

These are the corrected minutes of the regular meeting of the Texas Transportation Commission, which was held on April 26, 2012, in Austin, Texas. The meeting was called to order by Chairman Houghton. The meeting opened at 9:02 a.m. with the following commissioners present:

**Texas Transportation Commission:**

Ted Houghton	Chairman
Ned Holmes	Commissioner
Fred Underwood	Commissioner
Bill Meadows	Commissioner
Jeff Austin III	Commissioner

**Administrative Staff:**

Phil Wilson, Executive Director  
 Bob Jackson, General Counsel  
 Rose Walker, Chief Clerk  
 JoLynne Williams, Chief Minute Order Clerk

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

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 3:24 pm on April 18, 2012, as required by Chapter 551, of the Government Code, referred to as "The Open Meetings Act."

**ITEM 1. Approval of Minutes of the March 29 regular meeting of the Texas Transportation Commission**

Commissioner Underwood made a motion, which was seconded, and the commission approved the minutes of the March 29 regular meeting.

**ITEM 2. Discussion Item**

**a. I-35E Managed Lanes Project in Dallas and Denton Counties**

Update on the status of the I-35E procurement and discussion regarding the receipt of qualifications submittals from prospective proposers (Report)

This item was presented by Strategic Projects Division Director Ed Pensock.

**b. TxDOT's Task Force on Energy Sector's Impact to Roads**

This item was presented by Deputy Executive Director John A. Barton.

**c. Update on TxDOT's Modernization Project**

This item was presented by Operational Excellence Director Brian Smallwood.

**d. Strategic Project Delivery**

Discuss the allocation and use of approximately \$2 billion in state and federal funding that is potentially available to advance various transportation projects

This item was presented by Planning Director Marc Williams. The commission also received comments from Bexar County Judge Nelson Wolff, Bexar County Commissioner / MPO Chair Tommy Adkisson, San Antonio City Councilman Ray Lopez, VIA Metropolitan Transit Chairman Henry R. Muñoz, San Antonio Mobility Coalition, Inc., Chairman Louis Rowe, and Cameron County Commissioner David Garza.

**ITEM 3. Unified Transportation Program (UTP)**

**a. Approve updates to the 2012 UTP (MO)**

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Director of Planning Marc Williams.

113073  
ADM

Transportation Code, §201.991 provides that the Texas Department of Transportation (department) shall develop a Unified Transportation Program (UTP) covering a period of 10 years to guide the development of and authorize construction of transportation projects. The Texas Transportation Commission (commission) has adopted rules in Title 43, Texas Administrative Code, Chapter 16, governing the planning and development of transportation projects. The rules include guidance regarding the development of the UTP and any updates to the program, as well as public involvement requirements.

The 2012 UTP was approved by the commission on May 26, 2011, in Minute Order 112696, and revisions to the 2012 UTP were approved by the commission on September 29, 2011, in Minute Order 112824 and December 15, 2011, in Minute Order 112943. On February 9, 2012 and March 22, 2012, the department conducted public video-teleconferences across the state, and public hearings were held on March 5, 2012, and April 9, 2012, to receive comments and testimony concerning the proposed updates to the 2012 UTP.

The updates to the 2012 UTP, as shown in Exhibit A, include revised funding allocations based on funds transfer requests in multiple categories, updates to project specific program lists and tiered funding, and other minor revisions or technical corrections.

Additionally, the updates to the 2012 UTP include approximately \$2 billion in state and federal funding that the department anticipates will be available to facilitate construction on some of the state’s high priority projects with the goal of addressing needs in the areas of congestion, safety, maintenance and connectivity. The proposed funding distribution, which is also set forth in Exhibit A, allocates \$1.734 billion in Category 12 (strategic priority) to districts, metropolitan planning organizations (MPOs) and statewide based on formula considerations. In addition, \$2.43 million is

allocated statewide to Category 3 (non-traditional funded/commission discretion), \$96.27 million is allocated statewide to Category 5 (congestion mitigation and air quality improvement) and \$167.67 million is allocated to Category 7 (metropolitan mobility and rehabilitation) based upon the anticipated federal funding requirements for a portion of the \$2 billion in anticipated funds.

Continued public involvement opportunities will be provided to receive comments on projects to be selected for this funding, with final approval to be granted by the commission.

IT IS THEREFORE ORDERED by the commission that the updates to the 2012 UTP, as shown in Exhibit A, are hereby approved.

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

**b. Approve the 2013 UTP (MO)**

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Director of Planning Marc Williams.

113074  
ADM

Transportation Code, §201.991 provides that the Texas Department of Transportation (department) shall develop a Unified Transportation Program (UTP) covering a period of 10 years to guide the development of and authorize construction of transportation projects. The UTP contains all of the department’s funding categories which enhance the transportation system.

The Texas Transportation Commission (commission) has adopted rules located in Title 43, Texas Administrative Code, Chapter 16, governing the planning and development of transportation projects. These rules require the commission to adopt the UTP not later than March 31 of each even-numbered year. The rules also include guidance regarding public involvement related to the adoption of the UTP, as well as the allocation of funds through that program.

In accordance with the rules, the department conducted public video-conferences across the state on February 9, 2012, and a public hearing on March 5, 2012, to receive comments and testimony concerning the development of the 2013 UTP and funding levels by category and region.

The 2013 UTP, which is attached as Exhibit A, authorizes funding for each of the twelve funding categories established by the rules with specific projects listed for categories 2, 3, 4, 8, 10, and 12. The specific projects listed in the sections of the UTP pertaining to categories 3 (except for local contribution), 10 and 12 (except for category 12 reconciliation) have been approved by prior action of the commission and their inclusion in this UTP in no way modifies that prior approval. Projects for category 3 need not be listed if legislative action requires specific distribution of funds and any projects listed are for informational purposes only. The remaining funding levels and projects listed for aviation, public transportation, rail, and state waterways and coastal waters are authorized by separate minute orders and this UTP does not supersede those prior actions.

IT IS THEREFORE ORDERED by the commission that the 2013 UTP, as shown in Exhibit A, is hereby approved and supersedes the previously approved 2012 UTP for fiscal years 2013-2021.

IT IS FURTHER ORDERED that the executive director is hereby authorized to develop the projects listed in the UTP to the level of authority indicated for each project to include any necessary agreements, right-of-way acquisitions, utility adjustments, and relocation assistance, subject to the policies of the department and all applicable federal and state laws governing the acquisition of real property.

IT IS FURTHER ORDERED that pursuant to Transportation Code, §222.052, the commission may accept financial contributions from political subdivisions of the state for development of projects in the 2013 UTP.

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

**ITEM 4. Toll Roads**

**a. Harris County - Authorize the department to develop, finance, construct, and operate the SH 288 Toll Lanes Project from US 59 to the Harris/Brazoria county line, authorize the department to issue a request for qualifications for the development, design, construction, and, potentially, financing, maintenance, and operation of the project, and authorize the project with CONSTRUCT authority (MO)**

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Strategic Projects Division Director Ed Pensock. The Commission also received comments from Delvin Dennis of Klotz Associates.

113075  
SPD

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

Senate Bill 1420, 82nd Legislature, Regular Session, 2011, amended Chapter 223, authorizing the department to enter into a CDA for eleven projects including the SH 288 project in Brazoria and Harris counties. The department’s authority to enter into a CDA for the SH 288 project expires August 31, 2015.

The SH 288 corridor in the southern portion of Harris County and the northern portion of Brazoria County is one of the most highly congested and mobility-constrained corridors in the region. It has retained its basic configuration for through-lanes since 1984. The SH 288 facility now carries over 180,000 vehicles per day and has the highest concentration of Texas Medical Center employees.

The ultimate SH 288 Toll Lanes Project will add four tolled lanes (two lanes in each direction) within the existing median, reconstruct the interchange at I-610 and add four new tolled direct connectors at BW 8. Improvements to this corridor are critical to the region’s continued mobility and economic vitality. The goals of the project are to add capacity to an extremely congested corridor and utilize tolls as a pricing mechanism to operate and fund parts of the project.

On April 10, 2012, Harris County (County) approved a memorandum of understanding (MOU) with the department relating to the development, funding, construction, operation and maintenance of the SH 288 Toll Lanes Project. In the MOU, the County agreed to waive its primacy development rights and declined to develop a toll facility along the SH 288 corridor.

Under the MOU, TxDOT committed to construct a two-lane reversible toll facility between US 59 and a logical terminus at or near the Brazoria County line, which constitutes the first phase of the ultimate four-lane toll facility. In addition, TxDOT agreed to develop additional projects along FM 521 (Alameda) and FM 865 (Cullen), and to develop a direct connector to the Texas Medical Center area. Under the MOU, if requested by the department, the County will install and operate toll equipment, collect tolls and process violations on the tolled lanes for a mutually agreed upon fee. The two future toll lanes will be constructed when traffic and revenue warrants.

The development and completion of all or part of the SH 288 Toll Lanes Project could be expedited through the use of a public-private partnership agreement, and the employment of innovative methods for the development and financing of projects that are available with a public-private partnership agreement. Development of the SH 288 Toll Lanes Project is a crucial element to responding to traffic congestion in Harris and Brazoria Counties.

Transportation Code, §223.203 prescribes requirements for a CDA procurement and requires the department to publish a notice advertising a request for qualifications in the Texas Register that includes the criteria that will be used to evaluate any qualification submittals, the relative weight given to the criteria, and a deadline by which qualification submittals must be received.

The planned improvements will provide increased capacity through the use of new toll lanes. Increasing the capacity of the corridor will relieve congestion, reduce travel time, and improve air quality, as well as provide social and economic benefits locally, regionally, statewide, and nationwide. The SH 288 Toll Lanes Project will also provide a transportation system that will meet the travel needs of people, goods, and services safely, efficiently and economically.

IT IS THEREFORE ORDERED by the commission that the department is authorized to develop, finance, construct, and operate the SH 288 Toll Lanes Project, from US 59 to a logical terminus at or near the Brazoria County line, and the project is authorized with CONSTRUCT authority.

IT IS FURTHER ORDERED that the department is authorized to issue a request for qualifications for the development, design, construction, and, potentially, financing, maintenance, and operation of all or any portion of the SH 288 Toll Lanes Project from US 59 to a logical terminus at or near the Brazoria County line, and to publish in the Texas Register and in one or more newspapers of general circulation in this state a notice advertising the request for qualifications.

**b. Harris County - Authorize the department to develop, finance, construct, and operate toll lanes in the US 290/Hempstead corridor from I-610 to SH 99 (Grand**

Parkway), and authorize the first phase of the project to reconstruct US 290 from I-610 to SH 99 with CONSTRUCT authority(MO)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Strategic Projects Division Director Ed Pensock.

113076  
SPD

The US 290/Hempstead corridor in the northwest portion of Harris County is one of the most highly congested and mobility-constrained corridors in the region and includes multiple segments on the state's 100 most congested roadway segments. It has retained its basic configuration for through-lanes since the late 1960's and early 1970's original construction, and although adjacent development has increased, the roadway's capacity has remained unchanged.

The proposed improvements in the US 290/Hempstead corridor will replace the functionally obsolete and deteriorating infrastructure, as well as add capacity to the corridor. Improvements to this corridor are critical to the region's continued mobility and economic vitality. The goals of the project are to facilitate the replacement of existing infrastructure that has reached or exceeded its design life; add additional capacity to an extremely congested corridor; utilize pricing as a mechanism to operate and fund parts of the project; and provide an additional link in the growing toll road and managed lane network to offer transportation options for optimizing mobility.

The proposed US 290 improvements are a phased approach to constructing the ultimate planned improvements in the US 290/Hempstead corridor as identified in the approved environmental document. In the initial phase, US 290 from Interstate 610 to State Highway 99 will be reconstructed, including building a two to three-lane reversible managed lane facility to accommodate both High Occupancy Vehicle (HOV) and toll traffic, as well as adding one general purpose lane in each direction (US Highway 290 Managed Lanes Project).

On April 10, 2012, Harris County (County) approved a memorandum of understanding (MOU) with the Texas Department of Transportation (department) relating to the development, funding, construction, operation, and maintenance of improvements in the US 290/Hempstead corridor. In the MOU, the County agreed to waive its primacy development rights and declined to develop a toll facility along the US 290/Hempstead corridor.

Under the MOU, the department committed to construct the US 290 Managed Lanes Project. The County will provide \$400 million towards the development of this facility in mutually agreed upon payments. As part of this funding, the County will pay the 10 percent local match required for the purchase of right of way needed for the development of the facility. The County will install and operate toll equipment, collect tolls, and process violations on the managed lanes. The County will operate and maintain the managed lane facility, including the barriers designating the managed lanes. The department will maintain the remainder of the facility. The County will retain all toll revenues for use on projects at the County's discretion.

Under the MOU, the department, in conjunction with the Houston Galveston Area Council (HGAC), will provide the balance of the funding needed to complete the

development of the facility. As part of the development of the project, the department will rehabilitate Hempstead Road from east of Washington Avenue to west of Beltway 8 in order to provide for a safe and efficient alternative route while the US 290 facility is under construction. Should the initial improvements for US 290 and Hempstead exceed \$1.4 billion, the department and the County agreed to either reduce the proposed scope of the projects or to identify additional funding for the improvements.

The improvements will provide increased capacity through the use of congestion pricing on new managed lanes and the addition of one new general purpose lane in each direction and frontage road lanes which are critical to the region's continued mobility and economic viability. Increasing the capacity of the corridor will relieve congestion, reduce travel time, and improve air quality as well as provide social and economic benefits, locally, regionally, statewide, and nationwide. The US 290 Managed Lanes Project will also provide a transportation system that will meet the travel needs of people, goods, and services safely, efficiently and economically.

IT IS THEREFORE ORDERED by the commission that the department is authorized to develop, finance, construct, and operate toll lanes in the US 290/Hempstead corridor from Interstate 610 to State Highway 99 in Harris County, and the US 290 Managed Lanes Project is authorized with CONSTRUCT authority.

**c. Harris and Montgomery Counties - Authorize issuance of a Request for Proposals to develop, design, construct, and, potentially, maintain Segments F1, F2, and G of the SH 99 (Grand Parkway) project, from east of US 290 in Harris County to west of US 59 in Montgomery County, and approve a stipulated amount as payment for work product of unsuccessful proposers (MO)**

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Strategic Projects Division Director Ed Pensock.

113077  
SPD

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

Transportation Code, § 223.203, prescribes requirements for a solicited proposal and requires the department to publish a request for qualifications in the Texas Register that includes the criteria that will be used to evaluate any received qualifications statements, the relative weight given to the criteria, and a deadline by which qualifications statements must be received.

On March 31, 2011, by Minute Order 112629, the Texas Transportation Commission (commission) authorized and directed the department to issue a request for qualifications (RFQ) for the development of Segments F-1, F-2, and G of US 99 (Grand Parkway), from east of US 290 in Harris County to west of US 59 in Montgomery County (project). The department issued the RFQ on November 18, 2011, and subsequently determined that five of the seven teams submitting qualifications

statements in response to the RFQ were qualified to be on the short list of teams that will be requested to submit detailed proposals to develop, design, construct, and, potentially, maintain the project.

Transportation Code, § 223.203 and 43 TAC § 27.4 provide that, if authorized by the commission, the department will issue a request for proposals (RFP) from all private entities qualified for the short list. The department intends to issue an RFP for the Grand Parkway (Segment F-1, F-2, and G) project and request detailed proposals from the five short-listed teams to develop, design, construct, and, potentially, maintain the project.

Transportation Code, § 223.203(m) and 43 TAC § 27.4(f) require the department to pay an unsuccessful private entity who submits a detailed proposal that is responsive to the requirements of the RFP a stipulated amount in exchange for the work product contained in that proposal. The stipulated amount must be stated in the RFP and may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. Payment for this work product would allow the department to use the work product for the benefit of the Grand Parkway project or other department projects without further payment to the unsuccessful proposer.

IT IS THEREFORE ORDERED that the department is authorized and directed to issue an RFP to develop, design, construct, and, potentially, maintain Segments F-1, F-2, and G of US 99 (Grand Parkway), from east of US 290 in Harris County to west of US 59 in Montgomery County, and other facilities to the extent necessary for connectivity, mobility, safety, and financing.

IT IS FURTHER ORDERED that the department is authorized to pay each proposer who submits a responsive, but unsuccessful, proposal for the Grand Parkway (Segments F-1, F-2, and G) project an amount based upon the value of the work product provided in the proposal that can, as determined by the department, be used by the department in the performance of its functions, up to a maximum amount per proposer of \$1 million.

IT IS FURTHER ORDERED that payment for work product may only be paid to the extent that the work product submitted meets the minimum criteria and other conditions of payment identified by the department in the Grand Parkway procurement documents.

**d. North Texas Tollway Authority (NTTA) - Authorize the executive director to enter into an agreement with the North Texas Tollway Authority (NTTA) regarding the design, construction, and operation of improvements to I-635 over and across the Dallas North Tollway (DNT) and other NTTA property (MO)**

Commissioner Meadows made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Strategic Projects Division Director Ed Pensock.

113078  
SPD

On February 26, 2009, by Minute Order 111703, the Texas Transportation Commission (commission) authorized the Texas Department of Transportation (department) to enter into a comprehensive development agreement (CDA) for the design, construction, operation, and maintenance of the I-635 Managed Lanes Project (project). The department entered the CDA with LBJ Infrastructure Group LLC (Developer) on September 4, 2009. The project is being designed and constructed by Trinity Infrastructure, LLC (Trinity).

The project crosses the Dallas North Tollway (DNT) which is under the jurisdiction of the North Texas Tollway Authority (NTTA). NTTA intends to enter into a License and Use Agreement with the Developer and Trinity to provide a license to enter and use property in which the NTTA has a property interest (I-635/DNT Interchange Limits) for the purpose of designing, constructing, operating, and maintaining the improvements to I-635.

Trinity and Developer desire to obtain the necessary rights from the NTTA to design, construct, operate, and maintain that portion of the project crossing the I-635/DNT Interchange Limits, and the NTTA is willing to provide such rights, conditioned upon the department providing certain assurances to the NTTA relating to securing and restoring the project, the I-635/DNT Interchange Limits, and the DNT.

In the event of the termination of the License and Use Agreement between the Developer, Trinity and NTTA, including as a result of the expiration or termination of the CDA, TxDOT will need an agreement with NTTA to enter and use the property in which the NTTA has a property interest to secure and restore the project, the I-635/DNT Interchange Limits, and the DNT, and to construct, operate, and maintain the improvements to I-635 (Agreement).

IT IS THEREFORE ORDERED that the executive director of the department is hereby authorized to enter into an agreement with NTTA regarding the design, construction, operation, and maintenance of improvements to I-635 over and across the Dallas North Tollway and other property in which the NTTA has a property interest, to provide the assurances and carry out the purposes described in this order.

**ITEM 5. Aviation**

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

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

113079  
AVN

The Texas Department of Transportation (department) is authorized under the federal Airport and Airway Improvement 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, March 22, 2012, and Tuesday, April 3, 2012, public hearings were held. No comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director’s designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$10,638,976.

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

**ITEM 6. Public Transportation**

**Taylor County – Award transportation development credits to the City of Abilene to provide a match to federal funds to replace a transit fleet (MO)**

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

113080  
PTN

The Texas Transportation Commission (commission) desires to award 22,000 Transportation Development Credits (TDC) to the City of Abilene to be used as the local match for federal funding to replace existing bus trolleys.

The commission recognizes that state and federal law permits the substitution of TDC as the required non-federal match for capital projects. Title 43, Texas Administrative Code, §5.73 establishes a process by which TDC may be awarded at the discretion of the commission. The commission finds that TDC investments in transit vehicles will improve air quality by replacing older vehicles with newer models which meet current emission standards and increase the value of transportation assets by investing in the replacement of depreciated rolling stock.

The commission finds that the City of Abilene project is eligible to receive TDC and satisfies the criteria of 42 TAC §5.73 as described above.

Transportation Code, Chapter 455 assigns a broad spectrum of public transportation roles and missions to the Texas Department of Transportation (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 to the City of Abilene and enter into the necessary contract in accordance with the priorities established in this minute order.

**ITEM 7. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:**

**a. Final Adoption**

**(1) Chapter 1 Management (MO)**

**Amendments to §1.4, Public Access to Commission Meetings, and §1.5, Public Hearings (Public Meetings and Hearings)**

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by General Counsel Bob Jackson.

113081  
OGC

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §1.4 and §1.5 relating to public meetings and hearings to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted 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 §1.4 and §1.5 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 A and B are on file with minute order clerk.

**(2) Chapter 10 - Ethical Conduct by Entities Doing Business with the Department (MO) Amendments to §10.6, Conflict of Interest (General Provisions) and §10.102, Grounds for Sanctions (Required Conduct by Entities Doing Business with the Department)**

Commissioner Meadows made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by General Counsel Bob Jackson.

113082  
OGC

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §10.6, Conflict of Interest, and §10.102, Grounds for Sanctions, both relating to Ethical Conduct by Entities Doing Business with the Department to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §10.6 and §10.102 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 A - C are on file with minute order clerk.

**b. Proposed Adoption**

**(1) Chapter 9 – Contract and Grant Management (MO)**

Amendments to §9.152, General Rules for Design-Build Contracts and §9.153, Solicitation of Proposals (Design-Build Contracts) (concerning the Evaluation of Contractor Performance and Consideration of Past Performance in the Evaluation of Qualification Statements and Proposals)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Chief Planning and Project Officer Russell Zapalac.

113083  
ADM

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §9.152, General Rules for Design-Build Contracts and §9.153, Solicitation of Proposals, relating to Design-Build Contracts, 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 §9.152 and §9.153 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 are on file with minute order clerk.

**(3) Chapter 27 – Toll Projects (MO)**

Amendments to §27.3, General Rules for Private Involvement and §27.4, Solicited Proposals (Comprehensive Development Agreements) (concerning the Evaluation of Developer Performance and Consideration of Past Performance in the Evaluation of Qualification Statements and Proposals)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Chief Planning and Project Officer Russell Zapalac.

113084  
ADM

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §27.3, General Rules for Private Involvement and §27.4, Solicited Proposals, relating to Comprehensive Development Agreements, 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 §27.3 and §27.4 are proposed for adoption and are authorized for publication in the Texas Register for the purpose of receiving public comments.

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

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

**(2) Chapter 16 – Planning and Development of Transportation Projects (MO)**  
**Amendments to §16.2 and §16.4 (General Provisions), §§16.51 - 16.55 (Transportation Planning), §§16.101 - 16.105 and new §16.106 (Transportation Programs), amendments to §§16.151 - 16.154, §16.156, §16.160 (Transportation Funding), and §§16.201 - 16.204 (Project and Performance Reporting)**

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Planning Director Marc Williams.

113085  
ADM

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§16.2, 16.4, 16.51 - 16.55, 16.101 - 16.105, new §16.106, and amendments to §§16.151 - 16.154, 16.156, 16.160, and 16.201 - 16.204, all relating to planning and development of transportation projects to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §§16.2, 16.4, 16.51 - 16.55, 16.101 - 16.105, new §16.106, and amendments to §§16.151 - 16.154, 16.156, 16.160, and 16.201 - 16.204, 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 - F are on file with minute order clerk.

**(4) Chapter 27 – Toll Projects (MO)**

Amendments to §27.92, Financial Terms (Determination of Terms for Certain Toll Projects) (concerning Eligibility to Serve as a Member of a Committee Established to Determine Financial Terms for Certain Department Toll Projects)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Office of General Counsel Attorney Jack Ingram.

113086  
OGC

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §27.92, Financial Terms, relating to Toll Projects 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 §27.92 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 are on file with minute order clerk.

**(5) Chapter 28 – Oversize and Overweight Vehicles and Loads (MO)**

New §§28.1 - 28.3 (General), §§28.10-28.12 (Highway Crossings by Oversize and Overweight Vehicles and Loads), §§28.20-28.22 (Port of Brownsville Port Authority Permits), and §§28.30-28.32 (Chambers County Permits); and the Repeal of §§28.80-28.82 (Highway Crossings by Oversize and Overweight Vehicles and Loads), §§28.90-28.92 (Port of Brownsville Port Authority Permits), and §§28.100-28.102 (Chambers County Permits)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by General Counsel Bob Jackson.

113087  
OGC

The Texas Transportation Commission (commission) finds it necessary to propose the repeal of §§28.80 - 28.82, §§28.90 - 28.92, and §§28.100 - 28.102 and simultaneously propose new §§28.1 - 28.3, §§28.10 - 28.12, §§28.20 - 28.22, and

§§28.30 - 28.32, all relating to Oversize and Overweight Vehicles and Loads to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the repeal of §§28.80 - 28.82, §§28.90 - 28.92, and §§28.100 - 28.102 and new §§28.1 - 28.3, §§28.10 - 28.12, §§28.20 - 28.22, §§28.30 - 28.32, 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 - F are on file with minute order clerk.

**c. Rule Review**

New §§28.1 - 28.3 (General), §§28.10-28.12 (Highway Crossings by Oversize and Overweight Vehicles and Loads), §§28.20-28.22 (Port of Brownsville Port Authority Permits), and §§28.30-28.32 (Chambers County Permits); and the Repeal of §§28.80-28.82 (Highway Crossings by Oversize and Overweight Vehicles and Loads), §§28.90-28.92 (Port of Brownsville Port Authority Permits), and §§28.100-28.102 (Chambers County Permits)

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by General Counsel Bob Jackson.

113088  
OGC

Government Code, §2001.039 requires state agencies to readopt their rules every four years and, prior to readopting, to consider whether the reason for adopting each rule continues to exist.

During February and March 2012, the Texas Department of Transportation reviewed Title 43 Texas Administrative Code, Part 1, Chapter 5, Finance; Chapter 15, Financing and Construction of Transportation Projects; and Chapter 27, Toll Projects. The Notice of Intent to review was published in the Texas Register on February 10, 2012 (37 TexReg 723).

No comments were received regarding this rule review.

The Texas Transportation Commission (commission) finds that the reasons for adopting these rules continue to exist.

IT IS THEREFORE ORDERED by the commission that the reviewed rules, as so amended, are readopted and that the executive director provide for filing with the Office of the Secretary of State, Texas Register Division, a notice readopting these rules.

**ITEM 8 . Office of Compliance and Ethics Report**

This item was presented by the Compliance and Ethics Office Director Suzanne Mann.

**ITEM 9 . State Infrastructure Bank (SIB)**

**Delta and Lamar Counties – Sulphur River Regional Mobility Authority -Consider granting preliminary approval of an application from the Sulphur River Regional Mobility Authority to borrow, in one or more loans, an aggregate amount not to exceed \$4,500,000 from the state infrastructure bank (SIB) to pay for costs of right-of-way acquisition and utility relocation relating to the widening of SH 24 from FM 904 to FM 64 (MO)**

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

113089  
FIN

The Sulphur River Regional Mobility Authority (RMA), Delta County, Lamar County, the City of Cooper, the City of Paris, the Paris Economic Development Corporation, and the Texas Department of Transportation (department) expect to enter into an Advance Funding Agreement (AFA), pursuant to which it is expected that the department will perform the work to widen State Highway 24 from Farm to Market Road 904 to Farm to Market Road 64, including right-of-way acquisition and utility relocation (project). The local governmental entities listed herein will pay the costs of right-of-way acquisition and utility relocation for the project.

The RMA submitted an application for an aggregate of not more than \$4.5 million in financial assistance, in the form of one or more loans, from the State Infrastructure Bank (SIB) under Title 43 Texas Administrative Code, Chapter 6 (rules) to pay the costs of right-of-way acquisition and utility relocation for the project. The RMA intends to make payments due on the SIB loan/s with funds provided to the RMA by Lamar County, the City of Cooper, the City of Paris, and the Paris Economic Development Corporation. Delta County will not participate in the SIB loan/s, but is expected to contribute cash to the department pursuant to the terms of the AFA, to pay for its portion of the costs of right-of-way acquisition and utility relocation. The application satisfies all requirements of the rules, including passage by the RMA of a resolution authorizing submission of the application to the department. The intended use of the financial assistance conforms to the purposes of the SIB. The present and projected financial condition of the SIB is sufficient to cover the requested financial assistance for portions of the project costs.

Based on departmental review and analysis of the application, the Texas Transportation Commission (commission) makes the following findings: (1) the RMA has pledged repayment of the SIB loan/s with payments to be received by the RMA from the City of Cooper, the City of Paris, the Paris Economic Development Corporation, and Lamar County to assure likely repayment of the financial assistance; (2) the project is consistent with the Statewide Transportation Plan; (3) the project will improve the efficiency of the state's transportation systems; (4) the project will expand

the availability of funding for transportation projects or reduce state costs; and (5) the application shows that the project and the applicant are likely to have sufficient revenues to assure repayment of the financial assistance.

NOW, THEREFORE, IT IS DETERMINED that the application for SIB financial assistance submitted by the RMA meets the requirements of the rules, and in accordance with those rules and applicable law, the commission grants preliminary approval of the application to borrow, in one or more loans, an aggregate not to exceed \$4,500,000 from the State Infrastructure Bank to finance the costs of right-of-way acquisition and utility relocation for the project, and directs the executive director to commence negotiations and other actions authorized and required by the rules.

**ITEM 10. Finance**

**Texas Mobility Fund Bonds - Approve the Tenth Supplemental Resolution authorizing the issuance of one or more series of General Obligation Mobility Fund Bonds; approve the official statement, bond purchase contract, and other documents relating to the financing and authorize the chief financial officer and other designated department representatives to take all actions necessary to deliver one or more series of General Obligation Mobility Fund Bonds; and approve application to the Texas Bond Review Board for approval to issue such bonds (MO)**

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

113090  
FIN

The Master resolution, together with the "Tenth Supplemental Resolution to the Master Resolution Establishing the Texas Transportation Commission Mobility Fund Revenue Financing Program" (tenth supplement) attached hereto, prescribes the terms, provisions and covenants related to the issuance of additional bonds in one or more series entitled "Texas Transportation Commission State of Texas General Obligation Mobility Fund Bonds" (bonds) with such name and series designation as set forth in the tenth supplement, so long as the aggregate principal amount of one or more series of the bonds does not exceed \$600 million.

Under the tenth supplement, the department representative, as defined in the tenth supplement, is authorized to determine the method of sale for each series of bonds as well as the price and other terms of each series of the bonds as prescribed in each award certificate including whether to continue the issuance of any refunding bonds authorized pursuant to the ninth supplement together with any new money bonds authorized herein and the tenth supplement.

Under the tenth supplement, the department representative is authorized to price all or a portion of the bonds as variable rate bonds and may need to utilize liquidity provider(s), tender agents, remarketing agents and other entities performing similar functions in connection with any such variable rate bonds.

The commission understands that the underwriters intend to distribute a preliminary official statement (POS) and final official statement (official statement) in substantially the form previously approved by the commission in connection with the

March 1, 2012, remarketing of a portion of the outstanding parity debt with such changes as approved by the department representative, on behalf of the commission, in connection with the public offering and sale of the bonds, which POS and official statement will include a description of the general obligation pledge of the state's full faith and credit in the event the revenue and money dedicated to and on deposit in the fund are insufficient for payments due on the bonds and any related credit agreements.

Government Code, §1231.041 provides that a state agency may not issue a state security, including a bond, unless the issuance is approved by the Texas Bond Review Board (board) or exempted under law, including by board rule, from review by the board.

Pursuant to Minute Order 112801 dated August 25, 2011, the commission approved a revised Derivative Management Policy which policy established a Derivative Committee to review and make recommendations regarding the commission's use of derivative financial products. The commission is authorized to enter into credit agreements related to the bonds with some or all of the existing swap providers previously approved by the commission and any qualified swap providers as determined by the department representative, on behalf of the commission, in compliance with the Derivative Management Policy when, in the judgment of the department representative, on behalf of the commission, and in accordance with the commission's Derivative Management Policy, Government Code, Chapter 1371 and the tenth supplement, the transaction is expected to benefit the commission, the state and the fund.

IT IS THEREFORE ORDERED by the commission that the chairman and executive director are authorized and directed to execute and deliver each series of the bonds and such other documents and certificates to carry out the intent of this order and the department representative, on behalf of the commission, is authorized and directed to execute and deliver the tenth supplement, each bond purchase contract, if applicable, paying agent/registrars agreement, any remarketing agreement, liquidity agreement, tender agent agreement and similar agreements necessary for any series of the bonds (collectively, program documents), in the form approved by the department representative or in substantially the form previously approved by the commission in connection with the outstanding parity debt, as applicable, with such changes as the department representative, on behalf of the commission, executing the same may approve, such approval to be conclusively evidenced by execution of the program documents.

IT IS FURTHER ORDERED by the commission that any necessary ancillary documents in connection with the issuance of a series of the bonds and the program documents are hereby approved, and the department representative, on behalf of the commission, is authorized and directed to execute and deliver such documents.

IT IS FURTHER ORDERED by the commission that the department representative, on behalf of the commission, is hereby authorized to enter into any appropriate confirmation for any interest rate swap transaction relating to outstanding parity debt and bonds with any or all of the existing swap providers with such changes (including any amendments to the agreements with existing swap providers) as the department representative, on behalf of the commission, executing the same may

approve, such approval to be conclusively evidenced by execution of the amendments with existing swap providers in accordance with the derivative management policy and the tenth supplement.

IT IS FURTHER ORDERED by the commission that the POS and the official statement are approved for distribution with such changes as the department representative, on behalf of the commission, executing the same may approve, such approval to be conclusively evidenced by execution of the POS and the official statement by the department representative, and the department representative, on behalf of the commission, is authorized to deem the POS and official statement final for purposes of Rule 15c2-12 of the Securities and Exchange Commission (rule) with such omissions as permitted by the rule.

IT IS FURTHER ORDERED by the commission that the department representative, on behalf of the commission, is authorized and directed to file with the board an application for approval or exemption, as applicable, and necessary in connection with the issuance of each series of bonds.

IT IS FURTHER ORDERED by the commission that a pledge of the full faith and credit of the state be utilized in connection with each series of the bonds and the payment obligations of the commission under the Swap Agreements.

IT IS FURTHER ORDERED by the commission that each member of the commission, each department representative, the executive director and general counsel are authorized and directed to perform all such acts and execute such documents and notices, including execution of certifications to the underwriters or purchasers, the Attorney General, the Comptroller of Public Accounts, the board and other parties, as may be necessary to carry out the intent of this order and other orders of the commission relating to the mobility fund revenue financing program and the program documents.

**ITEM 11. Contracts - Award or reject contracts for maintenance, highway and building construction**

**a. Highway Maintenance and Department Building Construction (MO)**

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Construction Division Director John Obr.

113091  
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 April 3 and 4, 2012.

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

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

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

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

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

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

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

**b. Highway and Transportation Enhancement Building Construction (MO)**

Commissioner Austin made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Construction Division Director John Obr. The commission also received comments from Denali Construction Services Chief Financial Officer James Carpenter and from Michael Venson of Wortham Insurance and Risk Management.

113092  
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 April 3 and 4, 2012, as well as Amarillo District, Armstrong County, Job Number 3029, Project Number STP 2011(261)TE, deferred from the March 29, 2012, Commission meeting.

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: Exhibits A and Attachment 1 are on file with minute order clerk.

**c. Award Contract to Second Lowest Bidder**

**Fannin County – Project RMC 6237-15-001 – Award of one way traffic control to second lowest bidder (MO)**

Commissioner Holmes made a motion, which was seconded and the commission approved the following minute order by a vote of 5 – 0. This item was presented by Construction Division Director John Obr.

113093  
CST

Project RMC 6237-15-001 (One way traffic control - flagging only) was let on February 16, 2012, in the Paris District. East Pointe Holdings, Inc., was the low bidder, but has failed to execute the contract. The second lowest bidder, Chitwood, Inc., has indicated in writing that they are willing to perform the work at the unit bid prices set forth in the lowest bid.

Section 223.0041 of the Transportation Code allows the Texas Transportation Commission (commission) under certain conditions, to award a maintenance contract of less than \$300,000 to the second lowest bidder when the lowest bidder does not execute a contract.

Title 43, Texas Administrative Code §9.17(d) allows the commission to accept the withdrawal of the lowest bid and award the contract to the second lowest bidder on the recommendation of the executive director when the executive director determines that the second lowest bidder is willing to perform the work at the unit bid prices of the

lowest bidder, the unit prices of the lowest bidder are reasonable, and delaying award of the contract may result in significantly higher unit bid prices.

The memorandum attached as Exhibit A to this minute order and incorporated in this order by reference contains the executive director’s recommendation and written determination, required by

43 TAC §9.17(d), that the contract is eligible for award to the second lowest bidder in accordance with the law and the rules.

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

IT IS THEREFORE ORDERED by the commission that East Pointe Holdings, Inc., be allowed to withdraw its bid for the contract Project RMC 6237-15-001.

IT IS FURTHER ORDERED that the contract for Project RMC 6237-15-001 be awarded to Chitwood, Inc., in the low bid amount of \$39,000.

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

**ITEM 12. Eminent Domain Proceedings**

**Various Counties - Authorize the filing of condemnation proceedings to acquire real property by eminent domain for non-controlled and controlled access highways (see attached list) (MO)**

Commissioner Austin made a motion that the Texas Transportation Commission authorize the Texas Department of Transportation to use the power of eminent domain to acquire the properties described in the minute order set forth in the agenda for the current month for construction, reconstruction, maintenance, widening, straightening, or extending the highway facilities listed in the minute order as a part of the state highway system, and that the first record vote applies to all units of property to be condemned. The motion was seconded and the following minute order was approved by Commissioner Houghton, Commissioner Holmes, Commissioner Underwood, Commissioner Meadows, and Commissioner Austin (a vote of 5 – 0). This item was presented by Right of Way Division Director John Campbell.

113094  
ROW

To facilitate the safety and movement of traffic and to preserve the financial investment of the public in its highways, the Texas Transportation Commission (commission) finds that public necessity requires the laying out, opening, constructing, reconstructing, maintaining, widening, straightening, extending, and operating of the highway facilities listed below as a part of the State Highway System (highway system).

As provided for by Transportation Code, Chapter 203, Subchapter D, including Sections 203.051, 203.052, and 203.054, the commission finds and determines that each of the parcels of land listed below, and more particularly described in the attached Exhibits (parcels), are necessary or convenient as a part of the highway system to be constructed, reconstructed, maintained, widened, straightened, or extended (constructed or improved) and it is necessary to acquire fee simple title in the parcels or such lesser property interests as set forth in the attached Exhibits.

The commission finds and determines that the highway facilities to be constructed or improved on the parcels identified and listed below under "CONTROLLED ACCESS" are designated as a Controlled-Access Highway in accordance with Transportation Code, Section 203.031; and where there is adjoining real property remaining after acquisition of a parcel, the roads are to be constructed or improved as a part of the highway facility with the right of ingress and egress to or from the remaining real property adjoining the highway facility to be permitted or denied, as designated and set forth on each of the attached Exhibits A - O. Where there is adjoining real property remaining after acquisition of a parcel with respect to the highway facilities to be constructed or improved on the parcels identified as listed below under "NON-CONTROLLED ACCESS," roads are to be constructed or improved as a part of the highway facility with the right of ingress and egress to or from the remaining real property adjoining the highway facility to be permitted or denied, as designated and set forth on each of the attached Exhibits 1 - 6, in accordance with Transportation Code, Sections 203.002 and 203.003.

The commission finds and determines that condemnation of the parcels is required.

IT IS THEREFORE ORDERED that the initiation of condemnation proceedings for the parcels is adopted and authorized by a single order for the parcels, and this first vote by the commission applies to all of the parcels.

IT IS FURTHER ORDERED that the executive director is hereby authorized to proceed to condemnation on the parcels and directed to transmit or cause to be transmitted this request of the commission to the Office of the Attorney General to file or cause to be filed against all owners, lienholders, and any owners of any other interests in the parcels, proceedings in condemnation to acquire in the name of and on behalf of the state, fee simple title to each parcel or such lesser estates or property interests as are more fully described in each of the attached Exhibits, save and excepting oil, gas, and sulfur, as provided by law, as follows:

NON CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Collin	FM 455	3	0816-04-046	32
Collin	FM 455	4	0816-04-046	34
Denton	FM 423	2	1567-02-030	95
Jefferson	FM 365	1	0932-01-099	53
Nueces	SH 358	6	0617-01-172	20
Upshur	SH 155	5	0520-02-048	11B

CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Angelina	US 59	F	0176-02-112	47
Bell	IH 35	N	0015-07-078	3AC
Bell	IH 35	L	0015-14-124	14
Denton	IH 35E	K	0196-02-115	290,290AC
Denton	IH 35E	D	0196-02-115	272

(CONTINUED) CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Denton	IH 35E	C	0196-02-115	167
Denton	IH 35E	B	0196-02-115	213AC
Denton	IH 35E	A	0196-02-115	214
Denton	IH 35E	E	0196-02-115	173,173E
Harris	IH 10	M	0271-07-260	800
McLennan	IH 35	O	0015-02-058	55
Shelby	SL 500	G	3315-01-017	23
Shelby	SL 500	H	3315-01-017	28,28AC
Shelby	SL 500	I	3315-01-017	24
Shelby	SL 500	J	3315-01-017	25

Note: Exhibits A-O and 1-6 are on file with minute order clerk.

**ITEM 13. Routine Minute Orders**

Commissioner Holmes made a motion, which was seconded, and the commission approved the following minute orders by a vote of 5 – 0. This item was presented by Executive Director Phil Wilson.

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

**(1) Atascosa County - SH 97, 1.9 miles southwest of Pleasanton - Consider the quitclaim of surplus right of way to honor a reversionary clause and determination that the service fee is unjust or unwarranted (MO)**

113095  
GSD

In ATASCOSA COUNTY, on STATE HIGHWAY 97, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 131, Page 479, of the Deed Records of Atascosa County, Texas.

The instrument conveying the land to the state contained a clause to the effect that should the land be permanently abandoned for use as a roadside park, the property reverts to the grantor.

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

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the quitclaim of the state’s interest to comply with a reversionary clause contained in the instrument that originally conveyed the interest to the state.

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

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

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and that the service fee is unjust or unwarranted and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument quitclaiming all of the state's rights, title and interest in the surplus land to Mason L. Matthews and Damon G. Tassos, their heirs and assigns and that the service fee be waived; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

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

(2) Ellis County - US 287 at BU 287 in Midlothian - Consider the quitclaim of surplus right of way to the City of Midlothian (MO)

113096  
ROW

In the city of Midlothian, ELLIS COUNTY, on US 287, the state of Texas used certain land for highway purposes, there being no record title in the state's or city's name.

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

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend, if there is no record title to the property, the quitclaim of any interest that might have accrued to the state by use of the property to the county or municipality where the property is located.

The city has requested that the surplus land be quitclaimed to the city.

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 city.

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

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

(3) Harris County – I-610 at Kelly Street in Houston - Consider the sale of a surplus drainage easement to the owner of the fee in the property (MO)

113097  
ROW

In the city of Houston, HARRIS COUNTY, on INTERSTATE 610, the State of Texas acquired an easement interest in certain land needed for highway drainage purposes by instrument recorded in Volume 1749, Page 471, Deed Records of Harris County, Texas.

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

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

Harris County Hospital District is the fee owner and has requested that the surplus easement be sold for \$124,374.

The commission finds \$124,374 to be a fair and reasonable value for the state's rights and interest in the surplus easement.

NOW, THEREFORE, the commission finds that the surplus easement is no longer needed for a state highway purpose and recommends, subject to approval of the attorney general, that the governor of Texas execute a proper instrument releasing the state's rights and interest in the surplus easement to Harris County Hospital District for \$124,374.

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

(4) Lubbock County - FM 1585 and FM 1730 in Lubbock - Consider the exchange of right of way

113098  
ROW

In the city of Lubbock, LUBBOCK COUNTY, on FARM TO MARKET ROAD 1585, the State of Texas acquired an easement interest in certain land for highway purposes by instrument recorded in Volume 878, Page 470, Deed Records of Lubbock County, Texas.

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

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

Slide & 1585, LLC, a Texas limited liability company, is the owner of land on FARM TO MARKET ROAD 1730 needed by the state for highway purposes (new land), described in Exhibit B. The owner has conveyed the new land to the state and has requested that the surplus easement be released to the owner. The state will pay the owner the \$17,193 cash difference in value between the surplus easement and the new land.

It is the opinion of the commission that it is proper and correct that the state release the surplus easement to the owner in exchange and as partial consideration for the conveyance of the new land to the state and the state's cash payment to the owner of \$17,193.

NOW, THEREFORE, 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 the state's rights and interest in the surplus easement to Slide & 1585, LLC, a Texas limited liability company, in exchange and as partial consideration for the conveyance of the new land to the state and the state's cash payment of \$17,193 to the owner.

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

(5) Rusk County - US 259 at US 79 in Henderson - Consider the sale of surplus right of way to the abutting landowner

113099  
ROW

In the city of Henderson, RUSK COUNTY, on US 259, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 938, Page 410, Deed Records of Rusk County, Texas.

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

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.

Citizens National Bank is the abutting landowner and has requested that the surplus land be sold to the bank for \$33,324.

The commission finds \$33,324 to be a fair and reasonable value of the state's rights, title and interest in the surplus land.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Citizens National Bank for \$33,324; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

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

**b. Highway Designation**

**Various Counties - Authorize the submission of applications to the American Association of State Highway and Transportation Officials (AASHTO) to establish segments of I-69 (MO)**

113100  
TPP

In accordance with Appendix B to 23 CFR Part 470, Subpart A, and the policies of the Federal Highway Administration and the American Association of State Highway and Transportation Officials (AASHTO), state departments of transportation must coordinate changes to the interstate system with AASHTO by submitting an application for recognition of new interstate route segments to the Special Committee on US Route Numbering.

The Texas Department of Transportation (department) proposes to designate several segments of highways in Texas as INTERSTATE HIGHWAY 69 (I-69) in the next two years.

This minute order authorizes the department to petition the AASHTO Special Committee on US Route Numbering to recognize those designated segments as I-69 that comply with federal regulations and are of sufficient length to provide substantial service to the traveling public.

IT IS THEREFORE ORDERED by the commission that the department is authorized to submit applications to the AASHTO Special Committee on US Route Numbering requesting the recognition of I-69 along various existing routes through Texas as those route segments become eligible for inclusion on the interstate system.

IT IS UNDERSTOOD that following approval of the applications by the AASHTO Special Committee on US Route Numbering, the commission will designate such route segments as I-69 by minute order.

**c. Finance**

**(1) Obligation Limit Report - Quarterly status report on the FY 2012 Obligation Limit, the actual obligations utilized through the current month, proposed remaining highway maintenance and construction contract letting for the fiscal year and an update on motor fuel tax receipts**

**(2) Quarterly report on FY 2012 State Highway Fund 6 cash status**

**(3) Accept the Quarterly Investment Report (MO)**

113101  
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.

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

Pursuant to Government Code §2256.005(e) and Section 20 of the investment policy, the investment policy and investment strategies of the commission have been reviewed and revised annually by minute order since 2003, most recently by Minute Order 112799 dated August 25, 2011.

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

Section 9.0 of the investment policy requires the investment officer to prepare and submit to each member of the commission and the executive director of the department an investment report on no less than a quarterly basis. The report must be prepared in accordance with the requirements of that section, including containing sufficient information to provide for a comprehensive review of investment activity and current investment instruments and performance for the reporting period. A quarterly investment report for the department for the period ending February 29, 2012, attached as Exhibit A, has been prepared in accordance with Government Code, §2256.023 and Section 9.0 of the investment policy.

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

**d. Transportation Planning**

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

113102  
TPP

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) and the surplus revenue of a toll project or system.

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 the 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 the 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 region in which any part of the SH 121 toll project is located. Money must be allocated to projects authorized by Transportation Code, §228.0055 or §228.006, as applicable. 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, 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 been assigned 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 through a process which considers the desires of the cities and counties in which the project is located. The RTC has developed a plan for regional sharing of surplus toll revenue and CDA concession payments, based on the location of the toll project from which these revenues are derived, and the residential location of toll users in the region served by the NCTCOG.

In Minute Order 112015, dated October 29, 2009, the commission clarified that commission concurrence in projects selected by the RTC to be financed with surplus toll revenue and CDA concession payments is limited to ensuring the funds are allocated to projects authorized by Transportation Code, §228.0055 or §228.006. The minute order requires the department to disburse such funds in accordance with directions from the RTC to pay the costs of qualified projects.

The department has established a work program to account for and track projects and project costs in the NCTCOG Metropolitan Planning Area (MPA) boundary funded with the SH 121 payments. The commission concurred with certain projects identified by the RTC to be funded with those payments and approved the inclusion of those projects in the work program by the following: Minute Order 111215, dated January 31, 2008; Minute Order 111439, dated July 31, 2008; Minute Order 111528, dated September 25, 2008; Minute Order 111553, dated October 30, 2008; Minute Order 111822, dated May 28, 2009; Minute Order 111854, dated June 25, 2009; Minute Order 111928, dated August 27, 2009; Minute Order 112047, dated November 19, 2009; Minute Order 112121, dated January 28, 2010; Minute Order 112273, dated May 27, 2010; Minute Order 112568, dated January 27, 2011; Minute Order 112603, dated February 24, 2011; Minute Order 112758, dated July 28, 2011; Minute Order 112844, dated September 29, 2011; and Minute Order 112976, dated January 26, 2012. The RTC, through an extensive public involvement process, has identified additional project costs in the NCTCOG MPA boundary to be funded with the SH 121 payments.

IT IS THEREFORE ORDERED by the commission that, pursuant to the MOU and Minute Order 112015, 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.

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

(2) Various Counties – Concurrence with the Regional Transportation Council of the North Central Texas Council of Governments' funding of construction and other project development costs of projects to be advanced through the use of payments received from the North Texas Tollway Authority for the right to develop, finance, design, construct, operate and maintain the SH 161 toll project from I-20 to SH 183 in Dallas County (MO)

113103  
 TPP

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) and the surplus revenue of a toll project or system.

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 the 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 the 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 161 toll project from I-20 to SH 183 in Dallas County (SH 161 payments).

Pursuant to Transportation Code, §228.012, the SH 161 payments may be used to pay the costs of a transportation project, highway project, or air-quality project within a region in which any part of the SH 161 toll project is located. Money must be allocated to projects authorized by Transportation Code, §228.0055 or §228.006, as applicable. 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, use of surplus toll revenue, and CDA concession payments in the region served by the NCTCOG. The SH 161 toll project is located in the region served by the NCTCOG.

Responsibility for allocating the SH 161 payments has been assigned 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 through a process which considers the desires of the cities and counties in which the project is located. The RTC has developed a plan for regional sharing of surplus toll revenue and CDA concession payments, based on the location of the toll project from which these revenues are derived and the residential location of toll users in the region served by the NCTCOG.

In Minute Order 112015, dated October 29, 2009 the commission clarified that commission concurrence in projects selected by the RTC to be financed with surplus toll revenue and CDA concession payments is limited to ensuring the funds are allocated to projects authorized by Transportation Code, §228.0055 or §228.006. The minute order requires the department to disburse such funds in accordance with directions from the RTC to pay the costs of qualified projects.

The department has established a work program to account for and track projects and project costs in the NCTCOG Metropolitan Planning Area (MPA) boundary funded with the SH 161 payments. The commission concurred with certain projects identified by the RTC to be funded with those payments, and approved the inclusion of those projects in the work program by the following: Minute Order 112759, dated July 28, 2011; Minute Order 112845, dated September 29, 2011; and Minute Order 112977, dated January 26, 2012. The RTC, through an extensive public involvement process, has identified additional project costs in the NCTCOG MPA boundary to be funded with the SH 161 payments.

IT IS THEREFORE ORDERED by the commission that, pursuant to the MOU and Minute Order 112015, it concurs with the projects as shown in Exhibit A that have been selected by the RTC to be funded with the SH 161 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 161 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.

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

**e. Release of Access Rights**

**Bastrop County – SH 71, east of SH 304 in Bastrop - Consider the designation of a location on the highway at which access will be permitted to the abutting property**

113104  
DES

In BASTROP COUNTY, on STATE HIGHWAY 71, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 1544, Page 779, Bastrop County Deed Records, with

denial of access to the abutting remainder properties as described in the instrument.

MC Bastrop 71, LP, the current owner of the abutting property Tract 10AC, has requested access to and from the eastbound frontage road of SH 71 be permitted along their north property line at a new access point described in Exhibit A.

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

Transportation Code, §203.002, authorizes the commission to lay out, construct, maintain and operate a modern state highway system with an emphasis on the construction of controlled-access highways.

Transportation Code, §203.031, authorizes the commission to designate locations on a controlled-access highway at which access to or from the highway is permitted and determine the type and extent of access permitted at each location.

NOW, THEREFORE, the commission finds that the new access point will not compromise the mobility, safety or operation of the existing state highway facility, and designates the new access point as a location where ingress and egress are permitted to and from the eastbound frontage road of SH 71.

IT IS FURTHER ORDERED by the commission that the executive director or his designee is hereby authorized to execute any necessary documents containing terms consistent with the provisions of this order.

Note: Exhibit A is 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**

113105  
TRF

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

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

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

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

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

It has also been determined that the speed limits on various segments of the state highway system, previously established by the commission by minute order and listed

in Exhibit C, are no longer necessary or have been incorporated by the city which has the authority to set the speed limits on these sections of the highway.

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

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

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

**ITEM 14. Executive Session Pursuant to Government Code, Chapter 551**  
**Section 551.071 – Consultation with and advice from legal counsel regarding any item on this agenda**

The commission did not meet in executive session.

The commission received comments from Hidalgo County PMP Chairman Dennis Burleson who spoke during the Open Comment Period although his remarks addressed Item 2d, Strategic Project Delivery.

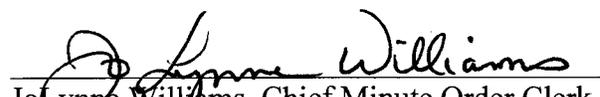
The regular meeting of the Texas Transportation Commission was adjourned at 12:05 p.m.

APPROVED:

  
\_\_\_\_\_  
Ted Houghton, Chairman  
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 April 26, 2012, in Austin, Texas.

  
\_\_\_\_\_  
JoLynne Williams, Chief Minute Order Clerk  
Texas Department of Transportation