parkway will continue as controlled-access facilities.

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

IT IS THEREFORE ORDERED by the commission that the facilities along SH 114 from SH 114L Business to east of International Parkway and SH 121 from FM 2499 to SH 360 (SH 114/SH 121 corridor), including the tolled, managed lanes along SH 114 from east of FM 1709 to east of International Parkway are designated as a toll project on the state highway system.

c. Travis and Williamson Counties – Accept the annual Inspection Report for the Central Texas Turnpike Project (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:

111816
TTA

In TRAVIS and WILLIAMSON COUNTIES, STATE HIGHWAY 130 has been designated a toll project and a controlled access state highway from I-35 north of Georgetown to a southern terminus at US 183.

In TRAVIS and WILLIAMSON COUNTIES, STATE HIGHWAY 45N has been designated a toll project and a controlled access state highway from west of US 183 to SH 130.

In TRAVIS and WILLIAMSON COUNTIES, STATE HIGHWAY LOOP 1 has been designated a toll project and a controlled access state highway from FM 734 (Parmer Lane) in Austin to the intersection of Loop 1 and SH 45N.

The Texas Transportation Commission (commission) has issued toll revenue bonds and other obligations to finance a portion of the costs of the 2002 Project of the Central Texas Turnpike System (system), a toll project composed of the SH 130, SH 45N, and Loop 1 project elements, and has entered into an Indenture of Trust dated July 15, 2002 with Bank One, National Association, as Trustee to secure the revenue bonds and other obligations issued for the 2002 Project.

In Section 707 of the Indenture of Trust, the commission covenants that it shall cause the general engineering consultant to make an inspection of the system at least once in the fiscal year following the substantial completion of the 2002 Project and in each fiscal year thereafter.

Following each inspection and on or before the 90th day prior to the end of each fiscal year, the general engineering consultant shall submit to the commission a report concerning the inspection, setting forth (a) their findings as to whether the system has been maintained in good repair, working order and condition and (b) their advice and recommendations as to the proper maintenance, repair and operation of the system during the ensuing fiscal year and (c) an estimate of the amount of money necessary for such purposes, including their recommendations as to the total amounts and classifications of items and amounts that should be provided for in the annual operating budget, the annual maintenance budget and annual capital budget for the next ensuing fiscal year.

Section 707 of the Indenture of Trust requires copies of the report to be filed with the U.S. Department of Transportation and the Trustee.

The commission has previously engaged PBS&J to serve as general engineering consultant in accordance with the Indenture of Trust. The FY 2009 Central Texas Turnpike Project Annual Inspection Report, attached as Exhibit A, has been prepared by PBS&J in accordance with Section 707 of the Indenture of Trust.

IT IS THEREFORE ORDERED by the commission that the general engineering consultant's FY 2009 Central Texas Turnpike Project Annual Inspection Report attached as Exhibit A is accepted.

Note: Exhibit A on file with minute order clerk.

ITEM 7. REGIONAL MOBILITY AUTHORITIES

a. Bexar County – Authorize the Alamo Regional Mobility Authority (ARMA) to make improvements to the state highway system in connection with a project to improve US 281 from approximately Redland Road to north of Marshall Road by implementing a signalized superstreet configuration (constructing operational improvements), and authorize the executive director to enter into a project development agreement with the ARMA (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:

111817
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 approximately Redland Road to north of Marshall Road.

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 operational improvements to implement a signalized superstreet configuration. 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.

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, 67 percent will be obligated to projects selected at the discretion of the commission and 30 percent has been sub-allocated through the Surface Transportation Program to metropolitan planning organizations (MPOs) and rural areas. The San Antonio/Bexar County MPO Transportation Policy Board allocated \$5.7 million of their sub-allocation to the US 281 signalized superstreet configuration project on March 23, 2009.

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 corridor that will relieve traffic congestion and improve safety on the existing state highway system.

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 construction of the US 281 signalized superstreet project, and the executive director is authorized to enter into a project development agreement with the Alamo Regional Mobility Authority that provides for such improvements to the state highway system.

b. El Paso County – Authorize the Camino Real Regional Mobility Authority (CRRMA) to make improvements to the state highway system in connection with a non-toll project to construct direct connectors to the I-10 intersection at Loop 375 (Americas Interchange), and authorize the executive director to enter into a project development agreement with the CRRMA (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:

111818
TTA

In Minute Order 110573, dated June 29, 2006, the Texas Transportation Commission (commission) authorized the creation of the Camino Real Regional Mobility Authority (CRRMA), for the City of El Paso, Texas (city).

The Texas Department of Transportation (department) and the CRRMA, in coordination with the city and the El Paso Metropolitan Planning Organization (EPMPO), developed the 2008 Comprehensive Mobility Plan (plan) that provides for the funding and development of certain transportation system improvements within the jurisdictional limits of the CRRMA, including the addition of direct connectors at the intersection of I-10 at Loop 375 on Loop 375 from 0.15 miles north of North Loop to 0.44 miles north of Bob Hope Drive and on I-10 from FM 659 to 0.19 miles west of Eastlake Boulevard. The plan was approved by the EPMPO on July 25, 2008 and a Memorandum of Understanding to implement the plan was executed by the department, the city, the EPMPO, and the CRRMA.

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 \$75 million in ARRA funds to the I-10 and Loop 375 interchange project.

Transportation Code, §370.033(f) authorizes a regional mobility authority to develop a project within its boundaries on behalf of the department. On April 16, 2009, the CRRMA submitted a request to allow the CRRMA to develop and construct direct

connectors for the I-10 and Loop 375 interchange project. The CRRMA is required to comply with applicable federal, state, and department requirements in making such improvements.

The commission finds that the CRRMA 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 CRRMA's improvement of the state highway system will provide for the expeditious completion of a critically needed project within the I-10 and Loop 375 corridors that will relieve traffic congestion on the existing state highway system and improve mobility in El Paso County.

IT IS THEREFORE ORDERED by the commission that pursuant to Transportation Code, §370.033(f), the Camino Real Regional Mobility Authority is authorized to develop and construct improvements to the state highway system in connection with the design and construction of the I-10 and Loop 375 interchange project, and the executive director is authorized to enter into a project development agreement with the Camino Real Regional Mobility Authority that provides for such improvements to the state highway system.

c. **El Paso County** – Consider amending Minute Order 111662, passed January 29, 2009, to authorize the Camino Real Regional Mobility Authority to also expend funds for development of the documents necessary for procurement of a design/build provider for the construction of direct connectors to the I-10 intersection at Loop 375 (Americas Interchange) and authorize the executive director to execute an amendment to the existing project development agreement (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:

111819
TTA

The Texas Transportation Commission (commission) by Minute Order 111662, dated January 29, 2009, approved execution of a project development agreement (agreement) with the Camino Real Regional Mobility Authority (CRRMA) to perform preliminary development work on three projects to be located on Loop 375 in the city of El Paso and authorized funding in the total amount of \$2.2 million.

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 \$75 million in ARRA funds for development of one of the three projects addressed in the Agreement - the addition of direct connectors at the intersection of I-10 at Loop 375.

On May 28, 2009, the commission by minute order authorized and directed the Texas Department of Transportation (department) under Transportation Code, Sections 370.033(f) and 222.001, to enter into a project development agreement with the CRRMA to develop and construct improvements to the state highway system in connection with the

design and construction of additional direct connectors at the intersection of I-10 at Loop 375, on Loop 375 from 0.15 miles north of North Loop to 0.44 miles north of Bob Hope Drive, and on I-10 from FM 659 to 0.19 miles west of Eastlake Boulevard. The ARRA funds, however, will not be available until later in the development process.

The department proposes that the agreement be amended to authorize the CRRMA to develop the documents necessary for procurement of a design/build provider for the design and construction of the I-10 and Loop 375 interchange project and to expend funds under the agreement for that purpose until the ARRA funding is available under the project development agreement approved by the commission on May 28, 2009. The I-10 and Loop 375 interchange project will need to be expedited in order to meet the ARRA deadlines.

IT IS THEREFORE ORDERED that the executive director or his designee is authorized to execute an amendment to the agreement with Camino Real Regional Mobility Authority to increase the scope of work by adding development of documents necessary for procurement of a design/build provider for the design and construction of the I-10 and Loop 375 interchange project and such other terms the department determines are necessary.

d. Travis County – Consider final approval of a request for financing from the Central Texas Regional Mobility Authority to pay for the costs of constructing direct connectors at the US 183 interchange with the 290 East toll project (MO)

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

111820
FIN

The Texas Department of Transportation (department) and the Central Texas Regional Mobility Authority (CTRMA) developed a “CTRMA/TxDOT Regional Implementation Program” that provides for the funding and development of certain transportation system improvements within the jurisdictional limits of the CTRMA.

On October 8, 2007, the Capital Area Metropolitan Planning Organization (CAMPO) Transportation Policy Board approved amendments to CAMPO’s 2030 Transportation Plan (Plan) and the FY 2008-FY 2011 Transportation Improvement Program (TIP), amending previous authorizations for the development of certain highway projects of the Texas Department of Transportation (department) that are located within the boundaries of CAMPO as toll projects, including the 290 East project.

Pursuant to Transportation Code, §228.0111, the CTRMA has exercised its option to develop, construct, and operate the 290 East project. The CTRMA has proposed an innovative plan for the financing and development of the project that contemplates the planning, financing, design, construction, operation, and maintenance of a CTRMA toll project in the median of US 290 East from east of US 183 to east of FM 734. Existing US 290 would be reconstructed and expanded to provide, on the highway and adjacent facilities, an equivalent or greater number of nontolled lanes than currently exist. The nontolled portion of the project would remain on the state highway system as US 290.

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 Texas Transportation Commission (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 111784, dated April 30, 2009, granted preliminary approval of financial assistance in the amount of \$90 million for the costs of constructing the direct connectors at the US 183 interchange. The financial assistance was approved in the form of a grant.

Of the \$281 million in financing originally requested, \$90 million is from federal economic stimulus funds authorized by the American Recovery and Reinvestment Act (ARRA) of 2009, that the commission has authorized the department to commit to the costs of constructing the direct connectors at the US 183 interchange. The remaining \$191 million in financial assistance is still under consideration.

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

The CTRMA will benefit the state and the traveling public and improve the efficiency of the state's transportation system through the potential construction and operation of this project, which will enhance 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 CAMPO. The projects will also be consistent with the Statewide TIP and the CAMPO TIP.

The CTRMA has indicated that they will fund a portion of the costs of developing the proposed projects through revenue bond sales and loans. Along with the requested financial assistance, 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 Central Texas Regional Mobility Authority meets the applicable requirements of 43 TAC §27.53 and §27.54 and, in accordance with those provisions, the commission grants final approval of the request for financing in the amount of \$90 million, in the form of a grant, to be used for the purposes described herein, and authorizes the executive director to and authorizes the executive director to enter into a financial assistance agreement with the Central Texas Regional Mobility Authority.

Note: The commission received comments from Licensed Texas Real Estate Agent Kevin Nonmacher.

ITEM 8. BORDER COLONIA ACCESS PROGRAM

Starr County – Approve the transfer of Border Colonia Access Program funds from previously selected colonia projects to another eligible colonia project (MO)

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

111821
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 (department), distribute the proceeds to counties to provide financial assistance for colonia access roadway projects to serve border colonias. Government Code, §1403.002, further requires the Texas Transportation Commission (commission) to establish a program to administer the use of the proceeds of the bonds and notes.

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

Title 43, Texas Administrative Code, §15.105(10), provides that a county may use unexpended funds from a project on any other commission-selected county colonia project. Starr County (county) has requested approval to transfer a portion of the non-competitive funds awarded to the county by Minute Order 111442 to another eligible colonia project, 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 another eligible colonia project, as shown in Exhibit A, is approved.

IT IS FURTHER ORDERED that the remainder of the non-competitive funds awarded to the county, \$26,145, may be used for other eligible colonia project cost overruns.

Note: Exhibit A on file with minute order clerk.

ITEM 9. TRANSPORTATION PLANNING

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

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

111822
FIN

Transportation Code, §228.012 requires the Texas Department of Transportation (department) to create a separate account in the state highway fund to hold payments

received by the department under a comprehensive development agreement (CDA), the surplus revenue of a toll project or system, and payments received under Transportation Code, §§228.0111(g)(2) and (i)(2).

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

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

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

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

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

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

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

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

ITEM 10. STATE INFRASTRUCTURE BANK

Final Approval

Smith County – Dean Water Supply Corporation – Consider granting final approval of an application from the Dean Water Supply Corporation to borrow \$180,000 from the State Infrastructure Bank to pay for replacement of utilities along Loop 49 in Smith County (MO)

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

111823
FIN

Dean Water Supply Corporation (WSC) submitted an application for limited financial assistance from the State Infrastructure Bank (SIB) in the amount of \$180,000 plus a 20 percent contingency under Title 43 Texas Administrative Code, Chapter 6 (rules). The application satisfied all requirements of the rules, including passage by the WSC of a resolution authorizing submission of the application to the Texas Department of Transportation (department). The WSC intends to use the limited financial assistance to pay for utility relocation along Loop 49 made necessary by the construction of a 5.9 mile two-lane controlled-access toll facility.

The intended use of the limited financial assistance conforms to the purposes of the SIB. The present and projected financial condition of the SIB is sufficient to cover the requested limited 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 WSC has offered its water revenues as security to assure likely repayment of the limited financial assistance; 2) the project is consistent with the Statewide Transportation Plan; 3) the project is listed in the 2008-2011 Statewide Transportation Improvement Program and is consistent with the State Implementation Plan; 4) the project will improve both the safety

and efficiency of the state transportation systems; and 5) the repayment of the limited financial assistance under negotiated terms will expand the availability of funding for other transportation projects and reduce direct state costs.

The executive director affirms that the necessary social, economic, and environmental impact study has been completed, and that the department has approved that study. The executive director recommends that the commission grant final approval of the SIB application for limited 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 project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate for adverse environmental impacts. Section 6.32(b) of the rules authorizes applications for financial assistance in the amount of \$250,000 or less to be approved by the commission using a one-step approval process.

NOW, THEREFORE, IT IS DETERMINED that the application for SIB limited financial assistance submitted by the WSC meets the requirements of commission rules, and in accordance with those rules and applicable law, the commission grants final approval of the application to borrow \$180,000 plus a 20 percent contingency from the SIB. The loan will be paid over a period of no more than 15 years with interest at 4.5 percent per annum. The executive director is directed and authorized to commence negotiations and other actions authorized and required by the rules, and to enter into the financial assistance agreement as negotiated with the WSC.

ITEM 11. REPORT

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

This report was presented by Finance Division Director Brian Ragland.

ITEM 12. OBLIGATION LIMIT REPORT

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

This report was presented by Chief Financial Officer James Bass.

ITEM 13. CONTRACTS

a. Award or Reject Highway Improvement Contracts

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

Commissioner Houghton made a motion, seconded by Commissioner Underwood to defer Project RMC 615763001 (Navarro County). Commissioner Houghton than made a motion, seconded by Commissioner Underwood and the commission approved the following minute order as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

111824
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 May 7 and 8, 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, with the exception of Project Number RMC – 615763001 (Navarro County), be and are hereby respectively awarded to the lowest bidder or rejected as indicated therein. The award or rejection of Project Number RMC – 615763001 is hereby deferred to a later date.

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

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

Note: Exhibit A on file with minute order clerk.

Note: The commission received comments from Beverly Sue Global Services Partner-CFO John Joe.

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

Commissioner Houghton made a motion, seconded by Commissioner Underwood and the commission approved the following minute order as recommended by staff and presented by Construction Division Director Thomas Bohuslav:

111825
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 May 7 & 8, 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 14. ROUTINE MINUTE ORDERS

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

a. Donation to the Department

Abilene District – Consider a donation from Renewable Energy Systems Americas, Inc. of salvage materials to repair roads damaged by heavy industrial activity (MO)

111826
GSD

This minute order considers a donation to the Texas Department of Transportation (department) from Renewable Energy Systems Americas, Inc. for approximately \$14,875 worth of salvage material. The material will be used to repair roads damaged by heavy truck traffic servicing nearby wind farms.

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 approximately \$14,875 from Renewable Energy Systems Americas, 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.

b. Eminent Domain Proceedings

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

111827
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
Collin	US 380	11	0135-05-024	42
Dallas	SH Loop 12	9	0581-02-115	59
Dallas	SH 183	15	0094-03-098	78
Dallas	SH 183	10	0094-03-098	75
Dallas	SH 183	7	0094-03-100	87
Denton	US 380	4	0134-09-057	13
Denton	US 380	3	0134-09-058	12
Denton	US 380	2	0134-09-058	10
Denton	US 380	1	0134-09-058	11

NON-CONTROLLED ACCESS (continued)

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Rockwall	FM 740	5	1014-03-047	44
Rockwall	FM 740	12	1014-03-047	54
Rockwall	FM 740	13	1014-03-047	53
Rockwall	FM 740	14	1014-03-047	26
Webb	SH 359	6	0922-33-109	6
Zapata	US 83	8	0038-03-030	81

CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Caldwell	SH 130	G	3583-01-002	654
Caldwell	SH 130	L	3583-01-002	1816
Caldwell	SH 130	K	3583-01-002	1814
Caldwell	SH 130	J	3583-01-002	1811
Caldwell	SH 130	I	3583-01-002	689
Caldwell	SH 130	H	3583-01-002	664
Dallas	SH 183	A	0094-03-098	71
Dallas	SH 183	E	0094-03-098	56
Dallas	SH 183	F	0094-03-100	88
Guadalupe	SH 130	M	3583-02-002	803
Guadalupe	SH 130	N	3583-02-002	804
Guadalupe	SH 130	O	3583-02-002	836
Guadalupe	SH 130	P	3583-02-002	852
Guadalupe	SH 130	Q	3583-02-002	1822
Harris	IH 10	D	0271-07-260	703
Travis	SH 130	R	0440-06-008	1503AC
Webb	SH 359	C	0922-33-109	5
Webb	SH 359	B	0922-33-109	4

c. Highway Designations

(1) Collin County – Redesignates FM 3412 as FM 2514 (MO)

111828
TPP

In COLLIN COUNTY in the city of Wylie, city officials have passed a resolution supporting the redesignation of FARM TO MARKET ROAD 3412 as FARM TO MARKET ROAD 2514, from the intersection of Brown Street (formerly FM 3412) and FM 2514 southward to SH 78, a distance of approximately 0.33 mile.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended the redesignation of FM 3412 as FM 2514.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that FM 3412 be redesignated as FM 2514 from the intersection of Brown Street (formerly FM 3412) and FM 2514 southward to SH 78, a distance of approximately 0.33 mile.

(2) Hays County – Extend the designation of SH 142 to San Marcos along SH 80 (MO)111829
TPP

In HAYS COUNTY, officials have requested to extend the designation of STATE HIGHWAY 142 along SH 80 from I-35 in San Marcos to SH 142 in Martindale, a distance of approximately 5.6 miles.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended extending the designation of SH 142 along SH 80.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that SH 142 be extended along SH 80 from I-35 in San Marcos to SH 142 in Martindale, a distance of approximately 5.6 miles.

(3) Midland County – Designate Garfield Avenue and the proposed Garfield Avenue extension on the state highway system as SH 58 (MO)111830
TPP

In MIDLAND COUNTY in the city of Midland (city), city officials have requested the designation of GARFIELD AVENUE, and the proposed Garfield Avenue extension from State Spur 268/Business State Highway 158B (Wall Street) to I-20, on the state highway system as STATE HIGHWAY 58, a distance of approximately 1.83 miles.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended the designation of Garfield Avenue and the proposed Garfield Avenue extension as SH 58.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that Garfield Avenue and the proposed Garfield Avenue extension from State Spur 268/Business State Highway 158B (Wall Street) to I-20, on the state highway system as SH 58, a distance of approximately 1.83 miles.

d. Load Zones & Postings**Various Counties – Revise load restrictions on various bridges on the state highway system**111831
BRG

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

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

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

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

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

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

e. Right of Way Dispositions and Donations

(1) Angelina County – SH Loop 287 at US 59 in Lufkin – Consider the sale of surplus right of way to the City of Lufkin (MO)

111832
ROW

In the city of Lufkin, ANGELINA COUNTY, on STATE HIGHWAY LOOP 287, the State of Texas (state) acquired certain land for state highway purposes by instrument recorded in Volume 618, Page 556, Deed Records of Angelina 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 Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus land to a governmental entity with the authority to condemn the property.

The City of Lufkin has requested that the surplus land be sold to the city for \$24,915.

The commission finds \$24,915 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 the City of Lufkin, Texas, for \$24,915; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(2) Austin County – I-10 at FM 3538 west of Sealy – Consider the sale of surplus access rights to the abutting landowner (MO)

111833
ROW

In AUSTIN COUNTY, on INTERSTATE 10, a designated controlled access highway, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 273, Page 559, Deed Records of Austin County, Texas, and the state owns and controls certain access rights to the highway facility to and from the abutting lands.

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

Texas Kohinoor Investments, LLC, owner of a 6.212-acre tract of land conveyed by deed recorded under County Clerk's File No. 081944, Official Records, Austin County,

Texas (Texas Kohinoor Tract), is the landowner abutting the property line along which access is proposed to be released and has requested that the state sell the surplus access rights to the abutting landowner for \$27,060.

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

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

It is the opinion of the commission that it is proper and correct that the state sell the surplus access rights to the abutting landowner for a cash consideration of \$27,060.

NOW, THEREFORE, the commission finds that the surplus access rights are no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument granting the state's interest in the surplus access rights to Texas Kohinoor Investments, LLC, for a cash consideration of \$27,060.

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

Note: Exhibit A on file with minute order clerk.

(3) Collin County – Business SH 289D from FM 1193 in Prosper to FM 1461 in Celina – Consider removal of a segment of the highway from the state highway system, transfer to the cities of control, jurisdiction and maintenance of the segment, and quitclaim to the cities of the segment of right of way (MO)

111834
ROW

In the town of Prosper and the city of Celina (cities), COLLIN COUNTY, Texas, on BUSINESS STATE HIGHWAY 289D, the state used certain land for highway purposes for which there is no record title in the name of the state or the cities.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that Business SH 289D from FM 1193 in Prosper (Broadway Street) to FM 1461 in Celina, a distance of approximately 2.754 miles, be removed from the state highway system and that control, jurisdiction and maintenance be transferred to the cities.

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

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

The cities have requested that the surplus land be removed from the state highway system and that control, jurisdiction and maintenance be turned over to the cities.

IT IS THEREFORE ORDERED by the commission that Business SH 289D is removed from the state highway system from FM 1193 in Prosper (Broadway Street) to FM 1461 in Celina, a distance of approximately 2.754 miles, and that control, jurisdiction and maintenance is turned over to the cities within the respective limits of the cities.

FURTHER, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument quitclaiming all of the state's rights and interest in the surplus land described in Exhibit A to the Town of Prosper, Texas, and a proper instrument quitclaiming all of the state's rights and interest in the surplus land described in Exhibit B to the City of Celina, Texas.

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

(4) Dallas County – SH Loop 12 at West Davis Street in Dallas – Consider the sale of surplus right of way to the abutting landowner (MO)

111835
ROW

In the city of Dallas, DALLAS COUNTY, on STATE HIGHWAY LOOP 12, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 4051, Page 379, Deed Records of Dallas County, Texas.

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

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

Mike Miller is an abutting landowner and has requested that the surplus land be sold to him for \$88,993.

The commission finds \$88,993 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 Mike Miller for \$88,993; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(5) Hays County – FM 967 north of CR 148 in Buda – Consider the exchange of right of way (MO)

111836
ROW

In the city of Buda, HAYS COUNTY, on FARM TO MARKET ROAD 967, the State of Texas (state) acquired certain land for highway purposes by instrument recorded in Volume 146, Page 94, Deed Records of Hays 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 exchange of surplus land as whole or partial consideration for other land needed for a state highway purpose.

Land needed for a state highway purpose (new land), described in Exhibit B, has been conveyed to the state by C. Ronald Platt, Trustee, (owner). The owner has requested

that the surplus land be conveyed to the trustee and will pay to the state the \$3,144 difference in value between the value of the surplus land and that of the new land pursuant to an executed exchange agreement.

It is the opinion of the commission that it is proper and correct that the state convey the surplus land to the owner in exchange and as consideration for the conveyance of the new land and the cash payment of \$3,144 to the state.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to C. Ronald Platt, Trustee, in exchange and as consideration for the conveyance of the new land and the cash payment of \$3,144 to the state; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interest, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(6) Hidalgo County – US 83, northwest corner at Westgate Drive in Weslaco – Consider the sale of surplus right of way to the abutting landowners (MO)

111837
ROW

In the city of Weslaco, HIDALGO COUNTY, on US 83, the State of Texas acquired certain land for state highway purposes by instrument recorded in Volume 1019, Page 174, Deed Records of Hidalgo County, Texas.

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

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

Armando Alaniz and wife, Oralia Alaniz, are the abutting landowners and have requested that the surplus land be sold to them for \$55,200.

The commission finds \$55,200 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 Armando Alaniz and wife, Oralia Alaniz, for \$55,200; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(7) Hidalgo County – US 281 at Trenton Road in Edinburg – Consider the sale of surplus right of way to the abutting landowner (MO)

111838
ROW

In the city of Edinburg, HIDALGO COUNTY, on US 281, the State of Texas acquired certain land for highway purposes by instruments recorded in Volume 1321, Page 484, and Volume 1343, Page 995, Deed Records of Hidalgo County, Texas.

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

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

Rio Grande Bible Institute, Inc., is the abutting landowner and has requested that the surplus land be sold to the institute for \$319,555.

The commission finds \$319,555 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 Rio Grande Bible Institute, Inc., for \$319,555; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(8) Reeves County – I-20 in Pecos – Consider the transfer to the Town of Pecos City of an additional easement interest for installation of a water line on department property in exchange for the city's partial release of the existing sewer easement on the property and donation to the state of the difference in value of the two interests (MO)

111839
ROW

In Pecos City, REEVES COUNTY, on INTERSTATE 20, the State of Texas acquired certain land for an area engineer and maintenance facility site by instrument recorded in Volume 611, Page 684, Official Public Records of Reeves County, Texas.

The instrument of conveyance to the state included a reservation to the grantor, the Town of Pecos City (city), of a sanitary sewer easement 30 feet in width on the state's property.

The city has requested that the state transfer to the city an additional easement interest for installation of a water line (additional easement interest) in the existing sewer easement on the state's property, described in Exhibit A, in exchange for the city's partial release of the existing sewer easement (sewer easement) on the property, described in Exhibit B.

V.T.C.A., Transportation Code, Chapter 201, Subchapter D, authorizes the Texas Department of Transportation (department) to accept donations of real property for the purpose of carrying out its functions and duties.

V.T.C.A., Government Code, Chapter 575, requires the Texas Transportation Commission (commission) to accept by majority vote at an open meeting any gift or donation valued at over \$500, and the commission hereby finds that acceptance of the donation will provide a significant public benefit and will not influence or reasonably appear to influence the department in the performance of its duties.

An Agreement Concerning the Donation of Property to the Texas Department of Transportation (donation agreement) has been executed by the city and tendered to the department for acceptance under the provisions of Title 43, Texas Administrative Code, Chapter 1, Subchapter G, since the value of the sewer easement partially released by the city, which is \$2,200, exceeds the value of the additional easement interest transferred by the state, which is \$1,200.

The city has executed and delivered a conveyance document under the terms of the donation agreement to partially release the sewer easement to the state and has requested that the additional easement interest be transferred to the city.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission may recommend the exchange of an interest in real property as whole or partial consideration for another interest in real property needed for a state highway purpose.

It is the opinion of the commission that it is proper and correct that the state transfer an additional easement interest to the Town of Pecos City, Texas, in exchange and as consideration for the partial release of the sewer easement to the state.

IT IS THEREFORE ORDERED by the commission that the executive director is hereby authorized to accept the donation of the difference in value in the easement exchange, and that the executive director or the director's designee is authorized and directed to sign and execute a donation agreement with the city, in accordance with Title 43, Texas Administrative Code, Chapter 1, Subchapter G.

FURTHER, in consideration of the foregoing premises and in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the additional easement interest is no longer needed for a state highway purpose and that the value of the additional easement interest is less than \$10,000, and authorizes the executive director to execute a proper instrument transferring the additional easement interest to the city in exchange and as consideration for the city's partial release of the sewer easement to the state.

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

(9) Rusk County – SH Loop 571 at County Road 421 northwest of Henderson – Consider the sale of three tracts and quitclaim of one tract of surplus right of way to the abutting landowners (MO)

111840
ROW

In RUSK COUNTY, on STATE HIGHWAY LOOP 571, the State of Texas acquired certain land for highway purposes by instruments recorded in Volume 1782, Page 0779; Volume 1707, Page 794; and Volume 1685, Page 528, Deed Records of Rusk County, Texas, and the state used certain land for highway purposes to which there is no record title in the name of the state or county.

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

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus land to the abutting landowner and, if there is no record title, may recommend the quitclaim to the abutting landowner of any interest in surplus land that might have accrued to the state by use of the property at the request of the county.

Ronald Pruitt and wife, Rebecca Pruitt, are the abutting landowners and have requested that the surplus land described in Exhibit A be sold to them for \$1,359.

The county has requested that the surplus land described in Exhibit B be quitclaimed to the abutting landowners.

The commission finds \$1,359 to be a fair and reasonable value for the state's rights, title and interest in the surplus land described in Exhibit A.

NOW, THEREFORE, in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land described in Exhibit A is no longer needed for a state highway purpose and that the value is less than \$10,000 and authorizes the executive director to execute a proper instrument conveying all of the state's rights, title and interest in the surplus land described in Exhibit A to Ronald Pruitt and wife, Rebecca Pruitt, for a cash consideration of \$1,359; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

FURTHER, the commission finds that the surplus land described in Exhibit B is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument quitclaiming all of the state's rights and interest in the surplus land described in Exhibit B to Ronald Pruitt and wife, Rebecca Pruitt.

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

(10) Wichita County – SH Loop 473, northwest corner at US 281/287 in Wichita Falls – Consider the sale of surplus right of way to the abutting landowner (MO)

111841
ROW

In the city of Wichita Falls, WICHITA COUNTY, on STATE HIGHWAY LOOP 473, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 376, Page 383, Deed Records of Wichita County, Texas.

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

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

HPH Properties, LLC, is the abutting landowner and has requested that the surplus land be sold to the company for \$46,500.

The commission finds \$46,500 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to HPH Properties, LLC, for \$46,500; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

Note: Exhibit A on file with minute order clerk.

(11) Williamson County – Spur 26, South Austin Avenue in Georgetown – Consider the exchange of drainage easements (MO)

111842
ROW

In the city of Georgetown, WILLIAMSON COUNTY, on STATE SPUR 26, the State of Texas acquired an easement interest in certain land for highway drainage purposes by instrument recorded in Volume 269, Page 349, Deed Records of Williamson County, Texas.

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

South Austin Avenue Professional Building, LLC (owner), has granted to the state an easement interest in land needed for the realignment and reconstruction of a new drainage facility (new easement), described in Exhibit B, and desires to make a partial donation to the state of the value of the new easement.

V.T.C.A., Transportation Code, Chapter 201, Subchapter D, authorizes the Texas Department of Transportation (department) to accept donations of real property for the purpose of carrying out its functions and duties.

V.T.C.A., Government Code, Chapter 575, requires the Texas Transportation Commission (commission) to accept by majority vote at an open meeting any gift or donation valued at over \$500, and the commission hereby finds that acceptance of the donation will provide a significant public benefit and will not influence or reasonably appear to influence the department in the performance of its duties.

An Agreement Concerning the Donation of Property to the Texas Department of Transportation (donation agreement) has been executed by the owner and tendered to the department for acceptance under the provisions of Title 43, Texas Administrative Code, Chapter 1, Subchapter G, since the value of the new easement provided by the owner, which is \$24,290, exceeds the value of the surplus easement, which is \$22,091.

The owner has executed and delivered a conveyance document under the terms of the donation agreement to convey the new easement to the state and has requested that the state's rights and interest in the surplus easement be released.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission may recommend the release of surplus easements and the exchange of surplus easements as partial or full consideration for other land needed by the state for highway purposes.

It is the opinion of the commission that it is proper and correct that the state release its rights and interest in the surplus easement in exchange and as consideration for the partial donation and the conveyance of the new easement to the state.

IT IS THEREFORE ORDERED by the commission that the executive director is hereby authorized to accept the donation of the new easement and that the executive director or the director's designee is authorized and directed to sign and execute a donation agreement with the owner, in accordance with Title 43, Texas Administrative Code, Chapter 1, Subchapter G.

FURTHER, in consideration of the foregoing premises and in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the

surplus easement 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 releasing all of the state's rights and interest in the surplus easement in exchange and as consideration for the conveyance to the state of the new easement.

Note: Exhibit A on file with minute order clerk.

f. Speed Zones

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

111843
TRF

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

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

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

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

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

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

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

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

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

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

Note: The commission did not meet in executive session.

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

Note: The commission received comments from Action Engineering Owner Mark Wallace.

The regular meeting of the Texas Transportation Commission adjourned at 11:53 a.m.

APPROVED:

Deirdre Delisi, Chair
Texas Transportation Commission

xxx

I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on May 28, 2009, in Austin, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation