

These are the minutes of the regular meeting of the Texas Transportation Commission, which was held on April 29, 2010 in Beaumont, Texas. The meeting was called to order by Commissioner Houghton as chair. The meeting opened at 9:03 a.m. with the following commissioners present:

Texas Transportation Commission:

Ted Houghton	Commissioner, Interim Chair
Fred Underwood	Commissioner
Bill Meadows	Commissioner

Administrative Staff:

Amadeo Saenz, Executive Director
 Steve Simmons, Deputy Executive Director
 Angie Parker, Office of General Counsel
 Roger Polson, Executive Assistant to the Deputy Executive Director

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

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 3:33 p.m. on April 20, 2010, as required by Chapter 551, of the Government Code, referred to as “The Open Meetings Act.”

Receive comments from public officials, community and civic leaders, and private citizens. Report by the Beaumont District.

The commission received comments from Representative Mike Hamilton; District Engineer Randy Redmond; City of Beaumont Mayor Becky Ames; City of Port Arthur Mayor Deloris “Bobbie” Prince; Chambers County Judge Jimmy Sylvia; Tyler County Judge Jacques Blanchette; and Orange County Judge Carl Thibodeaux.

ITEM 1. Approval of Minutes of the April 29, 2010 regular meeting of the Texas Transportation Commission

Commissioner Underwood made a motion, which was seconded, and the commission approved the minutes of the April 29, 2010 regular meeting of the Texas Transportation Commission by a 3-0 vote.

ITEM 2. HURRICANE EVACUATION PREPAREDNESS PRESENTATION

Discussion on the development of hurricane evacuation preparedness plans

This report was presented by Assistant Executive Director for District and Field Operations David Casteel. The commission also received comments from Bryan District Engineer Catherine Hejl; Conroe District Highway Patrol Captain Pat Mulligan; Bryan District Highway Patrol Captain Dwight Mathis; San Antonio District Maintenance Manager Larry Selane; and Texas High Speed Rail Transportation Corridor Chair Robert Eckels.

ITEM 3. AVIATION

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

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. The item was presented by Aviation Division Director for Flight Services Jay Joseph:

112223
AVN

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

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

On Thursday, March 18, 2010, a public hearing was held. No comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$3,676,063.

Note: Exhibit A on file with minute order clerk.

ITEM 4. 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 §1.1, Texas Transportation Commission, §1.2, Texas Department of Transportation (Organization and Responsibilities); and Amendments to §1.21, Scope

and Purpose, §1.22, Definitions, and §1.26, Initiation of Contested Cases, Service of Notice of Hearing, Standard of Review, and Burden of Proof (Procedures in Contested Cases)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Office of General Counsel Attorney Angie Parker:

112224
OGC

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §1.1, Texas Transportation Commission, §1.2, Texas Department of Transportation, §1.21, Scope and Purpose, §1.22, Definitions, and §1.26, Initiation of Contested Cases, Service of Notice of Hearing, Standard of Review, and Burden of Proof, relating to management 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 §1.1, §1.2, §1.21, §1.22, and §1.26 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 through C on file with minute order clerk.

(2) Chapter 3 – Public Information (MO)

Amendments to §3.11, Definitions, §3.12, Public Access, §3.13, Cost of Copies of Official Records, and §3.14, Electronic Access to Department Records (Access to Official Records); and Amendments to §3.24, Notice to Consumers and Service Recipients (Complaint Resolution)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Office of General Counsel Attorney Angie Parker.

112225
OGC

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §§3.11, Definitions, §3.12, Public Access, §3.13, Cost of Copies of Official Records, the repeal of §3.14, Electronic Access to Department Records, and amendments to §3.24, Notice to Consumers and Service Recipients, all relating to public information to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments and repeal, attached to this minute order as Exhibits A - 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 §3.11, §3.12, and §3.13, the repeal of §3.14, and amendments to §3.24 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 through C on file with minute order clerk.

(4) Chapter 8 – Motor Vehicle Distribution; Chapter 17 – Vehicle Titles and Registration; Chapter 18 – Motor Carriers (MO)

Repeal of Chapter 8, Motor Vehicle Distribution; Repeal of Chapter 17, Vehicle Titles and Registration; and Repeal of Chapter 18, Motor Carriers

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Office of General Counsel Attorney Angie Parker.

112226
OGC

The Texas Transportation Commission (commission) finds it necessary to adopt the repeal of Chapter 8, Motor Vehicle Distribution, Chapter 17, Vehicle Titles and Registration, and Chapter 18, Motor Carriers.

The preambles and the adopted repeals, 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 Chapter 8, Motor Vehicle Distribution, Chapter 17, Vehicle Titles and Registration, and Chapter 18, Motor Carriers 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 through F on file with minute order clerk.

(3) Chapter 5 – Finance (MO)**Amendments to §5.42, Definitions, §5.43, Methods of Payment, and §5.44, Exceptions (Payment of Fees for Department Goods and Services)**

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Chief Financial Officer James Bass:

112227
FIN

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §5.42, Definitions, §5.43, Methods of Payment, and §5.44, Exceptions, all relating to payment of fees for department goods and services 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 §5.42, §5.43, and §5.44 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 on file with minute order clerk.

(5) Chapter 25 – Traffic Operations (MO)**Amendments to §25.23, Speed Zone Studies (Procedures for Establishing Speed Zones)**

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Traffic Operations Division Director Carol Rawson.

112228
TRF

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §25.23 relating to speed zone studies 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 §25.23 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 on file with minute order clerk.

b. Proposed Adoption

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

Chapter 15 – Transportation Planning and Programming (MO)

Amendments to §15.55, Construction Cost Participation (Federal, State, and Local Participation)

Commissioner Meadows made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Assistant Executive Director for Engineering Operations John Barton:

112229
TPP

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §15.55 relating to construction cost participation 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 §15.55 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

c. Withdrawal

Chapter 5 – Finance

Withdraw previously proposed amendments to §5.58, Calculation of Pass-Through Fares and Tolls, and §5.59, Project Development by Public or Private Entity, and new §5.61, Solicitation of Private Proposals (Pass-Through Fares and Tolls)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3– 0. This item was presented by Assistant Executive Director for Engineering Operations John Barton.

112230
FIN

On December 17, 2009, by Minute Order 112070, the Texas Transportation Commission (commission) proposed amendments to §5.58, Calculation of Pass-Through Fares and Tolls and §5.59, Project Development by Public or Private Entity, and new §5.61, Solicitation of Private Proposals. The commission now finds it necessary to withdraw the previously proposed amendments to §5.58 and §5.59, and new §5.61, all relating to Pass-Through Fares and Tolls, to be codified under Title 43, Texas Administrative Code, Part 1.

The amendments and new section were proposed to facilitate the timely financing and development of critical highway improvement projects that could not otherwise be developed on a timely basis because the Texas Department of Transportation (department) has insufficient highway funds. Public comments on the proposed rules were submitted by members of the Texas Legislature and local governments that objected to the provisions in the proposed rules allowing the department to reimburse the financing costs of private entities and to pay a reasonable return on any private investment. Some of the comments expressed concerns with increasing future obligations of highway fund revenues.

The Speaker of the House of Representatives recently announced the formation of the House Select Committee on Transportation Funding to highlight the need for increased transparency and accountability in Texas transportation and to analyze current and future transportation funding requirements. The House Select Committee on Transportation Funding will develop transportation proposals for the next legislative session. The committee's analysis will include a study of ways to increase accountability in transportation planning and a review of the effectiveness and efficiency of current funding options. The proposed rules should be withdrawn to allow the department to coordinate any potential rule amendments with the House Select Committee on Transportation Funding, as well as the House Committee on Transportation and the Senate Committee on Transportation & Homeland Security, prior to any action on those amendments by the commission.

IT IS THEREFORE ORDERED by the commission that the amendments to §5.58 and §5.59, and new §5.61, previously proposed by Minute Order 112070, dated December 17, 2009, are withdrawn and 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.

ITEM 5. STRATEGIC PLAN

Approve the draft text of the Texas Department of Transportation 2011-2015 Strategic Plan (MO)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was - presented by Strategic Policy and Performance Office Director Mary Meyland.

112231
SPP

Texas Government Code, Chapter 2056, requires that each state agency prepare a five-year strategic plan every biennium.

The Texas Department of Transportation (department) has developed draft text for the primary components of the 2011-2015 TxDOT Strategic Plan (Exhibit A), including the proposed vision, mission, values, goals, objectives, performance measures, and strategies for the department for the 2011-2015 planning horizon. The draft plan also provides important information about the planning context, including a summary of the 2030 Committee's needs assessment, the TRENDS forecast of available state and federal revenues, and key factors that will shape the department's activities over the next five years.

This draft plan represents the collective work of the Texas Transportation Commission (commission), the department, select external stakeholders, and the public to focus the department's efforts over the next five years in fulfilling its mission. The commission conducted two workshops in August and September of 2009 to provide input to the draft strategic plan statements. The department held a series of five internal regional strategic planning workshops, facilitated regional public focus groups, and conducted a public online poll on the department's strategic direction.

The department also presented the draft mission, vision, values, and goals statements to the public through a series of local meetings and open houses across the state. The department collected public input via online and hard-copy surveys and incorporated those comments, as appropriate, in the draft strategic plan document.

The department assembled an internal strategic planning working group to develop draft objectives and strategies for the strategic plan. The department identified key performance measures for each goal area, which are focused on producing desired outcomes for each objective in the plan. At a recent meeting, the commission reviewed and discussed using these draft components as the foundation for the draft 2011-2015 TxDOT Strategic Plan.

IT IS THEREFORE ORDERED by the commission that the document as shown in Exhibit A is adopted as the draft 2011-2015 TxDOT Strategic Plan; and the commission directs the executive director or his designee to proceed with the collection of public comments on the document and appropriate incorporation of public comments in the final draft strategic plan.

IT IS FURTHER ORDERED that the commission directs the executive director or his designee to present that final draft to the commission for adoption at a later date.

Note: Exhibit A on file with minute order clerk.

ITEM 6. AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)
Discussion of the status of ARRA project delivery; approve changes to the list of mobility, preventive maintenance and rehabilitation projects previously approved for funding from Texas' portion of the ARRA

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Assistant Executive Director for Engineering Operations John Barton.

112232
AEO

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act (ARRA). The ARRA created an economic stimulus package that provides \$64.1 billion nationwide for infrastructure projects, including \$27.5 billion for highway and bridge construction, and \$1.5 billion for surface transportation grants to be administered by the Secretary of Transportation. Texas' share of the funding for highway and bridge construction is approximately \$2.25 billion.

The Texas Department of Transportation (department) collaborated with the Texas Division of the Federal Highway Administration (FHWA), MPOs, tolling authorities and transit providers to develop a unified approach to identify and prioritize projects that potentially qualify for funding.

In Minute Order 111734, dated March 5, 2009, the Texas Transportation Commission (commission) approved the funding, under the provisions of the ARRA, of approximately \$1.2 billion in mobility projects. In Minute Orders 111777, dated April 30, 2009, 111808, dated May 28, 2009, 112044, dated November 19, 2009, 112073, dated December 17, 2009, and 112115, dated January 28, 2010, the commission made revisions to the previously approved list of mobility projects. In Minute Order 111910, dated August 27, 2009, the commission approved a list of additional mobility projects to be funded to the extent funds become available as a result of letting underruns. In Minute Order 111969, dated September 24, 2009, the commission approved a list of substitute mobility projects to be funded in the event that any previously approved mobility projects were unable to meet ARRA deadlines.

In Minute Order 111734, dated March 5, 2009, the commission approved the funding, under the provisions of the ARRA, of approximately \$500 million in preventive maintenance and rehabilitation projects. In Minute Orders 111777 and 111808, dated April 30, 2009 and May 28, 2009 respectively, the commission made revisions to the previously approved list of preventive maintenance and rehabilitation projects.

In Minute Order 111848, dated June 25, 2009, the commission approved a list of additional preventive maintenance and rehabilitation projects to be funded as a result of letting underruns. In Minute Order 111879, dated July 30, 2009, technical revisions were made to the list of additional preventive maintenance and rehabilitation projects. In Minute Orders 112012 and 112115, dated October 29, 2009 and January 28, 2010, respectively, the commission approved funding for additional preventive maintenance and rehabilitation projects due to continued letting underruns.

A revised list of mobility projects has been developed and is set forth in Exhibit A. Additional mobility projects have been added due to continued letting underruns. No previously approved mobility projects are affected by the selection of these additional projects.

A revised list of additional preventive maintenance and rehabilitation projects is shown in Exhibit B. Due to a clerical error, one preventive maintenance and rehabilitation project shown in Minute Order 112012 (CSJ 0042-06-064, Donley County) was let using traditional funding. To correct this error, another project will be substituted and funded using ARRA funding (CSJ 0043-01-062, Childress County). The project deleted from Minute Order 112012 is shown in Exhibit C. No other previously approved preventive maintenance and rehabilitation projects are affected by the selection of this additional project.

All projects are subject to federal and state laws, including the provisions of the ARRA. No matching funds are required for mobility or preventive maintenance and rehabilitation projects.

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

IT IS FURTHER ORDERED that Exhibit A in Minute Order 112115 is rescinded and replaced with Exhibit A to this minute order.

IT IS FURTHER ORDERED that Exhibit A in Minute Order 112012 is rescinded and replaced with Exhibit B to this minute order.

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

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

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

ITEM 7. PASS-THROUGH TOLL PROGRAM

Authorize the executive director or designee to add a provision that limits the liability of each party in the event of a cost overrun or underrun into all pass-through toll agreements to be negotiated with those public entities whose proposals under the February 26, 2009 pass-through toll program call were selected by the commission on October 29, 2009 and December 17, 2009 (MO)

This item was deferred.

ITEM 8. TRANSPORTATION PLANNING

Cameron County – Consider granting approval of Cameron County's application for the proposed Veterans International Bridge at Los Tomates Expansion Project (MO)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Deputy Executive Director for Engineering Operations John Barton.

112233
TPP

Transportation Code, §201.612 provides that a political subdivision or private entity authorized to construct or finance the construction of a bridge over the Rio Grande must obtain approval from the Texas Transportation Commission (commission) and from the United States for the construction of the bridge, and requires the political subdivision or private entity to submit to the commission a report that details the feasibility, location, economic effect, and environmental impact of the bridge and any other information the commission by rule may require.

Pursuant to this statute, the commission has adopted rules prescribing information required to be contained in an application for approval of a proposed project to construct a bridge over the Rio Grande, actions that must be taken by the Texas Department of Transportation (department) in processing an application, and criteria and information that may be considered by the commission in determining whether to approve an application, codified as Title 43, Texas Administrative Code, §§15.70-15.76 (international bridge rules).

The department received an application from Cameron County (county) on January 25, 2010, to construct an expansion of the Veterans International Bridge at Los Tomates. The department reviewed the application, considered it to meet the requirements of 43 TAC §15.74, and accordingly held a public hearing on March 17, 2010, to receive public comment on the project. The department further submitted the application to the entities required under the international bridge rules, requesting review and comments. The commission considered all comments on the application.

Section 15.76(a) of the international bridge rules provides that the commission, in analyzing an application, may consider the advice of the staff of the department and consultants that the commission may choose regarding the sufficiency of the information, the probable accuracy of projections, the anticipated financial condition of the application and the project, the impact of the project on the economy and free trade, and any other information the commission determines appropriate.

Section 15.76(e) of the international bridge rules provides that approval or disapproval of a project shall be by written order of the commission, and shall include the rationale, findings, and conclusions on which approval or disapproval is based. The commission has considered the criteria contained in 43 TAC §15.76 and has also considered the county's application and supporting documentation as well as commitments from the Mexican authorities. The commission finds that approval of the bridge application is in the interest of the public and the state transportation system for the reasons contained in this order.

IT IS THEREFORE ORDERED by the commission that the Veterans International Bridge at Los Tomates Expansion Project application is approved. The following is the rationale, and the findings and conclusions on which this approval is based.

- The Veterans International Bridge at Los Tomates Expansion Project is contained in the Metropolitan Transportation Plan, indicating there is a need for the expansion.

- Accordingly, sufficient information exists to indicate that the project is consistent with the regional transportation plan developed by the metropolitan planning organization having jurisdiction over the project.
- Based on the county's application, including the preliminary study required by 43 TAC §15.73, sufficient information exists to indicate that the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate for adverse environmental impacts, and that the future transportation infrastructure, at the time of the bridge operations, on both sides of the border will be of sufficient capacity to support the new structure.
- The county complied with the public involvement requirements of the international bridge rules by publishing a notice stating that the county intended to submit an application to the commission. The notice included instructions to competing bridge applicants to submit information pertaining to a competing project to the county no later than 60 days after the date of the notice. No competing bridge applicants submitted information. The county also provided a copy of the notice to local officials.

ITEM 9. RAIL PROJECTS

a. Dallas County – Authorize funds from the High-Speed Intercity Passenger Rail Program for the development and construction of the Valley View Double Track Project (MO)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Railroad Division Director Bill Glavin.

112234
RRD

On August 24, 2009, the Texas Department of Transportation (department) submitted nine applications for high speed rail funding under the Federal Railroad Administration High-Speed Intercity Passenger Rail (HSIPR) grant program (program).

On January 28, 2010, President Obama, Vice President Biden and Secretary of Transportation LaHood announced the successful applicants for the program. One department project was selected for funding under Track 4 of the program. Track 4 is funded through federal FY 08 and FY 09 appropriations.

The project selected is on the Trinity Railway Express (TRE) line from Milepost 629.50 to Milepost 630.9 for a double-tracking project and the construction of a new rail bridge. The amount awarded was \$7,189,643 but is subject to adjustment as agreements are finalized.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the executive director's designee, is hereby authorized to enter into any necessary agreements to proceed in the most feasible and economical manner

b. Denton, Tarrant and Cooke Counties – Authorize funds from the High-Speed Intercity Passenger Rail Program for the development and construction of the BNSF Signal Timing Project (MO)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Railroad Division Director Bill Glavin.

112235
RRD

On August 24, 2009, the Texas Department of Transportation submitted nine applications for high speed rail funding under the Federal Railroad Administration High-Speed Intercity Passenger Rail (HSIPR) grant program (program).

On January 28, 2010, President Obama, Vice President Biden and Secretary of Transportation LaHood announced the successful applicants for the program. One project was selected for funding under Track 1a of the program. Track 1a is funded through the American Recovery and Reinvestment Act.

The project selected is on the BNSF Railway Fort Worth Subdivision from Milepost 346.9 to Milepost 410.5. The project will improve crossing-signal timing to allow speeds along the Heartland Flyer Amtrak route to increase to 79 mph. The amount awarded is \$3,754,180 but is subject to adjustment as agreements are finalized.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the executive director's designee, is hereby authorized to enter into any necessary agreements to proceed in the most feasible and economic manner to complete the development and construction of the improvements on the BNSF Railway Fort Worth Subdivision.

c. Approve candidate rail projects for submission to the Federal Railroad Administration (FRA) for funding under the High-Speed Intercity Passenger Rail Program (HSIPR) (MO)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Railroad Division Director Bill Glavin.

112236
RRD

The High-Speed Intercity Passenger Rail Program (HSIPR) was created as a result of the Passenger Rail Investment and Improvement Act passed by Congress in October 2008. On April 1, 2010, the Federal Railroad Administration (FRA) issued notices of funding availability through the HSIPR program. The total amount available is \$115 million. One solicitation is for \$65 million funded with the remaining balance of the Department of Transportation Appropriations Act of FY 2009 (FY 2009 Appropriations Act) and is for construction-ready projects. The second solicitation is for corridor planning activities and will award up to \$50 million from the Department of Transportation Appropriations Act of FY 2010 (FY 2010 Appropriations Act).

Department staff has begun coordinating with the FRA, metropolitan planning organizations, transit providers and other rail planning entities to develop a comprehensive Texas Rail Plan and a unified approach to identifying projects eligible for funding.

Research completed for the department has identified priority passenger corridors. The potential project application list as shown in Exhibit A was developed from the results of the research. These applications will be for the planning funds available from the FY 2010 Appropriations Act. These projects would require a 20 percent non-federal match.

Department staff consulted with our rail partners for projects to submit for the remaining balance on the FY 2009 Appropriations Act, however, there are no construction-ready projects that would meet the requirements of the Capital Assistance to States-Intercity Passenger Rail Program.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the transportation projects set forth in the Exhibit A are approved for submittal for grant funding under the provisions of the HSIPR grant program.

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

Note: Exhibit A on file with minute order clerk.

ITEM 10. UNIFIED TRANSPORTATION PROGRAM

a. Approve the 2010 Unified Transportation Program (MO)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Chief Financial Officer James Bass.

112237
FIN

The High-Speed Intercity Passenger Rail Program (HSIPR) was created as a result of the Passenger Rail Investment and Improvement Act passed by Congress in October 2008. On April 1, 2010, the Federal Railroad Administration (FRA) issued notices of funding availability through the HSIPR program. The total amount available is \$115 million. One solicitation is for \$65 million funded with the remaining balance of the Department of Transportation Appropriations Act of FY 2009 (FY 2009 Appropriations Act) and is for construction-ready projects. The second solicitation is for corridor planning activities and will award up to \$50 million from the Department of Transportation Appropriations Act of FY 2010 (FY 2010 Appropriations Act).

Department staff has begun coordinating with the FRA, metropolitan planning organizations, transit providers and other rail planning entities to develop a comprehensive Texas Rail Plan and a unified approach to identifying projects eligible for funding.

Research completed for the department has identified priority passenger corridors. The potential project application list as shown in Exhibit A was developed from the results of the research. These applications will be for the planning funds available from the FY 2010 Appropriations Act. These projects would require a 20 percent non-federal match.

Department staff consulted with our rail partners for projects to submit for the remaining balance on the FY 2009 Appropriations Act, however, there are no construction-ready projects that would meet the requirements of the Capital Assistance to States-Intercity Passenger Rail Program.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the transportation projects set forth in the Exhibit A are approved for submittal for grant funding under the provisions of the HSIPR grant program.

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

Note: Exhibit A on file with minute order clerk.

b. Orange County – Amend the 2007 Statewide Preservation Program to authorize CONSTRUCT authority for a utility bore shaft construction project at the I-10 Neches River bridge in Category 6, Structures Replacement and Rehabilitation program (MO)

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3 – 0. This item was presented by Chief Financial Officer James Bass.

112238
FIN

In ORANGE COUNTY, it is necessary to authorize CONSTRUCT authority for a utility bore-shaft construction project at the I-10 Neches River Bridge in Category 6, Structures Replacement and Rehabilitation, of the 2007 Statewide Preservation Program (SPP). Acceleration of the utility bore shaft construction project is necessary to support the I-10 Neches River Bridge letting date and construction schedule.

Currently, there are 11 telecommunication facilities that must be adjusted to facilitate the construction of the proposed I-10 Neches River Bridge and the demolition of the existing bridge. Handling the relocation of all affected utilities in a single bore shaft will save a significant amount of time and money due to the fairly expansive coordination required to adjust this number of utilities. There are significant benefits to not having the utilities as appendages to the completed bridge structure and there is a potential to generate additional revenue by leasing added capacity to other telecommunication companies.

To provide the citizens and business community with a safe and efficient transportation system, it is necessary to advance this utility bore-shaft construction project to CONSTRUCT authority.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director is hereby authorized to enter into any necessary agreements and to proceed in the most feasible and economical manner to advance the utility bore-shaft construction project at the I-10 Neches River Bridge at a total estimated construction cost of \$3.377 million, to CONSTRUCT authority in Category 6, Structures Replacement and Rehabilitation, of the 2007 SPP. The project will be funded with Texas Mobility Funds through the Beaumont District's right-of-way budget.

ITEM 11. LEGISLATIVE APPROPRIATIONS REQUEST REPORT

Update and discussion regarding the development of the Texas Department of Transportation's Fiscal Year 2012-2013 Legislative Appropriations Request (LAR).

This item was presented by Chief Financial Officer James Bass.

ITEM 12. OBLIGATION LIMIT REPORT

Status report on the FY 2010 Obligation Limit, the actual obligations utilized through the current month, proposed remaining highway maintenance and construction contract letting for the fiscal year and update on motor fuel tax receipts.

This item was presented by Chief Financial Officer James Bass.

ITEM 13. CONTRACTS

a. Award or Reject Highway Improvement Contracts

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

Commissioner Underwood made a motion, which was seconded and the commission approved the following minute order by a vote of 3-0. This item was recommended by staff and presented by Assistant Executive Director for Engineering Operations John Barton:

112239
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 6 and 7, 2010.

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

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

Commissioner Meadows made a motion, which was seconded and the commission approved the following minute order by a vote of 3- 0. This item was recommended by staff and presented by Construction Division Director Russel Lenz:

112240
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 6 and 7, 2010.

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

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

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

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

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

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

Note: Exhibit A on file with minute order clerk.

ITEM 14. ROUTINE MINUTE ORDERS

Commissioner Meadows made a motion, which was seconded and the commission approved the following minute orders by a vote of 3 – 0 with the exception of 14.g.(1) in El Paso County which was deferred This item was presented by Executive Director Amadeo Saenz:

a. Designation of Access Control

Angelina County – Authorize the redesignation of access control along the US 59 northbound frontage road in the city of Lufkin in order to move the sole access point on the frontage road for the property owned by Lufkin SC Apartments, LLC from its existing location to a new location (MO)

112241
DES

In the city of Lufkin, in ANGELINA COUNTY, on US-59, a designated controlled-access highway, access onto the northbound frontage road was permitted to the abutting property owner as described by metes and bounds pursuant to the terms of a Judgment from Lufkin SC Apartments, LLC to the State of Texas, dated August 18, 2006 and recorded as Document No. 2006-218695 in the Official Public Records of Angelina County, Texas.

Lufkin SC Apartments, LLC, the current owner of the abutting property, has requested a redesignation of the control of access along their property line. The original access point, as described in Exhibit A and attached hereto (original access point), will become controlled whereby access is denied. Access will be permitted at the new access point as described in Exhibit B (new access point).

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 is necessary for the mobility, safety and operation of the state highway facility and authorizes redesignation of permitted access along 30.00 linear feet of the US-59 northbound frontage road from its original access point to the location described in Exhibit B.

IT IS FURTHER ORDERED by the commission that the executive director or his designee is hereby authorized to enter into any necessary agreements with Lufkin SC Apartments, LLC containing terms consistent with the provisions of this order.

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

b. Donations to the Department

(1) Brownwood District – Consider a donation from Vulcan Construction Materials to provide engineering design work and infrastructure improvement for two railroad crossings and two underpasses on I-20 just west of the Eastland CR 441 exit (MO)

112242
GSD

This minute order considers a donation to the Texas Department of Transportation (department) from Vulcan Construction Materials, LP of approximately \$94,189 to fund the engineering design work and infrastructure improvement for two railroad crossings and two underpasses on I-20 just west of the Eastland County Road 441 exit.

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

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

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

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

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

The commission also finds that the donation provides a significant public benefit by allowing the earlier installation of these facilities. The commission has determined that the donation is strictly a donation for engineering design work and infrastructure improvements to be rendered by the department in order to establish safe rail crossings and underpasses of I-20 and will not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation of approximately \$94,189 from Vulcan Construction Materials, LP is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(2) General Services Division – Acknowledge a donation from the National Cooperative Highway Research Program for one department staff member's travel expenses to attend a meeting for Research Project F13-03 that was held in Washington, D.C. on April 5-7, 2010 (MO)

112243
GSD

This minute order acknowledges a donation of approximately \$1,161.84 from the National Cooperative Highway Research Program for one Texas Department of Transportation (department) staff member's travel expenses to attend a planned meeting for Research Project F13-03 held in Washington, D.C. on April 5-7, 2010.

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

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

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

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

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

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

IT IS THEREFORE ORDERED by the commission that the donation of approximately \$1,161.84 from the National Cooperative Highway Research Program is acknowledged. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

(3) Texas Turnpike Authority Division – Acknowledge a donation from the Design Build Institute of America (DBIA) for one staff member's travel expenses to attend the DBIA Annual Transportation Conference being held in Grapevine, Texas on April 20 – 23, 2010 (MO)

112244
GSD

This minute order acknowledges a donation of approximately \$552.36 from the Design Build Institute of America (DBIA) for one Texas Department of Transportation (department) staff member's travel expenses to attend the DBIA Annual Transportation Conference being held in Grapevine, Texas on April 20 – 23, 2010.

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

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

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

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

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

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

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

IT IS THEREFORE ORDERED by the commission that the donation of approximately \$552.36 from the Design Build Institute of America is acknowledged. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acknowledgement of the donation.

c. Eminent Domain Proceedings

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

112245
ROW

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

The commission has found and determined that each of the following listed parcels of land, same being more particularly described in the exhibits attached hereto, and such additional lesser estates or property interests described thereon, are necessary or convenient for use for such purposes and it is necessary to acquire fee simple title to said

land, as provided by Texas Transportation Code, Subchapter D, Chapter 203, Sections 203.051, 203.052, and 203.054, as a part of the highway system to be constructed, reconstructed, maintained and operated thereon.

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

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

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

NON-CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Bell	SH 317	12	0398-04-064	35
Bell	SH 317	4	0398-04-064	4
Bell	SH 317	22	0398-04-064	8

(CONTINUED) NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Bell	SH 317	8	0398-04-064	28
Bell	SH 317	20	0398-04-064	31, 31E
Bell	SH 317	21	0398-04-064	9
Comal	US 281	2	0253-03-065	25
Dallas	SS 366	6	0196-07-023	13
Denton	FM 2181	15	2054-02-018	93
Denton	FM 2181	17	2054-02-018	89
Denton	FM 407	14	1785-01-031	12B(TE)
Denton	FM 407	11	1785-01-031	12C(TE)
Denton	FM 407	10	1785-01-031	12A(TE)
Denton	FM 407	13	1785-01-031	11B(TE)
Denton	FM 407	9	1785-01-031	11C(TE)
Denton	FM 407	1	1785-01-031	11A(TE)
Denton	FM 423	16	1567-02-030	60
Denton	SH 114	7	0353-02-067	26E
Denton	US 380	3	0134-09-057	1
Harris	SH 99	25	3510-06-006	2AAQ
Harris	US 59	23	0027-13-142	335E
Montgomery	FM 1774	19	1400-04-026	200
Montgomery	FM 1774	18	1400-04-027	131
Montgomery	FM 1774	24	1400-04-027	112
Tarrant	SH 26	5	0363-01-123	124

CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Bell	IH 35	I	0015-06-082	5
Bell	IH 35	F	0015-06-082	43
Bell	IH 35	R	0015-06-082	15
Bell	IH 35	S	0015-06-082	31, 31AC
Bell	IH 35	U	0015-06-082	47
Bell	IH 35	K	0015-06-082	9
Bell	IH 35	G	0015-06-082	22
Bell	IH 35	L	0015-06-082	28
Bell	IH 35	Q	0015-06-082	13
Bell	IH 35	M	0015-06-082	33AC
Bell	IH 35	J	0015-06-082	17
Denton	SH 114	D	0353-02-066	20
Denton	SH 114	C	0353-02-066	12
El Paso	IH 10	T	2121-04-078	3

(CONTINUED) CONTROLLED ACCESS

COUNTY	HIGHWAY	EXHIBIT	ROW CSJ NO.	PARCEL
Lamar	US 82	A	0045-09-089	12
Lamar	US 82	H	0045-09-089	13
McLennan	IH 35	N	0014-09-096	10B
McLennan	IH 35	O	0014-09-096	35
McLennan	IH 35	P	0014-09-096	17
Rockwall	IH 30	E	0009-12-076	3, 3TE
Tarrant	SH 121	B	0364-01-134	66

d. Finance

(1) Accept the quarterly cash report (MO)

112246
FIN

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

The cash statement will be prepared for each quarter of the department’s fiscal year. A quarterly cash report for the department for the second quarter of Fiscal Year 2010, ending February 28, 2010, attached as Exhibit A, has been prepared in accordance with Texas Transportation Code, §201.107.

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

Note: Exhibit A on file with minute order clerk.

(2) Accept the Quarterly Investment Report (MO)

112247
FIN

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

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

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

Pursuant to this legislation, in Minute Order 108970, dated July 25, 2002, the commission approved and adopted a written investment policy and written investment strategy applicable to funds of the commission held under the Indenture of Trust dated July 15, 2002 securing the outstanding bonds, notes or 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 investment policy and investment strategy have been amended pursuant to Minute Order 109066, dated October 31, 2002, Minute Order 109339, dated July 31, 2003, Minute Order 109462, dated October 30, 2003, Minute Order 109732, dated July 29, 2004, Minute Order 109963, dated February 24, 2005, Minute Order 110087, dated May 26, 2005, Minute Order 110145, dated July 28, 2005, Minute Order 110617, dated July 27, 2006, Minute Order 111003, dated July 26, 2007, Minute Order 111490, dated August 28, 2008, and Minute Order 111931, dated August 27, 2009. The commission has designated the department's Chief Financial Officer, Director of Finance and Deputy Director of Finance as investment officers. The Debt Management Director is authorized to act as investment officer in the absence of the Chief Financial Officer, Director of Finance and the Deputy Director of Finance.

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

Quarterly investment reports will be prepared for each quarter of the department's fiscal year. A quarterly investment report for the 2002 Project for the period ending February 28, 2010, attached as Exhibit A, has been prepared in accordance with Government Code, §2256.023 and Section 9.0 of the investment policy.

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

Note: Exhibit A on file with minute order clerk.

e. Highway Designations

(1) Bell County – Designate US 190 along new location around Heidenheimer and redesignate old location as BU 190-J (MO)

112248
TPP

In BELL COUNTY, local officials have requested that a segment of US 190 be designated along a new location from northwest of Heidenheimer to southeast of Heidenheimer, a distance of approximately 2.4 miles, and the old location of US 190 through Heidenheimer be redesignated as BU 190-J. The new location roadway begins approximately 1.1 miles south of the intersection of FM 3117 and US 190 and returns to US 190 approximately one mile south of the intersection of FM 436 and the current location of US 190, as shown in Exhibit A.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that US 190 be designated on the state highway system on new location around Heidenheimer and that the old location be redesignated as BU 190-J.

The Texas Transportation Commission (commission) finds that the designation of US 190 on a new location and redesignation of the existing location of US 190 as BU 190 will facilitate the flow of traffic, promote public safety, and maintain continuity of the state highway system and is necessary for the proper development and operation of the system.

IT IS THEREFORE ORDERED by the commission that US 190 be designated along a new location around Heidenheimer, a distance of approximately 2.4 miles, and that the old location of US 190 through Heidenheimer be redesignated as BU 190-J.

Note: Exhibit A on file with minute order clerk.

(2) Cameron County – Designate the proposed East Loop Project as SH 32 along a new location and portions of existing FM 1419, and redesignate portions of FM 1419 as FM 3550 and FM 3551 (MO)

112249
TPP

In CAMERON COUNTY, local officials have requested the designation of the proposed East Loop Project as STATE HIGHWAY 32 along a new location and portions of FM 1419, a distance of approximately 9.8 miles. To maintain the continuity of the state highway system, local officials further requested that a segment of FM 1419 from FM 3068 to approximately 0.4 mile north of Dockberry Road, a distance of approximately 4.4 miles, be redesignated as FM 3550 and a segment of FM 1419 from 0.8 mile south of SH 4 to SH 4 be redesignated as FM 3551.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended designating the proposed East Loop Project as SH 32 along a new location and over portions of existing FM 1419, designating a segment of FM 1419 as FM 3550, and redesignating a segment of FM 1419 as FM 3551.

The Texas Transportation Commission (commission) finds that the designation of SH 32, FM 3550 and FM 3551 will facilitate the flow of traffic, promote public safety, and maintain continuity of the state highway system and is necessary for the proper development and operation of the system.

IT IS THEREFORE ORDERED by the commission that:

1. SH 32 be designated along a portion of East Avenue from US 77/83 to 0.6 mile east of US77/83, a distance of approximately 0.6 miles.
2. SH 32 be designated along a new location from 0.6 mile east of US 77/83 to FM 1419, a distance of approximately 2.7 miles.
3. An existing segment of FM 1419 from 1.9 miles west of FM 3068 to FM 3068 be redesignated as SH 32, a distance of approximately 1.9 miles.
4. SH 32 be designated along a new location from FM 3068 to FM 1419 approximately 2.6 miles north of Dockberry Road, a distance of approximately 2.6 miles.
5. An existing segment of FM 1419 from FM 3068 to approximately 0.4 mile north of Dockberry Road be redesignated FM 3550, a distance of approximately 4.4 miles.
6. A segment of existing FM 1419 from approximately 0.4 mile north of Dockberry Road to approximately 0.7 miles south of SH 4 be redesignated as SH 32, a distance of approximately 1.0 mile.
7. SH 32 be designated along new location from 0.7 mile south of SH 4 to SH 4, a distance of approximately 0.8 mile.
8. A segment of FM 1419 from 0.7 mile south of SH 4 to SH 4 be redesignated as FM 3551, a distance of approximately 0.7 mile.

IT IS FURTHER ORDERED that in the event construction of the East Loop Project (SH 32) does not begin within 36 months of the date of this order, the order shall become null and void.

IT IS FURTHER ORDERED that if the project is developed by an entity other than the Texas Department of Transportation (department), the maintenance, control, and jurisdiction of the project will remain with the developing entity until the highway is opened to traffic as approved by the department.

(3) Hidalgo County – Designate SH 365 along a new location from FM 1016 to FM 3072 (MO)

112250
TPP

In HIDALGO COUNTY, local officials have requested the designation of the proposed Trade Corridor Connector Project as STATE HIGHWAY 365 along a new location from FM 1016, 1.7 miles south of US 83, eastward to FM 3072, 0.9 mile west of FM 2557, a distance of approximately 12.73 miles. The new route will enhance mobility in the area by providing a new east-west corridor.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director recommends designating the proposed Trade Corridor Connector Project as SH 365 along a new location from FM 1016, 1.7 miles south of US 83, eastward to FM 3072, 0.9 mile west of FM 2557.

The Texas Transportation Commission (commission) finds that the designation of SH 365 will facilitate the flow of traffic, promote public safety, and maintain continuity of the state highway system and is necessary for the proper development and operation of the system.

IT IS THEREFORE ORDERED by the commission that SH 365 be designated along a new location from FM 1016, 1.7 miles south of US 83, eastward to FM 3072, 0.9 mile west of FM 2557, a distance of approximately 12.73 miles. In the event construction of the Trade Corridor Connector Project (SH 365) does not begin within 36 months of the date of this order, the order shall become null and void.

IT IS FURTHER ORDERED that if the project is developed by an entity other than the Texas Department of Transportation (department), the maintenance, control, and jurisdiction of the project will remain with the developing entity until the highway is opened to traffic as approved by the department.

(4) Kerr County – Redesignate SS 98 as SL 98 and extend it along a new location to FM 1338 (MO)

112251
TPP

In KERR COUNTY, local officials have requested to redesignate STATE SPUR 98 (Thompson Road) as STATE LOOP 98 and extend it along a new location to FM 1338 (Goat Creek Road) in the city of Kerrville and Kerr County, a distance of approximately 1.145 miles, as shown in Exhibit A.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended redesignating State Spur 98 as State Loop 98 and extending it along a new location to FM 1338.

The Texas Transportation Commission (commission) finds that the redesignation will facilitate the flow of traffic, promote public safety, and maintain continuity of the state highway system and is necessary for the proper development and operation of the system.

IT IS THEREFORE ORDERED by the commission that State Spur 98 be redesignated as State Loop 98 and extended along a new location to FM 1338, a distance of approximately 1.145 miles.

Note: Exhibit A on file with minute order clerk.

f. Load Zones & Postings

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

112252
BRG

The Texas Transportation Commission (commission) under provision of V.T.C.A., Transportation Code, §621.102, may set the maximum gross weight of a vehicle and its load, maximum gross weight of a combination of vehicles and loads,

maximum axle load, or maximum wheel load that may be moved over a state highway or a farm or ranch road if the commission finds that heavier maximum weight would rapidly deteriorate or destroy the road or a bridge along the road.

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

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

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

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

Note: Exhibit A on file with minute order clerk.

g. Right of Way Dispositions and Donations

(1) El Paso County – FM 1109 from the intersection of Island Guadalupe Road with Lower Island Road to the Rio Grande southeast of El Paso – Consider the amendment of MO 110125, passed June 30, 2005, to provide for the removal of a segment of highway from the system and for the transfer of control, jurisdiction and maintenance and transfer and quitclaim of surplus right of way to the county (MO)

This item was deferred.

(2) Harrison County – US 59 at Five Notch Road in Marshall – Consider the exchange of right of way (MO)

112253
ROW

In the city of Marshall, HARRISON COUNTY, on US 59, the State of Texas acquired certain land for state highway purposes by instruments recorded in Volume 238, Page 43, and Volume 238, Page 22, Deed Records of Harrison County, Texas.

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

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

Marshall Independent School District (MISD), owner of land needed by the state for a highway purpose (new land), described in Exhibit B, has requested that the surplus

land be conveyed to MISD in exchange for the new land pursuant to an executed exchange agreement.

It is the opinion of the commission that it is proper and correct that the state convey the surplus land to MISD in exchange and as consideration for the conveyance of the new land to the state.

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

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

(3) Panola and Rusk Counties – FM 3231 from FM 1251 south to US 79 – Consider the removal of a segment of highway from the state highway system and transfer of control, jurisdiction and maintenance to the counties, removal of a concurrent designation and the transfer and quitclaim of surplus right of way to the counties (MO)

112254
ROW

In the city of Marshall, HARRISON COUNTY, on US 59, the State of Texas acquired certain land for state highway purposes by instruments recorded in Volume 238, Page 43, and Volume 238, Page 22, Deed Records of Harrison County, Texas.

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

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

Marshall Independent School District (MISD), owner of land needed by the state for a highway purpose (new land), described in Exhibit B, has requested that the surplus land be conveyed to MISD in exchange for the new land pursuant to an executed exchange agreement.

It is the opinion of the commission that it is proper and correct that the state convey the surplus land to MISD in exchange and as consideration for the conveyance of the new land to the state.

NOW, THEREFORE, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to Marshall Independent School District

in exchange and as consideration for the conveyance of the new land to the state; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles and interest, if any, in and to all of the oil, gas, sulphur and other minerals, of every kind and character, in, on, under and that may be produced from the surplus land.

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

h. Speed Zones

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

112255
TRF

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

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

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

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

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

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

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

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

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

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

The commission received comments from Fulton Mack.

15. Executive Session Pursuant to Government Code, Chapter 551, **Section 551**

a. 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 regular meeting of the Texas Transportation Commission adjourned at 11:35 a.m.

APPROVED:

Ted Houghton, Commissioner, Interim Chair
Texas Transportation Commission

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I hereby certify that the above and foregoing pages constitute the full, true and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on April 29, 2010, in Beaumont, Texas.

Dee Hernandez, Chief Minute Clerk
Texas Department of Transportation