

These are the minutes of the regular meeting of the Texas Transportation Commission held on November 19, 2015, in Austin, Texas. The meeting was called to order at 9:03 a.m. by Chairman Lewis with the following commissioners present:

Texas Transportation Commission:

Tryon D. Lewis	Chairman
Jeff Austin, III	Commissioner
Jeff Moseley	Vice Chairman
Victor Vandergriff	Commissioner
J. Bruce Bugg	Commissioner

Administrative Staff:

LtGen. Joe Weber, Executive Director
 Jeff Graham, General Counsel
 Robin Carter, Commission Chief 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 3:14 p.m. on November 10, 2015, as required by Government Code, Chapter 551, referred to as “The Open Meetings Act.”

ITEM 1. Safety Briefing

This item was presented by Occupational Safety Specialist Randy Clawson.

Chairman Lewis also recognized Senator Don Huffines.

ITEM 2. Approval of Minutes of the October 29, 2015 regular meeting of the Texas Transportation Commission

Commissioner Bugg made a motion, which was seconded by Commissioner Vandergriff, and the commission approved the minutes of the October 29, 2015 regular meeting by a vote of 5 - 0.

ITEM 3. Discussion Item

Transportation congestion and impacts to the state (presentation)

This item was presented by Interim Deputy Executive Director Marc Williams.

ITEM 4. Unified Transportation Program (UTP)

Approve updates to the 2016 Unified Transportation Program (MO)

Commissioner Austin made a motion, which was seconded by Vice Chairman Moseley, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Transportation Planning and Programming Division Director James Koch.

114417
TPP

Transportation Code, §201.991 provides that the Texas Department of Transportation (department) shall develop a Unified Transportation Program (UTP) covering a period of 10 years to guide the development of and authorize construction of transportation projects.

The Texas Transportation Commission (commission) has adopted rules in Title 43, Texas Administrative Code, Chapter 16, governing the planning and development of transportation projects. The rules include guidance regarding the development of the UTP and any updates to the program, as well as public involvement requirements.

The 2016 UTP was approved by the commission on August 27, 2015 in Minute Order 114335.

On October 15, 2015 the department conducted public meetings across the state via WebEx, and a public hearing was held on November 5, 2015 to receive comments and testimony concerning the proposed updates to the 2016 UTP.

The updates to the 2016 UTP, as shown in Exhibit A, include revised allocations based on revised state and federal funding levels and funding authorizations on projects. The updates also address revisions to project specific program lists and other minor revisions or technical corrections. Exhibit B, which is included for informational purposes only, contains a report on current transportation development credit balances and all administrative revisions previously incorporated into the UTP, including applied carry-over amounts from fiscal year 2015.

IT IS THEREFORE ORDERED by the commission that the updates to the 2016 UTP, as shown in Exhibit A, are hereby approved.

Note: Exhibits A and B are on file with the commission chief clerk.

ITEM 5. Aviation

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

Vice Chairman Moseley made a motion, which was seconded by Commissioner Vandergriff, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Director of Aviation Dave Fulton.

114418
AVN

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

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

On Thursday, October 22, 2015 a public hearing was held. No comments were received.

IT IS THEREFORE ORDERED by the 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 \$6,550,610.

Note: Exhibit A is on file with the commission chief clerk.

ITEM 6. 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

Amendments to §1.82, §§1.85 - 1.87 (Advisory Committees) (MO)

Commissioner Vandergriff made a motion, which was seconded by Commissioner Bugg, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Chief of Staff Rich McMonagle.

114419
ADM

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §1.82, and §§1.85 - 1.87, relating to advisory committees, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §1.82, and §§1.85 - 1.87 are adopted and are authorized for filing with the Office of Secretary of State.

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

Note: Exhibits A and B are on file with the commission chief clerk.

(2) Chapter 25 - Traffic Operations

Amendments to §25.9 - Naming of Memorial Highways and Historical Routes (General) (MO)

Commissioner Bugg made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Traffic Operations Division Director Carol Rawson.

114420
TRF

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §25.9, relating to Naming of Memorial Highways and Historical Routes, 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 §25.9 are adopted and are authorized for filing with the Office of Secretary of State.

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

Note: Exhibits A and B are on file with the commission chief clerk.

(3) Chapter 25 - Traffic Operations

Amendments to §25.601, §25.602, and new §25.605 (Restrictions on Use of State Highways) (MO)

Commissioner Austin made a motion, which was seconded by Vice Chairman Moseley, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Traffic Operations Division Director Carol Rawson.

114421
TRF

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §25.601, Purpose, §25.602, Definitions, and new §25.605, Department Initiated Lane Restrictions in Construction or Maintenance Work Zones, relating to Restrictions on Use of State Highways, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments and new section, 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 §25.601, §25.602, and new §25.605, are adopted and are authorized for filing with the Office of Secretary of State.

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

Note: Exhibits A and B are on file with the commission chief clerk.

(4) Chapter 28 - Oversize and Overweight Vehicles and Loads

Amendments to §28.100, Purpose, §28.102, Authority's Powers and Duties, §28.104, Permit Issuance Requirements and Procedures, and §28.106, Movement Requirements and Restrictions (Hidalgo County Regional Mobility Authority Permits) (MO)

Commissioner Austin made a motion, which was seconded by Vice Chairman Moseley, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Maintenance Division Branch Manager for Roadway Asset Management and Field Engineering Services Mark McDaniel.

114422
MNT

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §§28.100, 28.102, 28.104, and 28.106, relating to Hidalgo County Regional Mobility Authority Permits, 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 §§28.100, 28.102, 28.104, and 28.106 are adopted and are authorized for filing with the Office of Secretary of State.

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

Note: Exhibits A and B are on file with the commission chief clerk.

b. Rule Review

In accordance with Government Code, §2001.039, Readoption of Title 43 Texas Administrative Code Chapter 3, Public Information, Chapter 4, Employment Practices, Chapter 6, State Infrastructure Bank, Chapter 12, Public Donation and Participation Program, Chapter 13, Materials Quality, Chapter 22, Use of State Property, Chapter 23, Travel Information, Chapter 25, Traffic Operations, and Chapter 29, Maintenance (MO)

Commissioner Vandergriff made a motion, which was seconded by Commissioner Bugg, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by General Counsel Jeff Graham.

114423
ADM

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

During August and September 2015, the Texas Department of Transportation reviewed Title 43 Texas Administrative Code, Chapter 3, Public Information; Chapter 4, Employment Practices; Chapter 6, State Infrastructure Bank; Chapter 9, Contract and Grant Management; Chapter 12, Public Donation and Participation Program; Chapter 13, Materials Quality; Chapter 22, Use of State Property; Chapter 23, Travel Information; Chapter 25, Traffic Operations; and Chapter 29, Maintenance. The Notice of Intent to review was published in the *Texas Register* on September 11, 2015 (40 TexReg 6167).

No comments were received regarding this rule review.

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

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

ITEM 7. Financial Assistance for Projects

Transportation Infrastructure Finance and Innovation Act - Dallas and Denton Counties - Continue the approval of the negotiation with the United States Department of Transportation (USDOT) of a loan to the commission in an aggregate principal amount not to exceed \$300 million pursuant to the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA loan) to pay a portion of the eligible project costs of the I-35E Managed Lanes Project (project) comprising the redevelopment of approximately 28 miles of I-35E between I-635 and US 380; authorize the execution of a TIFIA loan agreement, a TIFIA loan note, a master trust agreement and first supplemental agreement for the project and ancillary documents; and authorize the designated commission representative to take all action necessary to permit the execution and delivery of the TIFIA loan agreement, the TIFIA loan note, trust agreement documents and ancillary documents on such terms as the commission representative designated under this minute order shall approve (MO)

Vice Chairman Moseley made a motion, which was seconded by Commissioner Vandergriff, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Innovative Finance and Debt Management Officer Ben Asher.

114424
DMO

Transportation Code, Chapter 228 and other applicable law, including Government Code, Chapter 1371, authorizes the Texas Transportation Commission (commission) to issue toll revenue bonds, notes, or other obligations to finance toll projects or systems on the state highway system, and to enter into trust agreements governing matters relating to the issuance of such obligations.

In Dallas and Denton counties, pursuant to Minute Order 113398, dated December 13, 2012, the commission authorized a managed lanes toll project on I-35E from I-635 to US 380 (I-35E Managed Lanes Project).

On May 17, 2013, the department executed a Design-Build Agreement with AGL Constructors in connection with the construction of the I-35E Managed Lanes Project and construction on such project is underway.

Pursuant to Minute Order 113744 dated October 31, 2013, the commission authorized submission of an application to the U.S. Department of Transportation (USDOT) to apply for a loan in an aggregate principal amount not to exceed \$300,000,000 pursuant to the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA Loan) to pay a portion of the eligible project costs of the I-35E Managed Lanes Project.

Pursuant to Minute Order 114075 dated September 18, 2014, the commission authorized a commission representative, any of the chief financial officer, the innovative finance/debt management officer or other individuals designated by the

commission, to select a trustee for the trust agreement for the I-35E Managed Lanes Project and approved the negotiation of transaction documents for the project.

The department has been proceeding to negotiate the terms of the TIFIA loan and various transaction documents, and USDOT has approved the making of a TIFIA Loan for the I-35E Managed Lanes Project.

The trust agreement, together with the First Supplemental Agreement (first supplemental agreement), prescribes the terms, provisions, and covenants related to the TIFIA Loan and the issuance of a note in the aggregate principal amount not to exceed \$300,000,000 (TIFIA Note), which shall be delivered to the USDOT in connection with the TIFIA Loan.

The trust agreement provides, among other things, that upon the occurrence of a catastrophic event damaging or destroying the I-35E Managed Lanes Project, the commission will seek a legislative appropriation to the extent necessary to repair and/or replace the damaged or destroyed facilities.

The TIFIA Loan Agreement and the TIFIA Note do not constitute debts of the state or a pledge of the faith and credit of the state and are special, limited obligations of the commission secured by and payable solely from the trust estate as defined in the trust agreement and the first supplemental agreement.

IT IS THEREFORE ORDERED by the commission that a commission representative is authorized and directed to execute and deliver the trust agreement and the first supplemental agreement, and such documents are approved with such changes as a commission representative executing the same may approve, such approval to be conclusively evidenced by execution of the agreements.

IT IS FURTHER ORDERED by the commission that a commission representative is designated the authorized borrower representative for purposes of the TIFIA Loan Agreement and is authorized and directed to execute and deliver the TIFIA Loan Agreement, and the TIFIA Loan Agreement is approved with such changes as the authorized borrower representative executing the same may approve, such approval to be conclusively evidenced by execution of the TIFIA Loan Agreement.

IT IS FURTHER ORDERED by the commission that any necessary ancillary documents in connection with the execution of the TIFIA Loan Agreement and the issuance of the TIFIA Note are hereby approved.

IT IS FURTHER ORDERED by the commission that a commission representative is hereby authorized, appointed, and designated to act on behalf of the commission in establishing the terms and delivering the TIFIA Note in accordance with the parameters and provisions prescribed in the trust agreement, as supplemented by the first supplemental agreement.

IT IS FURTHER ORDERED by the commission that the chairman of the commission, each member of the commission, the executive director of the department, general counsel, and each commission representative are authorized and directed to perform all such acts and execute such documents, including the Texas Attorney General, the Texas Bond Review Board and other parties, as may be necessary to carry out the intent of this order and other orders of the commission relating to the financing of the I-35E Managed Lanes Project.

ITEM 8. Traffic Operations

Erath County - Order the prohibition or restriction of the use of fireworks in state highway rest areas in the unincorporated areas of Erath County and install signs giving notice of the order (MO)

Commissioner Bugg made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Traffic Operations Division Director Carol Rawson.

114425
TRF

Under section 203.112 of the Texas Transportation Code, the Texas Transportation Commission must order the prohibition or restriction of the use of fireworks at state highway rest areas in unincorporated areas of a Texas county, if the commissioners court of the county petitions the commission to adopt the order and the county pays the department for the costs of the designing, constructing, and erecting signs at the rest area.

The Erath County Commissioners Court, on September 28, 2015, passed a resolution to petition the commission to order the prohibition or restriction of the use of fireworks at state highway rest areas in unincorporated areas of Erath County and agreeing to bear the costs for signs to be installed to give notice the order.

IT IS THEREFORE ORDERED by the commission to prohibit or restrict the use of fireworks in the state highway rest areas in the unincorporated areas of Erath County.

IT IS FURTHER ORDERED by the commission that the Fort Worth District, which includes Erath County, execute an Advance Funding Agreement with Erath County to pay the department for the costs of designing, constructing and erecting signs giving notice of the order at the rest areas.

ITEM 9. Contracts

Award or reject contracts for maintenance, highway and building construction
(a) Highway Maintenance and Department Building Construction (MO)

Commissioner Vandergriff made a motion, which was seconded by Vice Chairman Moseley, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Deputy Director of Construction Darren Hazlett.

114426
MNT

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation solicited and received sealed competitive bid proposals for maintenance of the State Highway System, which were publicly opened and read on November 3 and 4, 2015, as shown on Exhibit A.

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

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

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

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

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

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

Note: Exhibit A is on file with the commission chief clerk.

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

Vice Chairman Moseley made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 5 - 0. This item was presented by Deputy Director of Construction Darren Hazlett.

114427
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 November 3 and 4, 2015, as well as Ft. Worth District, Tarrant County, Job Number 3001, Project Number NH 2016(098), deferred from the September 24, 2015, Commission meeting, as shown on Exhibit A.

Pursuant to cited code provisions highway improvement contract bids on a project may be accepted, rejected or deferred, 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 is on file with the commission chief clerk.

ITEM 10. Eminent Domain Proceedings

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

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

114428
ROW

To facilitate the safety and movement of traffic and to preserve the financial investment of the public in its highways, the Texas Transportation Commission (commission) finds that public necessity requires the laying out, opening, constructing, reconstructing, maintaining, widening, straightening, extending, and operating of the

highway facilities listed below as a part of the State Highway System (highway system).

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

The commission finds and determines that the highway facilities to be constructed or improved on the parcels identified and listed below under "CONTROLLED ACCESS" are designated as a Controlled-Access Highway in accordance with Transportation Code, Section 203.031; and where there is adjoining real property remaining after acquisition of a parcel, the roads are to be constructed or improved as a part of the highway facility with the right of ingress and egress to or from the remaining real property adjoining the highway facility to be permitted or denied, as designated and set forth on each of the attached Exhibits A -F. Where there is adjoining real property remaining after acquisition of a parcel with respect to the highway facilities to be constructed or improved on the parcels identified as listed below under "NON-CONTROLLED ACCESS," roads are to be constructed or improved as a part of the highway facility with the right of ingress and egress to or from the remaining real property adjoining the highway facility to be permitted or denied, as designated and set forth on each of the attached Exhibits 1 - 10, in accordance with Transportation Code, Sections 203.002 and 203.003.

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

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

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

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Denton	FM 720	3	1567-01-038	26
Denton	FM 720	4	1567-01-038	24
Denton	FM 720	5	1567-01-038	20

NON-CONTROLLED ACCESS (continued)

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Ellis	FM 875	1	1159-01-025	3
Ellis	FM 875	6	1159-01-025	5
Ellis	FM 875	8	1159-01-026	1
Ellis	FM 875	2	1159-01-028	3
Ellis	FM 875	7	1159-01-028	2
Fort Bend	US 90A	9	0027-06-059	3
Fort Bend	FM 1640	10	1683-01-039	2

CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Fort Bend	IH 69	E	0027-12-125	15
McLennan	IH 35	A	0015-01-234	105
McLennan	IH 35	B	0015-01-234	119B
McLennan	IH 35	C	0015-01-234	121
McLennan	IH 35	F	0015-01-234	166
Tarrant	SH 183	D	0364-05-038	55

Note: Exhibits A - F and 1 - 10 are on file with the commission chief clerk.

ITEM 11. Routine Minute Orders

Commissioner Vandergriff made a motion, which was seconded by Vice Chairman Moseley, and the commission approved the following minute orders by a vote of 5 - 0. This item was presented by Executive Director General Joe Weber.

a. Donations to the Department

Various Districts - Consider the acknowledgment of donations made to the department to include: (a) donations in any form, including realty, personalty, money, materials, or services, which are made to the department for the purpose of carrying out its functions and duties; and (b) donations from landowners, with land adjacent to a highway that is part of the state highway system, to construct an improvement on the highway right-of-way that is directly related to improving access to or from the owner's land (See attached itemized list) (MO)

114429
CSO

Transportation Code, §201.206, authorizes the Texas Department of Transportation (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 90th 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.

Transportation Code, §223.049 authorizes the department to contract with an owner of land adjacent to a highway that is part of the state highway system to construct an improvement on the highway right of way that is directly related to improving access to or from the owner's land.

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 authorizes the executive director to approve acceptance of donations to the department and requires that donations valued at \$500 or more must be acknowledged by order of the commission not later than the 90th day after the date the donation is accepted by the department. It further 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 executive director may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if the executive director 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 executive director found that the donations identified on the attached Exhibit A were in compliance with the provisions of 43 TAC §§1.500-1.506, Government Code, Chapter 575, Transportation Code, §201.206, and Transportation Code, §223.049.

IT IS THEREFORE ORDERED by the commission that it acknowledges the acceptance of the donations identified on the attached Exhibit A.

Note: Exhibit A is on file with the commission chief clerk.

b. Real Estate Dispositions

(1) Bexar County - I-10 at Dewhurst Road in San Antonio - Consider the sale of right of way to the abutting landowner (MO)

114430
ROW

In the city of San Antonio, BEXAR COUNTY, on INTERSTATE 10, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 4475, Page 21, Deed Records of Bexar County, Texas.

A portion of the land (Tract 2), described in Exhibit A, is no longer needed for state highway purposes.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of highway right of way acquired and no longer needed for a state highway purpose to abutting landowners.

Michael C. Becker is the abutting landowner and has requested to purchase Tract 2 for \$205,060.

The commission finds \$205,060 to be a fair and reasonable value of the state's right, title, and interest in Tract 2.

IT IS THEREFORE ORDERED by the commission that Tract 2 is no longer needed for a state highway purpose. The commission recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument

conveying all of the state’s right, title, and interest in Tract 2 to Michael C. Becker for \$205,060; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state’s rights, titles, and interests, if any, in and to all of the oil, gas, sulphur, and other minerals, of every kind and character, in, on, under, and that may be produced from the land.

Note: Exhibit A is on file with the commission chief clerk.

(2) Coryell County - US 190 at Garden Avenue in Copperas Cove - Consider the sale of right of way to the abutting landowner (MO)

114431
ROW

In the city of Copperas Cove, CORYELL COUNTY, on US 190, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 138, Page 400, Official Public Records of Coryell County, Texas.

A portion of the land (Tract 1), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of highway right of way acquired and no longer needed for a state highway purpose to abutting landowners.

James W. Clark, II is the abutting landowner and has requested to purchase Tract 1 for \$24,746.

The commission finds \$24,746 to be a fair and reasonable value of the state's right, title, and interest in Tract 1.

IT IS THEREFORE ORDERED by the commission that Tract 1 is no longer needed for a state highway purpose. The commission recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state’s right, title, and interest in Tract 1 to James W. Clark, II for \$24,746; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state’s right, title, 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 land.

Note: Exhibit A is on file with the commission chief clerk.

(3) El Paso County - I-10 at Eastlake Boulevard in El Paso - Consider the sale of right of way to the abutting landowner (MO)

114432
ROW

In the city of El Paso, EL PASO COUNTY, on INTERSTATE 10, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 1366, Page 25, Deed Records of El Paso County, Texas.

Portions of the land (Tracts 1, 2, and 3), described in Exhibit A, are no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of highway right of way acquired and no longer needed for a state highway purpose to abutting landowners.

ROP Eastlake, LLC, is the abutting landowner to Tract 1 and has requested to purchase Tract 1 for \$712,357.

Baba, L.P., is the abutting landowner to Tract 2 and has requested to purchase Tract 2 for \$1,155,866.

Caesar Investments, L.P., is the abutting landowner to Tract 3 and has requested to purchase Tract 3 for \$1,287,856.

The commission finds \$3,156,079 to be a fair and reasonable value of the state's right, title, and interest in Tracts 1, 2, and 3.

IT IS THEREFORE ORDERED by the commission that the tracts are no longer needed for a state highway purpose. The commission recommends, subject to approval by the attorney general, that the governor of Texas execute proper instruments conveying all of the state's right, title, and interest to the abutting landowners, as follows: Tract 1 to ROP Eastlake, LLC, for \$712,357; Tract 2 to Baba, L.P., for \$1,155,866; and Tract 3 to Caesar Investments, L.P., for \$1,287,856. SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's right, title, 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 land.

Note: Exhibit A is on file with the commission chief clerk.

(4) El Paso County - SL 375 near Citrus Place and Paisano Drive - Consider the exchange of right of way with the Rescue Mission of El Paso, Inc., a Texas non-profit corporation (MO)

114433
SPD

In EL PASO COUNTY, on SL 375 Border West Expressway, the State of Texas acquired certain land by instrument recorded in Document No. 20150019135, Deed Records of El Paso County, Texas and a portion of the land, described in Exhibit A, (Tract 1), valued at approximately \$238,356, is no longer needed for state highway purposes.

In accordance with Transportation Code, Chapter 202, Subchapter B, the governor, on the recommendation of the Texas Transportation Commission (commission), may execute a deed exchanging an interest in real property acquired but not needed for a highway purpose as partial consideration for another interest in real property needed for a state highway purpose.

The Rescue Mission of El Paso, Inc., a Texas non-profit corporation (Rescue Mission), provides certain social assistance programs for the residents of El Paso. Rescue Mission is the owner of certain property needed for a highway purpose (Parcel 16), described in Exhibit B. Rescue Mission has requested the commission convey Tract 1 to Rescue Mission as partial consideration for the State's acquisition of Parcel 16 needed for a highway purpose.

On July 31, 2014, the Texas Department of Transportation (department) and Rescue Mission entered a Memorandum of Understanding and Contract for Purchase and Sale of Real Property outlining the department's and Rescue Mission's desire for the department's acquisition of Parcel 16 for the consideration of \$13,500,000.00 plus the conveyance of Tract 1 to the Rescue Mission.

It is the opinion of the commission that it is proper and correct that the State convey Tract 1 and pay \$13,500,000.00 to Rescue Mission in exchange and as consideration for the conveyance of Parcel 16 to the State.

IT IS, THEREFORE ORDERED by the commission that Tract 1 is no longer needed for a state highway purpose. The commission recommends, subject to approval by the Attorney General of Texas, that the Governor of Texas execute a proper instrument conveying the State's right, title and interest in Tract 1 to Rescue Mission of El Paso, Inc., a Texas non-profit corporation, and that the State pay \$13,500,000.00 to Rescue Mission in exchange and as consideration for the conveyance of Parcel 16 to the State; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the State's rights, titles, and interests, if any, in and to all of the oil, gas, sulphur, and other minerals of every kind and character, in, on, under, and that may be produced from Tract 1.

Note: Exhibits A and B are on file with the commission chief clerk.

(5) Fort Bend County - FM 1463 at Corbitt Road - Consider the sale of right of way to an abutting landowner (MO)

114434
ROW

In FORT BEND COUNTY, on FARM TO MARKET ROAD 1463, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 275, Page 538, Deed Records of Fort Bend County, Texas.

A portion of the land (Tract 18), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of highway right of way acquired and no longer needed for a state highway purpose to abutting landowners.

DLM Management, LLC, is an abutting landowner and has requested to purchase Tract 18 for \$350,070.

The commission finds \$350,070 to be a fair and reasonable value of the state's right, title, and interest in Tract 18.

IT IS THEREFORE ORDERED by the commission that Tract 18 is no longer needed for a state highway purpose. The commission recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state's right, title, and interest in Tract 18 to DLM Management, LLC, for \$350,070; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's right, title, 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 land.

Note: Exhibit A is on file with the commission chief clerk.

(6) Fort Bend County - I-69 at University Boulevard in Sugar Land - Consider the sale of right of way to the city of Sugar Land (MO)

114435
ROW

In the city of Sugar Land, FORT BEND COUNTY, on INTERSTATE 69, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 460, Page 73, Deed Records of Fort Bend County.

A portion of the land (Tract 121, Parts 1, 2, and 3), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of any interest in real property to a governmental entity with the authority to condemn the property.

The city of Sugar Land has requested to purchase Tract 121, Parts 1, 2, and 3, for \$8,978,099.

The commission finds \$8,978,099 to be a fair and reasonable value of the state's right, title, and interest in Tract 121, Parts 1, 2, and 3.

IT IS THEREFORE ORDERED by the commission that Tract 121, Parts 1, 2, and 3, is no longer needed for a state highway purpose. The commission recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state's right, title, and interest in Tract 121, Parts 1, 2, and 3, to the city of Sugar Land, Texas, for \$8,978,099; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's right, title, 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 land.

Note: Exhibit A is on file with the commission chief clerk.

(7) Haskell County - US 277, east side, south of FM 618 - Consider the sale of former railroad right of way to the abutting landowners (MO)

114436
ROW

In HASKELL COUNTY, on US 277, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 519, Page 912, Official Public Records of Haskell County, Texas.

A portion of the land (Tract 1), described in Exhibit A, is no longer needed for state highway purposes.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of any interest in real property that was acquired and is no longer needed for a state highway purpose.

Stephen W. Drinnon (12.5%); Stephen W. Drinnon, as Trustee of the Stephen W. Drinnon Lifetime Trust (12.5%); Mitchell S. Drinnon (12.5%); and Equity Trust Company, Custodian F/B/A Stephen W. Drinnon, IRA (62.5%) are the abutting landowners and have requested to purchase Tract 1 for \$3,419.

The commission finds \$3,419 to be a fair and reasonable value of the state's right, title, and interest in Tract 1.

IT IS THEREFORE ORDERED by the commission that Tract 1 is no longer needed for a state highway purpose and that the value is less than \$10,000. The commission authorizes the executive director to execute a proper instrument conveying all of the state's right, title, and interest in Tract 1 to Stephen W. Drinnon (12.5%); Stephen W. Drinnon, as Trustee of the Stephen W. Drinnon Lifetime Trust (12.5%); Mitchell S. Drinnon (12.5%); and Equity Trust Company, Custodian F/B/A Stephen W. Drinnon, IRA (62.5%) for \$3,419; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles, and interests, if any, in and to all of the oil, gas, sulphur, and other minerals, of every kind and character, in, on, under, and that may be produced from the surplus land.

Note: Exhibit A is on file with the commission chief clerk.

(8) Lubbock County - I-27, formerly US 87, facility site at 308 Municipal Drive in Lubbock (MO)

114437
ROW

In the city of Lubbock, LUBBOCK COUNTY, on INTERSTATE 27, the state of Texas acquired certain real property for highway purposes by instrument recorded in Volume 384, Page 3, Deed Records of Lubbock County, Texas.

The land and improvements on the land (Tract 1), described in Exhibit A, are no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of any interest in real property acquired and no longer needed for a state highway purpose to a governmental entity with the authority to condemn the property.

The city of Lubbock has requested to purchase Tract 1 for \$295,000.

The commission finds \$295,000 to be a fair and reasonable value of the state's right, title, and interest in Tract 1.

IT IS THEREFORE ORDERED by the commission that Tract 1 is no longer needed for a state highway purpose. The commission recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state's right, title, and interest in Tract 1 to the city of Lubbock, Texas, for \$295,000; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's right, title, 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 land.

Note: Exhibit A is on file with the commission chief clerk.

(9) Lubbock County - SL 289, northeast corner at SH 114 in Lubbock - Consider the sale of right of way to the abutting landowner (MO)

114438
ROW

In the city of Lubbock, LUBBOCK COUNTY, on STATE LOOP 289, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 789, Page 675, Deed Records of Lubbock County, Texas.

A portion of the land (Tract 3), described in Exhibit A, is no longer needed for state highway purposes.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the sale of highway right of way acquired and no longer needed for a state highway purpose to abutting landowners.

Makefield Oil Company, an Oklahoma corporation, is the abutting landowner and has requested to purchase Tract 3 for \$940,000.

The commission finds \$940,000 to be a fair and reasonable value of the state's right, title, and interest in Tract 3.

IT IS THEREFORE ORDERED by the commission that Tract 3 is no longer needed for a state highway purpose. The commission recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state's right, title, and interest in Tract 3 to Makefield Oil Company, an Oklahoma corporation, for \$940,000; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles, and interests, if any, in and to all of the oil, gas, sulphur, and other minerals, of every kind and character, in, on, under, and that may be produced from the land.

Note: Exhibit A is on file with the commission chief clerk.

d. Reports

(1) Compliance Office report

Note: The Report is on file with the commission chief clerk.

(2) Travis and Williamson Counties - Accept the Report of Actual Traffic and Revenue for the Central Texas Turnpike System (CTTS) (MO)

114439
TOD

Transportation Code, Chapter 228 and other applicable law authorizes the Texas Transportation Commission (commission) to issue toll revenue bonds, bond anticipation notes, and other obligations to finance turnpike projects on the state highway system, and to enter into trust agreements and indentures of trust governing matters relating to the issuance of such obligations.

The commission has previously issued bonds and obligations, with approximately \$2,149,548,463 outstanding, to finance or refinance a portion of the costs of the Central Texas Turnpike System (system), pursuant to an Indenture of Trust and seven supplemental indentures. The Indenture of Trust dated July 15, 2002 (Indenture), prescribes the terms, provisions and covenants related to the issuance of turnpike revenue bonds and obligations to finance a portion of the costs of the system.

Section 501(c) of the Indenture covenants that for the first five full years of operation of the system, the commission will provide to the Trustee a report showing the traffic and revenue of the system for the previous quarter.

Pursuant to Minute Order 111081, dated September 27, 2007, the system was declared Substantially Complete as defined within the Indenture.

A report of actual traffic and revenue, attached as Exhibit A, has been prepared consistent with the reports previously filed pursuant to Section 501(c) of the Indenture of Trust.

IT IS THEREFORE ORDERED by the commission that the report of actual traffic and revenue attached as Exhibit A is accepted.

Note: Exhibit A is on file with the commission chief clerk.

d. Transportation Planning

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

114440
TPP

Transportation Code, §228.012 requires the Texas Department of Transportation (department) to create a separate account in the state highway fund to hold payments received by the department under a comprehensive development agreement (CDA) and the surplus revenue of a toll project or system.

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

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

Pursuant to Transportation Code, §228.012, the SH 121 payments may be used to pay the costs of a transportation project, highway project, or air-quality project within a region in which any part of the SH 121 toll project is located. Money must be allocated to projects authorized by Transportation Code, §228.0055 or §228.006, as applicable. An air-quality project is a project or program of the department or another governmental entity that the Texas Transportation Commission (commission) determines will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads.

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

Responsibility for allocating the SH 121 payments has been assigned to the RTC under the MOU. The MOU provides that the selection of projects to be financed using those funds shall be made by the RTC, subject to commission concurrence. The projects are to be selected through a process which considers the desires of the cities

and counties in which the project is located. The RTC has developed a plan for regional sharing of surplus toll revenue and CDA concession payments, based on the location of the toll project from which these revenues are derived and the residential location of toll users in the region served by the NCTCOG.

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

The department has established a work program to account for and track projects and project costs in the NCTCOG Metropolitan Planning Area (MPA) boundary funded with the SH 121 payments. In previous minute orders, the commission concurred with certain projects identified by the RTC to be funded with those payments, and approved the placement of those projects in the work program. The RTC has identified changes to the list of previously-approved projects, which are shown in Exhibit A. A summary of funds associated with the SH 121 work program is set forth in Exhibit B, which is included for informational purposes only.

IT IS THEREFORE ORDERED by the commission that, pursuant to the MOU and Minute Order 112015, it concurs with the changes to the list of previously-approved projects as shown in Exhibit A.

IT IS FURTHER ORDERED that, unless otherwise approved by the commission, all direct costs associated with the projects for which federal and state funds have not been allocated shall be charged to this work program, including the costs of right of way acquisition, preliminary engineering, and construction engineering. The costs of department staff incurred in the development, procurement, and construction of on-system projects to be funded from the SH 121 payments subaccounts will not themselves be funded from the SH 121 payments subaccounts. Funds from the SH 121 payments subaccounts that were used to reimburse the costs of department staff will be returned to the subaccounts without interest at least quarterly.

Note: Exhibits A and B are on file with the commission chief clerk.

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

114441
TPP

Transportation Code, §228.012 requires the Texas Department of Transportation (department) to create a separate account in the state highway fund to hold payments received by the department under a comprehensive development agreement (CDA) and the surplus revenue of a toll project or system.

The department is required to create subaccounts in the account for each project, system, or region, and to hold money in a subaccount in trust for the benefit of the

region in which the project or system is located. Interest earned on money in a subaccount shall be deposited to the credit of that subaccount. The department may assign the responsibility for allocating money in a subaccount to the metropolitan planning organization (MPO) in which the region is located.

The department has created subaccounts in the state highway fund to hold the payments received from the North Texas Tollway Authority (NTTA) for the right to develop, finance, design, construct, operate, and maintain the SH 161 toll project from I-20 to SH 183 in Dallas County (SH 161 payments).

Pursuant to Transportation Code, §228.012, the SH 161 payments may be used to pay the costs of a transportation project, highway project, or air-quality project within a region in which any part of the SH 161 toll project is located. Money must be allocated to projects authorized by Transportation Code, §228.0055 or §228.006, as applicable. An air-quality project is a project or program of the department or another governmental entity that the Texas Transportation Commission (commission) determines will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads.

In Minute Order 110727, dated October 26, 2006, the commission approved, and authorized the department's executive director to enter into, a memorandum of understanding (MOU) with the Regional Transportation Council (RTC), the transportation policy council of the North Central Texas Council of Governments (NCTCOG), a federally designated MPO, concerning the administration, sharing, and use of surplus toll revenue and CDA concession payments in the region served by the NCTCOG. The SH 161 toll project is located in the region served by the NCTCOG.

Responsibility for allocating the SH 161 payments has been assigned to the RTC under the MOU. The MOU provides that the selection of projects to be financed using those funds shall be made by the RTC, subject to commission concurrence. The projects are to be selected through a process which considers the desires of the cities and counties in which the project is located. The RTC has developed a plan for regional sharing of surplus toll revenue and CDA concession payments, based on the location of the toll project from which these revenues are derived and the residential location of toll users in the region served by the NCTCOG.

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

The department has established a work program to account for and track projects and project costs in the NCTCOG Metropolitan Planning Area (MPA) boundary funded with the SH 161 payments. In previous minute orders, the commission concurred with certain projects identified by the RTC to be funded with those payments, and approved the placement of those projects in the work program. The RTC has identified changes to the list of previously-approved projects, which are shown in Exhibit A. A summary of the funds associated with the SH 161 work program is set forth in Exhibit B, which is included for informational purposes only.

IT IS THEREFORE ORDERED by the commission that, pursuant to the MOU and Minute Order 112015, it concurs with the changes to the list of previously-approved projects shown in Exhibit A.

IT IS FURTHER ORDERED that, unless otherwise approved by the commission, all direct costs associated with the projects for which federal and state funds have not been allocated shall be charged to this work program, including the costs of right-of-way acquisition, preliminary engineering, and construction engineering. The costs of department staff incurred in the development, procurement, and construction of on-system projects to be funded from the SH 161 payments subaccounts will not themselves be funded from the SH 161 payments subaccounts. Funds from the SH 161 payments subaccounts that were used to reimburse the costs of department staff will be returned to the subaccounts without interest at least quarterly.

Note: Exhibits A and B are on file with the commission chief clerk.

e. Speed Zones

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

114442
TRF

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

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

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

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

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

It has also been determined that the speed limits on the segments of the state highway system, previously established by the commission by minute order and listed in Exhibit C, are no longer necessary or have been incorporated by the city which has the authority to set the speed limits on these sections of the highway.

The department, in consultation with the Texas Commission on Environmental Quality, has also determined that the environmental speed limit on the segment of highway established by Minute Order 109064, dated October 31, 2002 and listed in Exhibit D, is no longer necessary.

IT IS THEREFORE ORDERED by the commission that the reasonable and safe prima facie maximum speed limits determined in accordance with the department's "Procedures for Establishing Speed Zones" and shown on the attached Exhibits A and B

are declared as tabulated in those Exhibits. The executive director is directed to implement this order for control and enforcement purposes by the erection of appropriate signs showing the prima facie maximum speed limits.

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

Note: Exhibits A - D are on file with the commission chief 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 department. 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 retired Jim Wells County Judge Arnold Saenz, Transportation Coordination Network of Coastal Bend Director Martin Ornelas, Chad Nobles, Amy Nobles, Sandra Nobles, Robert Nobles, Chris Eversole, and Dean Eversole.

ITEM 12. Executive Session Pursuant to Government Code, Chapter 551

a. Section 551.071 - Consultation with and advice from legal counsel regarding any item on this agenda, pending or contemplated litigation, or other legal matters.

b. Section 551.074 - Deliberate on the election and compensation of an interim executive director of the Texas Department of Transportation

c. Section 551.074 - Deliberate on the search for a new executive director of the Texas Department of Transportation

d. Section 551.074 - Deliberate on the election and compensation of an executive director of the Texas Department of Transportation

The commission recessed to executive session at 10:52 a.m. and returned from executive session at 1:03 p.m.

Commissioner Bugg motioned adjournment and Commissioner Vandergriff seconded the motion. The commission voted 5 - 0 to adjourn. The regular meeting of the Texas Transportation Commission was adjourned at 1:04 p.m.

APPROVED:



Tryon D. Lewis, Chairman
Texas Transportation Commission

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 November 19, 2015, in Austin, Texas.



Robin Carter, Commission Chief Clerk
Texas Department of Transportation