

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on October 28, 2010 in Austin, Texas. The meeting was called to order by Commissioner Houghton. The meeting opened at 9:02 a.m. with the following commissioners and administrative staff present:

Texas Transportation Commission:

Deirdre Delisi	Chair (joined the dais at 10:37 a.m.)
Ted Houghton	Commissioner
Ned Holmes	Commissioner
Fred Underwood	Commissioner
Bill Meadows	Commissioner

Administrative Staff:

Amadeo Saenz, Executive Director
 Steve Simmons, Deputy Executive Director
 Bob Jackson, General Counsel
 Roger Polson, Executive Assistant to the Deputy Executive Director

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

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 4:42 p.m. on October 20, 2010, as required by Chapter 551, of the Government Code, referred to as “The Open Meetings Act.”

ITEM 1. Approval of Minutes of the September 29, 2010 workshop, and the September 30, 2010 regular meeting of the Texas Transportation Commission.

Commissioner Underwood made a motion, which was seconded, and the commission approved the minutes of the September 29, 2010 workshop, and the September 30, 2010 regular meeting of the Texas Transportation Commission by a 4-0 vote (Chair Delisi absent).

ITEM 2. I-35 Corridor Report

Report on the current construction and public involvement activities in the I-35 Corridor

The commission received this report delivered by Assistant Executive Director for Engineering Operations John Barton.

ITEM 3. Aviation

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

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Chair Delisi absent). The item was recommended by staff and presented by Aviation Division Director Dave Fulton.

112465
AVN

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

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

On Thursday, September 23, 2010, a public hearing was held. No comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$4,517,655.

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

ITEM 4. Various Counties – Award federal §5316, Job Access Reverse Commute, grant program funds to Texoma Area Paratransit System, Inc. and West Texas Opportunities, Inc.

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 3-0 vote (Chair Delisi absent, Commissioner Meadows was off the dais). The item was recommended by staff and presented by Public Transportation Division Director Eric Gleason.

112466
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, Job Access Reverse Commute Formula Grant Program (JARC) (49 U.S.C. §5316), in a letter dated October 4, 2005; and further acknowledges that federal program regulations require the Texas Department of Transportation (department) to ensure these grant funds are distributed fairly and equitably within the state.

The commission recognizes the importance and benefits of reliable public transportation which provides residents with a means to employment.

The commission desires to award \$605,050 of federal §5316 JARC funds to Texoma Area Paratransit System, Inc. (TAPS) to implement an employment based transportation service in North Texas and \$109,778 to West Texas Opportunities, Inc. (WTO) to support the continued operation of employment related public transportation service in West Texas.

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 of \$605,050 to TAPS and \$109,778 to WTO as described above and enter into the necessary contracts in accordance with the priorities as established in this minute order.

ITEM 5. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

Final Adoption

a. Chapter 1 – Management

Repeal of §§1.21-1.33 and New §§1.21 - 1.38 (Procedures in Contested Case)

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a 3-0 vote (Chair Delisi absent, Commissioner Meadows was off the dais). The item was recommended by staff and presented by the Rich O'Connell from the Office of General Counsel

112467
OGC

The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of §§1.21 - 1.33 and new §§1.21 - 1.38, all relating to procedures in contested cases to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the repeal of §§1.21 - 1.33 and new §§1.21 - 1.38 are adopted and are authorized for filing with the Office of the Secretary of State.

Note: Exhibits are on file with the minute order clerk.

b. Chapter 9 – Contract and Grant Management (MO)

Amendments to §9.30, Purpose, and §9.31 Definitions, Repeal of §9.32, Provider Services Policy, and Amendments to §9.33 Notice of Intent and Letter of Interest, §9.34, Short List Determination, §9.35, Short List Meeting, Proposals, and Evaluation, §9.36, Short List Interviews and Evaluation, §9.37, Selection, §9.38, Contract Management, §9.39, Selection and Contract Types, §9.41, Precertification, §9.42, Administrative Qualification, and §9.43, Precertification Requirements (Contracting for Architectural, Engineering, and Surveying Services)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Chair Delisi absent). The item was recommended by staff and presented by Design Division Director Mark Marek.

112468
DES

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §9.30 and §9.31, the repeal of §9.32, and amendments to §§9.33-9.39 and the executive director is directed to take the necessary steps to implement the actions as ordered in this

minute order, pursuant §§9.41-9.43 all relating to Contracting for Architectural, Engineering, and Surveying Services to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments and repeal, 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 §9.30 and §9.31, the repeal of §9.32, and amendments to §§9.33-9.39 and §§9.41-9.43 are adopted and are authorized for filing with the Office of the Secretary of State.

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

Note: Exhibits are on file with the minute order clerk.

ITEM 6. Transportation Planning

a. Approve the Gulf Intracoastal Waterway report (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Chair Delisi absent). The item was recommended by staff and presented by Transportation Planning and Programming Division Director Jim Randall.

112469
TPP

Transportation Code, Chapter 51 (Texas Coastal Waterway Act), designates the state to act as the non-federal sponsor of the main channel of the Gulf Intracoastal Waterway (GIWW) from the Sabine River to the Brownsville Ship Channel.

Transportation Code, Section 51.007 requires the Texas Transportation Commission (commission) to continually evaluate the impact of the GIWW on the state and prepare a report for each regular session of the Texas Legislature. The evaluation shall include: an assessment of the importance of the GIWW that includes identification of its direct and indirect beneficiaries;

- (1) identification of principal problems and possible solutions to those problems that includes estimated costs, economic benefits and environmental effects;
- (2) an evaluation of the need for significant modifications to the GIWW; and
- (3) specific recommendations for legislative action that the commission believes are in the best interest of the state in carrying out the state's duties under this chapter.

The report of the evaluation shall be published and presented to each regular session of the Texas Legislature.

The Texas Department of Transportation has completed the evaluation and developed the report for the period of Fiscal Years 2009-2010.

IT IS THEREFORE ORDERED that the Gulf Intracoastal Waterway Report, as shown in Exhibit A, is accepted by the commission and should be published and presented to the members of the 82nd Texas Legislature, the governor, lieutenant governor, and the speaker of the House of Representatives.

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

b. Various Counties – Certify eligible counties for the 2011 Economically Disadvantaged Counties Program and establish local match adjustment for each county (MO)

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Chair Delisi absent). The item was recommended by staff and presented by Transportation Planning and Programming Division Director Jim Randall.

112470
TPP

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

Transportation Code, §222.053(c) directs the Texas Transportation Commission (commission), when evaluating a proposal for a highway project in a political subdivision that consists of all or a portion of an economically disadvantaged county, to adjust the minimum local matching funds requirement after evaluating the political subdivision's effort and ability to meet the requirement.

Transportation Code, §222.053(f) requires the commission to certify a county as an economically disadvantaged county on an annual basis as soon as possible after the comptroller reports on the economic indicators listed above.

43 TAC §15.55(b)(2) provides that, in determining the adjustment to the local matching funds requirement, and a local government's effort and ability to meet the requirement, the commission will consider a local government's: (A) population level; (B) bonded indebtedness; (C) tax base; (D) tax rate; (E) extent of in-kind resources available; and (F) economic development sales tax.

The Comptroller of Public Accounts has provided the data needed to determine the counties eligible for the Economically Disadvantaged Counties Program for 2011. The counties' efforts and ability to provide a local match have been considered using the criteria set forth in 43 TAC §15.55. Exhibit A lists the eligible counties and their respective recommended local match adjustments.

IT IS THEREFORE ORDERED that the list of counties eligible for the 2011 Economically Disadvantaged Counties Program, as shown in Exhibit A, is certified and the local match adjustment for each county is established.

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

c. Webb County – Amend FY 2011 and FY 2014 project lists and allocations in Category 10 (Supplemental Transportation Funding) in the Unified Transportation Program (UTP) (MO)

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Chair Delisi absent). The item was recommended by staff and presented by Finance Division Director Brian Ragland.

112471
TPP

The 2010 UNIFIED TRANSPORTATION PROGRAM (UTP) of the Texas Department of Transportation (department) is an 11-year plan that authorizes project planning and development, and is submitted to the Texas Transportation Commission (commission) for approval.

The 2010 UTP was approved by the commission on April 29, 2010, in Minute Order 112237.

At the request of the Laredo Metropolitan Planning Organization, the department recommends that the 2010 UTP be amended by revising the FY 2011 and FY 2014 project lists and reallocating a total of \$7 million in FY 2011 and FY 2014 Coordinated Border Infrastructure funds in Category 10 (Supplemental Transportation Projects) to develop a new project on Loop 20 in Webb County. To fund this project, \$5,398,000 will be transferred from the FY 2014 allocation currently in project CSJ# 0086-14-046. The remaining \$1,602,000 will come from the FY 2011 allocation not programmed for letting in FY 2011. The funding summary and relevant project information is set forth in Exhibit A.

IT IS THEREFORE ORDERED by the commission that the proposed revisions and reallocations are approved and the 2010 UTP is amended as shown in Exhibit A.

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

ITEM 7. Proposition 12 Bond Program

a. **McLennan County** – Revise the funding allocation for a previously approved highway improvement project and work to be performed in connection with that project and approve an additional highway improvement project and work to be performed in connection with that project, to be funded with the proceeds of general obligation bonds issued under Transportation Code, Section 222.004 (Proposition 12 Bonds) (MO)

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Chair Delisi absent). The item was recommended by staff and presented by Assistant Executive Director for Engineering Operations John Barton. The commission received comments from the President of the Waco Business League Peter Kultgen, and City of Waco Planning Director Bill Falco.

112472
AEO

Section 49-p, Article III, of the Texas Constitution (constitutional provision) provides that, to provide funding for highway improvement projects, the legislature by general law may authorize the Texas Transportation Commission (commission) or its successor to issue general obligation bonds of the State of Texas in an aggregate amount not to exceed \$5 billion and enter into related credit agreements.

Pursuant to the constitutional provision, the Texas Legislature, in House Bill 1, 81st Legislature, First Called Session, 2009, enacted Transportation Code, §222.004 (Enabling Act), the enabling legislation for general obligation bonds, notes, and other public securities

that may be issued by the commission to fund highway improvement projects (Proposition 12 bonds).

House Bill 1 also amended Rider 60 to the appropriations to the Texas Department of Transportation (department) in Senate Bill 1, 81st Legislature, Regular Session, 2009 (General Appropriations Act), to allow the issuance of \$2 billion of these bonds. For FY 2010-2011, the Legislature appropriated bond proceeds in the amount of \$90 million for right of way, \$60 million for engineering, and \$850 million to make progress payments on no more than \$1.85 billion in construction contract obligations for nontolled highway improvement projects, and appropriated \$1 billion of bond proceeds to be used to capitalize the State Infrastructure Bank (SIB) for the purpose of making loans to public entities.

During previous commission meetings, staff discussed this issue with the commission and presented potential scenarios for the use of these funds. As directed by the commission, staff worked with the state's transportation partners to develop a list of guiding principles for use in evaluating and selecting projects to be funded with the portion of Proposition 12 bond proceeds that is not used to capitalize the SIB. Based on those guiding principles, criteria by which projects may be identified, prioritized and ultimately selected for funding were established.

In cooperation with the state's transportation partners, the department developed a list of highway improvement projects and work to be performed in connection with highway improvement activities to be funded with the portion of Proposition 12 bond proceeds that is not used to capitalize the SIB. This list was approved by the commission in Minute Order 112036, dated November 19, 2009.

This minute order approves one additional project in the Waco District on I-35 (CSJ 0015-01-225) to be funded with the proceeds of Proposition 12 bonds, as set forth in Exhibit A. One project in the Waco District on I-35 (CSJ 0015-01-186) has a reduced construction project cost based on a revised estimate, as set forth in Exhibit A. The total amount of Proposition 12 bond proceeds to fund these projects is not changed. No other projects in Exhibit A have been changed or removed.

IT IS THEREFORE ORDERED by the commission that the highway improvement projects and work to be performed in connection with highway improvement activities, as contained in Exhibit A, is approved for funding with the proceeds of Proposition 12 bonds.

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

b. Approval of revisions to previously approved work to be performed in connection with highway improvement projects to be funded with the proceeds of general obligation bonds issued under Transportation Code, Section 222.004 (Proposition 12 Bonds) (MO)

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute order by a 4-0 vote (Chair Delisi absent). The item was recommended by staff and presented by Assistant Executive Director for Engineering Operations John Barton.

AEO

provides that, to provide funding for highway improvement projects, the legislature by general law may authorize the Texas Transportation Commission (commission) or its successor to issue general obligation bonds of the State of Texas in an aggregate amount not to exceed \$5 billion and enter into related credit agreements.

Pursuant to the constitutional provision, the Texas Legislature, in House Bill 1, 81st Legislature, First Called Session, 2009, enacted Transportation Code, §222.004 (Enabling Act), the enabling legislation for general obligation bonds, notes, and other public securities that may be issued by the commission to fund highway improvement projects (Proposition 12 bonds).

House Bill 1 also amended Rider 60 to the appropriations to the Texas Department of Transportation (department) in Senate Bill 1, 81st Legislature, Regular Session, 2009 (General Appropriations Act), to allow the issuance of \$2 billion of these bonds. The department received approval from the Legislative Budget Board to expend \$150 million in bond proceeds for engineering that will enable the development of highway improvement projects to reduce congestion on some of Texas' most congested corridors.

During previous commission meetings, staff discussed this issue with the commission and presented potential scenarios for the use of these funds. As directed by the commission, staff worked with the state's transportation partners to develop a list of highway improvement projects to be developed with these funds. This list was approved by the commission in Minute Order 112294, dated June 8, 2010.

This minute order revises the previously approved work to be performed in connection with highway improvement projects to be funded with the proceeds of Proposition 12 bonds, based on a continuing evaluation of the state's most congested corridors. The total amount of Proposition 12 bond proceeds to fund the work is not changed.

IT IS THEREFORE ORDERED by the commission that the engineering costs relating to the highway improvement projects set forth in Exhibit A to Minute Order 112294 is rescinded and replaced with the engineering costs relating to highway improvement projects set forth in Exhibit A to this minute order, which are hereby approved for funding with the proceeds of Proposition 12 bonds.

ITEM 8. Proposition 14 Bond Program

Various Counties – Revise funding allocations for previously approved projects and activities and approve additional projects to be funded with the proceeds of State Highway Fund revenue bonds issued under Transportation Code, Section 222.003 (Proposition 14 Bonds) (MO)

Commissioner Underwood made a motion to approve the project on SH 105 only, , which was seconded, and the commission approved the following minute order by a 3-0 vote (Chair Delisi absent, and Commissioner Holmes abstained.). Then Commissioner Holmes mad a motion to approve the remaining projects, which was seconded, and the commission approved the remaining projects on the minute order by a 4-0 vote (Chari Delisi absent). The item was recommended by staff and presented by Assistant Executive Director for Engineering Operations John Barton. The commission heard comments from the President

of the I-35 Coalition L. Russell Laughlin, Vice Chair of the North Texas Regional Transportation Council Jungus Jordan, and Mayor of Bryan Jason Bienski.

112474
FIN

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

Pursuant to the constitutional provision, the Texas Legislature enacted Section 222.003, Texas Transportation Code (Enabling Act), which authorizes the commission to issue bonds and other public securities secured by a pledge of and payable from revenue deposited to the credit of the highway fund. Bonds and other public securities issued under the constitutional provision and Enabling Act are commonly known as "Proposition 14" bonds.

The Enabling Act, as amended, provides that (i) the aggregate principal amount of such bonds and other public securities may not exceed \$6 billion, (ii) the commission may issue bonds or other public securities in an aggregate principal amount of not more than \$1.5 billion each year, (iii) \$1.2 billion of the aggregate principal amount of such bonds or other public securities must be issued to fund safety projects that reduce accidents or correct or improve hazardous locations on the state highway system, and (iv) bonds and other public securities and credit agreements may not have a principal amount or terms that are expected to cause annual expenditures with respect thereto to exceed 10 percent of the amount deposited to the credit of the highway fund in the preceding year. The commission has issued approximately \$4.6 billion of Proposition 14 bonds pursuant to the terms of the Enabling Act.

Pursuant to the Enabling Act, the commission has adopted rules, codified as 43 TAC §§15.170-15.174, that prescribe criteria for selecting projects (including safety projects) eligible for funding under the Enabling Act.

On October 30, 2008, January 29, 2009, February 26, 2009, March 26, 2009, July 30, 2009, September 24, 2009, November 19, 2009, December 17, 2009, February 25, 2010, March 25, 2010, May 27, 2010, and August 26, 2010, the commission adopted Minute Orders 111550, 111680, 111709, 111751, 111890, 111976, 112037, 112075, 112115, 112119, 112275, and 112375, respectively, which approved the use of proceeds of Proposition 14 bonds for state highway improvement projects and work associated with state highway improvement activities, as contained in exhibits to the Orders.

Due to continuing national economic conditions and the accompanying effects on construction and material supplies, the projects that have gone to letting continue to experience underruns of the originally obligated bond funds, due to lower than estimated bids. These underruns allow additional projects to be brought forward for funding under the bond program.

This minute order revises funding allocations for previously approved projects and activities and approves additional projects to be funded with the proceeds of Proposition 14 bonds, as set forth in Exhibit A.

IT IS THEREFORE ORDERED by the commission that the state highway improvement project and work to be performed in connection with state highway improvement activities, as contained in Exhibit A, is approved for funding with the proceeds of Proposition 14 bonds.

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

ITEM 9. State Infrastructure Bank (SIB)

Final Approval

Smith County – North East Texas Regional Mobility Authority (NETRMA) – Consider granting final approval of an application from the NETRMA to borrow up to \$39.2 million from the SIB to pay for the construction of Segment 3B of Toll 49 (MO)

Commissioner Underwood made a motion, which was seconded, and the commission approved the following minute order by a 5-0 vote. The item was recommended by staff and presented by Finance Division Director Brian Ragland. The commission received comments from President of the Tyler Chamber of Commerce Tom Mullins, and Chairmen of the NETRMA Jeff Austin.

112475
FIN

On September 30, 2010 by Minute Order Number 112442, the Texas Transportation Commission (commission) granted preliminary approval of an application for financial assistance from the North East Texas Regional Mobility Authority (RMA) to borrow up to \$39.2 million from the State Infrastructure Bank (SIB) to pay for construction of Segment 3B of Toll 49 (project).

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

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

IT IS THEREFORE ORDERED that the financial assistance submitted by the North East Texas Regional Mobility Authority to borrow up to \$39.2 million from the State Infrastructure Bank is granted final approval. The executive director is directed and authorized to enter into the financial assistance agreement as negotiated with the RMA. The loan will be amortized over a period of 8 years, with a deferment of repayment for a period of 5 years from the disbursement date, at 4.18 percent interest per annum compounded annually during the deferment period.

ITEM 10. Regional Mobility Authorities

Preliminary Approval

Smith County – North East Texas Regional Mobility Authority (NETRMA) – Consider the preliminary approval of a request from the NETRMA for financial assistance in the amount of up to \$90 million to pay for the development and construction of Segment 3B of Toll 49 (MO)

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

112476
FIN

The Texas Department of Transportation (department) and the North East Texas Regional Mobility Authority (NETRMA) have been proceeding with the development of the Toll 49 facility in Smith County, a project under the jurisdictional limits of the NETRMA.

The project is consistent with the Statewide Transportation Plan (Plan) and the Metropolitan Transportation Plan of the Tyler Metropolitan Planning Organization, and is listed in the FY 2008-2011 Statewide Transportation Improvement Program (STIP).

The project is the development and construction of Segment 3B of Toll 49 from SH 31 north to I-20. The proposed 10-mile toll facility includes two lanes of an ultimate four-lane toll road, with a connection to the existing Toll 49 facility at SH 31, and ramps connecting to I-20. The project is located within the boundaries of the NETRMA, and is subject to the market valuation and primacy requirements of Transportation Code, §228.0111. Pursuant to Transportation Code, §228.0111, the NETRMA has exercised its option to develop, construct, and operate the project.

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 Section 27.53 of the toll equity rules, the NETRMA has submitted a request for financial assistance in the amount of up to \$90 million to pay for the development and construction of Segment 3B of Toll 49. The financial assistance would be in the form of a loan.

As required by Section 27.53, on December 1, 2009, the NETRMA Board of Directors passed a resolution adopting an ethics and internal compliance program that addresses standards of conduct for the NETRMA officers and employees. These policies meet the requirements set forth in 43 TAC §1.8.

Section 27.53(d) authorizes the executive director of the department to waive submission of individual items of information or data required by Section 27.53(c) if: (1) the information or data required by this section is not relevant to the project or the financial assistance requested; (2) the department already possesses information or data in a format that may be substituted for the required information or data; or (3) the past performance of the requestor on previous projects developed in collaboration with the department indicates that the requestor will adequately and prudently address the issues and impacts described in the requested information or data.

Information and data required by Section 27.53(b) is either contained in the request for financing or is already in the department's possession. Supplemental information and data required by Section 27.53(c) is contained in the request for financial assistance and is already in the department's possession, or is waived under Section 27.53(d).

The NETRMA has committed that the project will comply with all applicable environmental laws, and has committed that the NETRMA will assume all liability and responsibility for identifying and securing all federal and state environmental permits, issues, commitments, and approvals necessary for the development of the project.

The completion of the project will benefit the state and the traveling public and improve the efficiency of the state's transportation system by enhancing local and regional mobility, decreasing congestion, increasing safety, increasing economic development opportunities, decreasing travel time, decreasing air pollution, providing reliable travel speeds for users and improved access for emergency response, and enhancing operational efficiency and quality of life in the project corridor and the regional transportation system.

The financial assistance will enhance the ability of the project to go forward as a toll facility, improving the efficiency of the state transportation system, and potentially expanding the availability of funding for transportation projects or reducing direct state costs. Without the financial assistance, the timeline to complete the project and realize the benefits described above could be indefinitely delayed.

NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the North East Texas Regional Mobility Authority meets the applicable requirements of 43 TAC §27.53 and §27.54(a) and, in accordance with those provisions, the commission grants preliminary approval of the request for financing in the amount of up to \$90 million, in the form of a loan, to be used for the purposes described herein, and directs the executive director to implement the actions authorized and required by those and other applicable toll equity rule provisions.

ITEM 11. Contracts

a. Award or reject highway improvement contracts

(1) Highway Maintenance and Department Building Construction (MO)

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

112477
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for maintenance of the State Highway System, which were publicly opened and read on October 21 and 22, 2010.

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

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

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

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

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

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

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

(2) Highway and Transportation Enhancement Building Construction (MO)

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

112478
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for improvement of the State Highway System, which were publicly opened and read on October 21 and 22, 2010.

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.

b. Bowie County – Concur or reject award of Arkansas highway improvement contract on US 59 at Texas/Arkansas border (MO)

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

112479
CST

Pursuant to an agreement signed by the State of Texas and the State of Arkansas on May 8, 2006 and April 14, 2006, respectively, the Arkansas State Highway and Transportation Department solicited and received sealed competitive bid proposals on project L05E- 0046-043 in Miller County, Arkansas, and project NH 2009(645), in Bowie County, Texas, for improvement of the National Highway System.

The Texas Transportation Commission, by the authority of the Governor, is statutorily authorized under Transportation Code §201.110, to contract with an adjoining State to provide for the improvement of a public road or highway that crosses the states' boundary and to establish respective responsibilities for the improvement.

Article 9 of the Agreement between the States, requires that the award of the contract by the Arkansas Highway Commission be subject to the concurrence of the Texas Transportation Commission.

The department has reviewed the results of the letting and recommends that the Texas Transportation Commission respectively concur in the award of the contract to the lowest bidder, as indicated on Exhibit A attached to this order.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that concurrence in the award of the contract described in Exhibit A be and is hereby respectively granted.

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

ITEM 12. Routine Minute Orders

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

a. Donations to the Department

Travel Information Division – Consider a donation from TIDY Northern Ireland for a department employee's travel expenses from November 9-12, 2010 to participate in TIDY Northern Ireland's Annual Litter Summit on November 11, 2010 (MO)

112480
GSD

This minute order considers a donation of an estimated \$2,500 from TIDY Northern Ireland for a Texas Department of Transportation (department) employee's travel expenses from November 9-12, 2010 to participate in TIDY Northern Ireland's Annual Litter Summit on November 11, 2010.

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

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

The commission finds that the donation furthers the department's responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days. The commission also finds that the donor is not subject to department regulation or oversight, and that this donation will not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation of an estimated \$2,500 by TIDY Northern Ireland is considered. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

b. Eminent Domain Proceedings

Various Counties – noncontrolled and controlled access highways (MO)

112481
ROW

The Texas Transportation Commission (commission) of the State of Texas (state) has found in order to promote the public safety, to facilitate the safety and movement of traffic and to preserve the financial investment of the public in its highways, public necessity requires the laying out, opening, constructing, reconstructing, maintaining, and operating of the following highways in the state as a part of the State Highway System (highway system).

The commission has found and determined that each of the following listed parcels of land, same being more particularly described in the exhibits attached hereto, and such additional lesser estates or property interests described thereon, are necessary or convenient for use for such purposes and it is necessary to acquire fee simple title to said land, as provided by Texas Transportation Code, Subchapter D, Chapter 203, Sections 203.051,

203.052, and 203.054, as a part of the highway system to be constructed, reconstructed, maintained and operated thereon.

The commission has found in order to promote the public safety, to facilitate the safety and movement of traffic, to preserve the financial investment of the public in its highways and reconstructing, maintaining, and operating of Controlled Access Highways in the state as a part of the highway system at such locations as are necessary throughout the state and has determined that each of the following listed parcels of land, described in those Exhibits designated, identified and listed by an alphabetical exhibit reference under "CONTROLLED ACCESS" and same being more particularly described in the exhibits attached hereto and such additional lesser estates or property interests described thereon, are necessary and suitable for use for such purposes and it is necessary to acquire fee simple title to said land, as provided by law, as a part of the highway system to be so constructed, reconstructed, maintained, and operated thereon and in the exercise of the police power of the state for the preservation of human life and safety, and under existing laws, the highway to be constructed on each such parcel of land is designated as a Controlled Access Highway, and on such parcels of land listed herein where there is remaining abutting private property, roads are to be built as a part of said highway whereby the right of ingress and egress to or from the remaining private property abutting on said highway is to be permitted and/or denied, as designated and set forth on each of the exhibits attached hereto.

The commission, through its duly authorized representatives, has attempted to negotiate with the owner(s) of the parcels of land described in the attached exhibits and has been unable to agree with such owner(s) as to the fair cash market value thereof and damages, if any, or after diligent search of available records, numerous inquiries, and actual visits to the location of said parcels of land has been unable to locate the owner(s) of same so as to enter into negotiations for the purchase of said parcels of land.

IT IS THEREFORE ORDERED that the executive director is hereby authorized and directed to transmit this request of the commission to the attorney general to file or cause to be filed against all owners, lienholders and any owners of any other interests in said parcels of land, proceedings in eminent domain to acquire in the name of and on behalf of the state, for said purposes, fee simple title to each such parcel of land as are more particularly described in each of the exhibits attached hereto and made a part hereof, and such additional lesser estates or property interests as are more fully described in each of said exhibits, save and excepting, oil, gas and sulphur, as provided by law, to wit:

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Dallas	SH 78	7	0009-02-056	26
Dallas	SH 78	8	0009-02-056	27
Dallas	SH 78	9	0009-02-056	21
Dallas	SH 78	10	0009-02-056	19
Denton	FM 2181	6	2054-02-018	148
Denton	FM 2181	3	2054-02-018	20
Denton	FM 2181	13	2054-02-018	8
Denton	FM 2181	11	2054-02-018	146

Denton	US 380	2	0134-09-059	24
Dewitt	US 183	1	0154-03-028	2
Ellis	US 287	15	0172-08-054	39E
Montgomery	FM 1774	5	1400-04-027	108
Pecos	US 285	14	0139-07-021	5X
Smith	SH 155	4	0520-02-046	1
Tarrant	SH 26	12	0363-01-123	3

CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Bell	IH 35	Z	0015-06-082	60
Bell	IH 35	C	0015-06-082	92
Bell	IH 35	DD	0015-06-082	87
Ellis	US 287	B	0172-08-054	16
Ellis	US 287	A	0172-08-054	15
Gregg	SL 281	F	1763-03-039	5
Gregg	SL 281	G	1763-03-039	9
McLennan	IH 35	BB	0014-08-082	30AC
McLennan	IH 35	R	0014-08-082	83
McLennan	IH 35	V	0014-08-082	57
McLennan	IH 35	W	0014-08-082	45
McLennan	IH 35	T	0014-08-082	21
McLennan	IH 35	AA	0014-08-082	44
McLennan	IH 35	U	0014-08-082	49
McLennan	IH 35	Y	0014-08-082	6
McLennan	IH 35	L	0014-08-082	40
McLennan	IH 35	X	0014-08-082	80
Tarrant	IH 820	Q	0008-14-093	9
Tarrant	IH 820	I	0008-14-093	5
Tarrant	IH 820	K	0008-14-093	3
Tarrant	IH 820	M	0008-14-093	181
Tarrant	IH 820	N	0008-14-093	183
Tarrant	IH 820	P	0008-14-093	6
Tarrant	IH 820	O	0008-14-093	182
Tarrant	SH 114	J	0353-03-088	11
Tarrant	SH 121	S	0364-01-119	569
Tarrant	SH 121	H	0364-01-119	587
Tarrant	SH 121	CC	0364-01-119	572
Tarrant	SH 121	D	0364-01-132	43
Tarrant	SH 121	E	0364-01-132	41

Note: Exhibits are on file with the minute order clerk.

c. Load Zones & Postings

Taylor and Lee Counties – Revise load restrictions on various bridges on the state highway system (MO)

112482
BRG

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

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

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

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

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

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

d. Right of Way Dispositions and Donations

(1) **Atascosa County** – SH 16 south of Jourdanton - Consider the quitclaim of a surplus roadside park to the county (MO)

112483
ROW

In ATASCOSA COUNTY, on STATE HIGHWAY 16, the State of Texas used certain land acquired in the county's name for roadside park purposes.

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

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

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

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

(2) **Ellis County** – US 287, west of US 77 in Waxahachie - Consider the sale of surplus drainage easements (MO)

112484
ROW

In the city of Waxahachie, ELLIS COUNTY, on US 287, the State of Texas acquired an easement interest in certain land needed for highway drainage purposes by instrument recorded in Volume 527, Page 726, Deed Records of Ellis County, Texas.

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

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

Waxahachie Crossing II, LLC, a Texas limited liability company, is the underlying fee owner and has requested that the surplus easements be sold for \$86,856.

The commission finds \$86,856 to be a fair and reasonable value for the state's rights and interest in the surplus easements.

NOW, THEREFORE, the commission finds that the surplus easements are no longer needed for a state highway purpose and recommends, subject to approval of the attorney general, that the Governor of Texas execute a proper instrument releasing the state's rights and interest in the surplus easements to Waxahachie Crossing II, LLC, a Texas limited liability company, for \$86,856.

(3) Jack County – US 281 at SH 148 in Jacksboro - Consider the sale of surplus right of way to the abutting landowners (MO)

112485
ROW

In the city of Jacksboro, JACK COUNTY, on US 281, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 92, Page 128, Deed Records of Jack County, Texas.

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

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

Gary and Kelly Oliver, husband and wife, are the abutting landowners and have requested that the surplus land be sold to them for \$4,835.

The commission finds \$4,835 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and that the value of the surplus land is less than \$10,000 and authorizes the executive director to execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Gary and Kelly Oliver, husband and wife, for \$4,835; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

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

(4) **Potter County** – I-40, old Travel Information Center east of Amarillo - Consider the sale of surplus right of way to the abutting landowners (MO)

112486
ROW

In POTTER COUNTY, on INTERSTATE 40, the State of Texas acquired certain land for highway purposes by instruments recorded in Volume 1135, Page 248, Deed Records, and Volume 1118, Page 322, Deed Records of Potter County, Texas.

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

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of surplus land to the abutting landowners. Jane F. Juett, Trustee of the William E. Juett QTIP Trust, 1/8, Jane F. Juett, 1/8, William Dana Juett, 1/4, Melissa Juett Kalka, 1/4, and James Andrew Juett, 1/4, are the abutting landowners and have requested that the surplus land be sold to them for \$60,000.

The commission finds \$60,000 to be a fair and reasonable value for the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a department 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 Jane F. Juett, Trustee of the William E. Juett QTIP Trust, 1/8, Jane F. Juett, 1/8, William Dana Juett, 1/4, Melissa Juett Kalka, 1/4, and James Andrew Juett, 1/4, for \$60,000; **SAVE AND EXCEPT**, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

e. Finance

(1) Accept the quarterly cash report (MO)

112487
FIN

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

The cash statement will be prepared for each quarter of the department's fiscal year. A quarterly cash report for the department for Fiscal Year 2010, ending August 31, 2010, attached as Exhibit A, has been prepared in accordance with Texas Transportation Code, §201.107.

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

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

(2) Accept the Quarterly Investment Report (MO)112488
FIN

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

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

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

Pursuant to this legislation, in Minute Order 108970, dated July 25, 2002, the commission approved and adopted a written investment policy and investment strategy applicable to funds of the commission held under the Indenture of Trust dated July 15, 2002 securing the outstanding bonds, notes and other obligations issued by the commission to finance a portion of the cost of the initial phase of the Central Texas Turnpike System, also known as the 2002 Project. The commission has designated the department's Chief Financial Officer, Director of Finance and Deputy Director of Finance as investment officers. The Debt Management Director is authorized to act as investment officer in the absence of the Chief Financial Officer, Director of Finance and the Deputy Director of Finance.

Pursuant to Government Code §2256.005(e) and Section 20 of the investment policy, the investment policy and investment strategies of the commission have been reviewed and revised annually by minute order since 2003, most recently amended by Minute Order 112401, dated August 26, 2010 to make it applicable to all funds under the control of the commission and not otherwise required to be invested by the Comptroller of Public Accounts (comptroller) including the Texas Mobility Fund and Central Texas Turnpike System.

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

Quarterly investment reports will be prepared for each quarter of the department's fiscal year. A quarterly investment report for the department for the period ending August

31, 2010, attached as Exhibit A, has been prepared in accordance with Government Code, §2256.023 and Section 9.0 of the investment policy.

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

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

(3) Annual report on the status of derivative transactions outstanding

Note: Report is on file with the 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)

112489
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 a 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 highway.

The department, in consultation with the Texas Commission on Environmental Quality, has also determined that the environmental speed limits on the segments of Farm to Market Road 3180 and established by Minute Order 109064, dated October 31, 2002, and listed in Exhibit D, is no longer necessary.

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

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

Note: Exhibits are on file with the minute order clerk.

13. Executive Session Pursuant to Government Code, Chapter 551

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

There was no executive session.

OPEN COMMENT PERIOD

There were no open comments.

The regular meeting adjourned at 11:01 a.m.

APPROVED:

Deirdre Delisi, Chair
Texas Transportation Commission

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I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on October 28, 2010, in Austin, Texas.

Roger Polson,
Interim Chief Minute Order Clerk
Texas Department of Transportation