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November 17, 2010 1:15 p.m.

## AGENDA

### TEXAS TRANSPORTATION COMMISSION

125 E. 11<sup>th</sup> Street  
Austin, Texas 78701-2483

WEDNESDAY

December 15, 2010

1:30 P.M. CONVENE MEETING

#### DISCUSSION ITEMS

1. Report on the review of recommendations contained in several documents, including the Grant Thornton management and organizational review  
*The commission-appointed Restructure Council will report on continuing efforts to review recommendations contained in the Grant Thornton review and other documents.*
2. Implementation of the 2008 Sunset Commission staff recommendations.  
*Update the commission on the department's work to implement recommendations by the Sunset Advisory Commission that do not require changes in state statute.*
3. Report on the 2010 Updated Texas Transportation Funding Challenge - Findings and Analysis (The Alonzo Report)  
*At the request of State Representative Roberto Alonzo, a member of the House Select Committee on Transportation Funding, TxDOT commissioned a 2010 update of the 2009 Texas Transportation Funding Challenge analysis of potential sources of transportation revenue. Dye Management, Inc will brief the commission on its latest assessment. Dye Management's work is a standalone report with neither editorial comment nor endorsement by the Texas Department of Transportation.*
4. Discussion of the public involvement study prepared by Texas Southern University's (TSU) Center for Transportation Training and Research  
*This discussion relates to the Public Involvement Study prepared by TSU in response to the Sunset Advisory Commission's 2008 review of TxDOT. The sunset review noted TxDOT should review and update its public involvement policy. The TSU research team will brief the commission regarding their analysis of TxDOT's public involvement processes and the draft public involvement policy developed in response to this analysis. At the direction of the commission, the draft public involvement policy may be presented for adoption at a later date.*

5. **Report on the results of a vehicle mileage fee system study**  
*Staff will present a briefing on the Texas Transportation Institute Vehicle Mileage Fee study to the commission. The study is designed to explore vehicle mileage fees as a possible funding mechanism for Texas. The study documents the state-of-the-practice in mileage fees, gathers input and perspectives from Texans, both the driving public and stakeholders, and provides opinions from a panel of technology experts about possible deployment options. The study also provides some preliminary conclusions and recommendations for potential implementation.*
6. **Quarterly report on Fiscal Year 2011 State Highway Fund (Fund 6) cash status.**  
*Staff will update the commission on year-to-date cash balance and activity of Fund 6. The report will include original projections and actual revenues/inflows and expenditures/outflows on a cash basis for the quarter ended November 30, 2010*

**ADJOURN**

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**NOTE:**

Persons with special needs or disabilities who plan to attend this meeting and require auxiliary aids or services are requested to contact Roger Polson at (512) 305-9526 at least three working days prior to the meeting so that appropriate arrangements can be made.



INTERNET ADDRESS:  
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 November 19 2010 12:45.m.

## AGENDA

### TEXAS TRANSPORTATION COMMISSION

125 East 11<sup>th</sup> Street  
 Austin, Texas 78701-2483

THURSDAY  
 December 16, 2010

#### 9:00 A.M. CONVENE MEETING

1. **Approval of Minutes** of the November 18th meeting of the Texas Transportation Commission
2. Receive the final report by the TxDOT Restructure Council related to the review of recommendations contained in several documents, including the Grant Thornton management and organizational review  
*The Restructure Council is a commission-appointed transition team charged with reviewing and evaluating the Grant Thornton review and other recent audits and studies of the department. The Restructure Council will deliver its final recommendations to the commission on implementation priorities.*
3. **Aviation**  
**Various Counties** – Award federal and state grant funding for airport improvement projects at various locations (MO)  
*Federal law authorizes the award of federal funding to preserve and improve the state's general aviation system. State law authorizes the award of state funding for capital improvement projects. The airports listed in Exhibit A are eligible for award of these grant funds and the department seeks approval of the awards.*
4. **Public Transportation**
  - a. **Various Counties** – Award transportation development credits (TDC) to Gulf Coast Center and Concho Valley Transit District (MO)  
*The awards identified in this minute order reflect the award of transportation development credits to various urban and rural transit operators to assist with local match needs for vehicle replacement and other capital infrastructure projects.*
  - d. **Various Counties** – Approve changes to public transit projects previously approved for funding from Texas' portion of the American Recovery and Reinvestment Act (ARRA) (MO)  
*The ARRA created an economic stimulus package that provides for investment in transportation infrastructure projects. This agenda item will allow the commission to make changes to approve revisions to public transit projects previously approved for funding under the program.*

5. **Rail Projects**

- a. Authorize Funds from the High-Speed Intercity Passenger Rail Program for feasibility studies, service development plan and environmental work between Oklahoma City, Oklahoma and San Antonio, Texas with a possible extension to South Texas (MO)

*The department submitted applications to the Federal Railroad Administration for funding under the High-Speed Intercity Passenger Rail Program. One project was selected to receive funding. This minute order authorizes feasibility studies, service development plan and environmental work between Oklahoma City, Oklahoma and San Antonio, Texas with a possible extension to south Texas.*

- b. **Galveston County** – Award transportation development credits to the City of Galveston (MO)

*The award identified in this minute order will be the required match to federal transit funds for the Galveston to Houston commuter rail study.*

- c. **Tarrant County** - Authorize funds from the TIGER II Discretionary Grant Program for the final design and construction of the Tower 55 Multimodal Improvement Project (MO)

*The department submitted applications to the United States Department of Transportation to be considered for funding under the TIGER II Program. One project was selected to receive funding. This minute order authorizes the use of these funds for the final design and construction of the Tower 55 Multimodal Improvement Project.*

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

**Final Adoption**

- a. **Chapter 1 - Management (MO)**

Repeal of §1.8, Internal Ethics and Compliance Program, and §1.9, Effect of contractor's Internal Ethics and Compliance Program (Other Entities' Internal Ethics and Compliance Procedures)

*The existing ethical provisions in commission rules are moved into new Chapter 10, which sets forth required ethical standards for entities doing business with the department.*

- b. **Chapter 9 - Contract and Grant Management (MO)**

Repeal of §§9.100-9.117 (Subchapter G, Highway Improvement Contract Sanctions) and New §9.101, Purpose and Application of Subchapter, §9.102, Definitions, §9.103, Notification of Rules, §9.104, Delivery of Written Notice or Requests to the Department, §9.105, Act of Individual or Entity Imputed to Contractor, §9.106, Compliance Program, §9.107, Grounds for Sanctions, §9.108, Procedure, §9.109, Notice of Sanction, §9.110, Available Sanctions, §9.111, Application of Sanction, §9.112, Appeal of Sanction, §9.113, Indirect Sanction on an Affiliated Entity, §9.114, Lessening or Removal of Sanction, §9.115, List of Debarred or Suspended Contractors (Subchapter G, Highway Improvement Contract Sanctions)

*In conjunction with the proposal of new 43 TAC Chapter 10, which provides the ethical standards to be followed by most entities doing business with the department, the proposed rule revises and restructures 43 TAC Chapter 9, Subchapter G, which provides sanctions related to highway improvement contracts. This subchapter includes the enforcement provisions for violations of ethical standards related to highway improvement contracts.*

6. **Promulgation of Administrative Rules (continued)****Final Adoption (continued)**c. **New Chapter 10 - Ethical Conduct by Entities Doing Business with the Department (MO)**

New Chapter 10, New Subchapter A, General Provisions, §§10.1 - 10.7; New Subchapter B, Other Entities' Internal Ethics and Compliance Procedures, §10.51; New Subchapter C, Required Conduct by Entities Doing Business with the Department, §§10.101 - 10.102; New Subchapter D, Score Reduction for Ethical Violations by Architectural, Engineering, and Surveying Service Providers, §§10.151 - 10.160; New Subchapter E, Removal of Precertification of Architectural, Engineering, and Surveying Service Providers for Ethical Violations, §§10.201 - 10.206; and New Subchapter F, Sanctions for Ethical Violations by Other Entities, §§10.251 - 10.257

*The proposed rules add new Title 43, Chapter 10 which sets forth required ethical standards for entities doing business with the department. The new chapter also includes the enforcement provisions applicable to violations of the ethical standards, except that the enforcement provisions applicable to highway improvement contractors are provided in Chapter 9.*

d. **Chapter 15 - Financing and Construction of Transportation Projects, Chapter 26 - Regional Mobility Authorities, Chapter 27 - Toll Projects, and Chapter 31 - Public Transportation (MO)**

Amendments to §15.92, Miscellaneous Powers and Duties of Corporations (Transportation Corporations), §26.56, Required Internal Ethics and Compliance Program (Miscellaneous Operation Provisions), §27.53, Request (Financial Assistance for Toll Facilities), and §31.39, Required Internal Ethics and Compliance Program (Program Administration)

*The rule proposing new 43 TAC Chapter 10, which provides the ethical standards to be followed by entities doing business with the department, renumbers existing §1.8, relating to the requirements for an internal ethics and compliance program, as new §10.51. These proposed rule amendments change the existing references to §1.8 to §10.51 to conform to that change.*

e. **Chapter 21 - Right of Way (MO)**

New §21.301, Purpose, §21.302, Definitions, §21.303, Request for Proposals, §21.304, Proposals, §21.305, Selection of Entity, §21.306, Negotiation with Selected Entity, §21.307, Agreement, §21.308, Termination of Agreement, §21.309, Payment, §21.310, Sublease, and §21.311, General Requirements (New Subchapter J, Leasing of Highway Assets for Transportation Facility)

*This new subchapter will provide for the leasing of the department's right-of-way for a low-emissions freight transportation facility. The procurement process gives highest priority for a facility that reduces congestion on the state highway system and reduces air emissions.*

f. **Chapter 23 - Travel Information (MO)**

Amendments to §23.1, Purpose and §23.2, Definitions (General Provisions) and §23.10, Travel Literature, §23.12, Texas Official Travel Map, and §23.14, Display of Travel Literature in the Texas Travel Information Centers (Travel Information)

*These amendments clarify subject matter that can be included in the department's travel literature; clarify items depicted on the Texas Official Travel Map, including changing the criteria for a city or town to be included on the map; and clarify the types of literature and other promotional items that can be distributed at Texas Travel Information Centers.*

7. **Sale of Access Rights**  
 Establish a policy for determining the fair value of access rights to a state highway when the department sells access rights to an adjoining property owner (MO)  
*Transportation Code, §202.021 requires the commission to determine the fair value of the state's interest in access rights to a state highway as part of the process for authorizing a sale of access to an adjoining property owner. The proposed policy is designed to apply the same standard for determination of value for the sale of access as is currently required of the department for the acquisition or impairment of an adjoining property owner's right of access.*
8. **Property Exchange**  
**Palo Pinto, Somervell and Tarrant Counties - Award a Development and Exchange Agreement with the top-ranked design-build firm for the design, construction and renovation of buildings at various locations in the Fort Worth District. (MO)**  
*Minute Order 112403, adopted by the commission on August 26, 2010 authorized the department to issue a Request for Proposal and to rank, select, and negotiate with the top-ranked design-build firm that offered the best value to the state to design, construct and renovate various facilities and other facility-support structures, on department-owned property located in Fort Worth, Glen Rose and Mineral Wells in exchange for existing property in Fort Worth. The proposed minute order authorizes the department to award a Development and Exchange Agreement with the top ranked design-build firm that offered the best value, pursuant to the terms of the request for proposal; authorizes the executive director to execute the DEA at the conclusion of the negotiation of satisfactory terms and conditions; and authorizes the executive director to execute a deed of the department-owned property in exchange for satisfactorily completed and accepted improvements on other department-owned property.*
9. **Port Capital Program**  
 Accept the annual 2011-2012 Port Capital Program submitted by the Port Authority Advisory Committee (MO)  
*State law requires the Port Authority Advisory Committee to prepare a two-year Port Capital Program defining the goals and objectives of the committee concerning the development of port facilities and an intermodal transportation system. This program must be updated annually and submitted to the governor, lieutenant governor, speaker of the House of Representatives and the commission.*
10. **Pass-Through Toll Program**  
 Authorize the designation of a period of time in 2011 for public and private entities to submit proposals under the pass-through toll program to develop highway projects on the state highway system and prescribe the conditions that will be applicable to the proposals under Title 43, Texas Administrative Code, Section 5.54 (MO).  
*The department is required by Rider 63 of the 2009 General Appropriations Act to encumber an amount of reimbursements under new pass-through toll agreements during the 2010-2011 biennium that is not less than the total reimbursements committed under agreements entered into during the 2008-2009 biennium. This minute order will authorize the first program call for 2011 and establish the period of time for the submissions, the estimated amount of funds available to be allocated, and the categories of cost that will be considered as eligible reimbursement under the program call.*
11. **I-69 Corridor Advisory Committee**  
 Appoint two members to the I-69 Corridor Advisory Committee (MO)

12. **Toll Roads**

- a. **Chambers County** - Accept primacy of SH 99, Segment I-2, based on terms and conditions of the approved market valuation agreement in accordance with Transportation Code, Section 228.0111. (MO)  
*Chambers County notified the department of their intent to rescind their decision to exercise their right to primacy for the segments of SH 99 (Grand Parkway) in Chambers County. In order for the department to initiate tolling on SH 99, Segment I-2, which is already constructed and opened to traffic, the commission must officially exercise the state's rights to primacy.*
- b. **Travis and Williamson Counties** – Accept the quarterly Report of Actual Traffic and Revenue for the Central Texas Turnpike System (CTTS) (MO)  
*Report of actual traffic and revenue for the CTTS as of November 30, 2010, as required by the CTTS Indenture of Trust*
- c. **Travis and Williamson Counties** – Accept the audited financial statements of the CTTS, as required by the CTTS Indenture of Trust (MO)  
*The Indenture of Trust that prescribes the terms for bonds and obligations issued to finance the 2002 Project of the Central Texas Turnpike System, a toll project comprised of the SH 130, Segments I-4, SH 45N, and Loop 1 project elements, requires the preparation of a financial report of the results of operation of the system for each fiscal year. Audited financial statements meeting the requirements of the Indenture have been prepared for FY 2010. The financial statements for FY 2009 are provided for comparative purposes.*

13. **Unified Transportation Program (UTP)**

- a. Approve adjustments to the FY 2011 obligation limit funding levels in the UTP (MO)  
*The 2010 UTP approved by the commission in April established obligation limits by category and by district. To manage available funding levels more effectively and optimize construction and maintenance project lettings, the commission adopted Minute Order 112445, dated September 30, 2010, which adjusted the FY 2011 district/category allocations. This minute order further updates FY 2011 obligation limit funding levels to account for changes to district allocations based on funds transfer requests, as approved by the department's Chief Financial Officer.*
- b. Approve preliminary funding levels for the Unified Transportation Program for the years 2012 through 2021 (MO)  
*The UTP is an 10-year statewide plan for transportation project development. The commission will consider a minute order establishing preliminary funding levels, by fiscal year and by category, anticipated to be available for the years 2012 through 2021*

14. **Texas Mobility Fund**

- Accept the audited financial statements of the Texas Mobility Fund (TMF) as required by the governing master resolution (MO)  
*The Master Resolution governing the issuance of TMF bonds requires the preparation of an audited financial report of the TMF for each fiscal year. Audited financial statements have been prepared for FY 2010.*

15. **Obligation Limit Report**

Status report on the FY 2011 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

*This report will provide the current overall obligation status, by district, of the FY 2011 Obligation Limit and will also provide the anticipated effect on the obligation limit of remaining proposed highway maintenance and construction letting. The report will also provide an update on motor fuel tax receipts, including estimated versus actual receipts fiscal year to date, and any potential impact on letting volume.*

16. **Contracts**

a. **Award or Reject Highway Improvement Contracts**

*Proposed MO will conditionally award contract(s) to low bidders allowing the department to enter into contract(s) for highway improvements, or reject all bids for select projects, allowing the department to re-bid those projects. Conditions required for award may include securing of funding from other sources and the contractor's ability to meet federal DBE contracting requirements.*

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

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

16. **Routine Minute Orders**

a. **Donations to the Department**

**Traffic Division** – Consider a donation from the American Traffic Safety Services Association for a department employees' registration and travel expenses to attend the 41<sup>st</sup> Annual Convention & Traffic Expo in Phoenix, Arizona on February 14-17, 2011 (MO)

*Attendance at this convention will allow the department to share traffic safety issues and solutions with other state department of transportation representatives.*

b. **Eminent Domain Proceedings**

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

*Commission findings, determinations, and authorizations for the state to acquire by eminent domain, upon the payment of adequate and just compensation, various ownership interests in specific parcels of real property that are needed to develop or improve both non-controlled and controlled access state highways, to include requesting the state attorney general to bring and pursue condemnation suits relating to those specific parcels of real property described in the attached itemized list, for which negotiations with the property owners were unsuccessful.*

c. **Load Zones & Postings**

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

*This minute order authorizes the placement, revision, or removal of load postings on various bridges on the state-maintained highway system.*

16. **Routine Minute Orders (continued)**d. **Right of Way Dispositions and Donations**

*The commission must approve the sales, transfers and exchanges of state rights of way and other real properties that are no longer needed for a state highway purpose. It must also approve, accept and acknowledge donations to the state of real property that is valued at \$500 or more.*

- (1) **Chambers County - I-10 at FM 563 in Anahuac - Consider the sale of surplus right of way to the abutting landowner (MO)**  
*The district has determined that the surplus land is no longer needed for highway purposes. The city has no interest in acquiring the surplus land, and it may be sold to the abutting landowner.*
- (2) **Eastland County - FM 571 at FM 2214 northeast of Gorman - Consider the exchange of right of way (MO)**  
*The proposed exchange will allow the state to acquire a parcel needed for a highway realignment project while disposing of surplus land, thus reducing the payment the state makes to the grantors of the new land.*
- (3) **Fort Bend County - US 59 at University Boulevard in Sugar Land - Consider the sale of surplus drainage easements (3MOs)**  
*The district has determined that the surplus easements are no longer needed for highway purposes, and they may be sold to the underlying fee owners.*
- (4) **Montgomery County - I-45 at FM 1097 north of Conroe - Consider the sale of access rights to the abutting landowner (MO)**  
*The sale of a 45-foot break in the control-of-access line will allow the abutting landowner to open a proposed driveway location for access to and from the highway frontage road. The district has determined that the surplus access rights may be sold to the abutting landowner.*
- (5) **Tarrant County - Business US 287-P in Fort Worth - Consider the designation of Business US 287-P on a new alignment, remove a portion of the existing alignment from the system and transfer control, jurisdiction and maintenance of a portion of the existing alignment to the city. The MO will also authorize the redesignation of the northern section as Business US 287-N. In addition, the MO will authorize the transfer and quitclaim of surplus right of way to the city. (MO)**  
*The district has advised that the city desires to reroute a portion of the highway on a new alignment and assume control, jurisdiction and maintenance for a portion of the existing alignment. The district also advises that a portion of the existing highway should be redesignated as Business US 287-N. The surplus land is no longer needed for highway purposes or as part of the system. The surplus state-owned land may be transferred to the city, since the estimated cost of future maintenance exceeds the fair value of the property. The surplus land to which the state has no record title may be quitclaimed to the city.*

e. **Speed Zones**

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

*This minute order establishes or alters regulatory and construction speed zones on various sections of highways in the state.*

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

**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.

**ADJOURN**

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**NOTE:**

Enumerated agenda items are assigned numbers for ease of reference only, and will not necessarily be considered by the commission in that particular order. Items identified with (MO) for minute order are those upon which the commission is considering an action.

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