

These are the minutes of the regular meeting of the Texas Transportation Commission held on March 31, 2016, in Austin, Texas. The meeting was called to order at 9:00 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:**

James Bass, 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 4:26 p.m. on March 23, 2016, 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 Sidney Maloy.

Chairman Lewis recognized U.S. Congressman Garret Graves of Louisiana, who spoke to the commission.

**ITEM 2. Approval of Minutes of the February 25, 2016, 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 February 25, 2016, regular meeting by a vote of 5 - 0.

**ITEM 8. Toll Operations**

**Travis and Williamson Counties** - Establish temporary toll rate tables on the SH 130 (Segments 1-4) and SH 45 Southeast elements of the Central Texas Turnpike System to charge a discounted rate for certain large trucks, utilizing a two-phased approach with different discounts that will apply during each phase between 7:00 AM and 7:00 PM during weekdays, for a combined period beginning April 18, 2016 and ending no later than August 31, 2017 (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 4 - 0. Commissioner Vandergriff voted no on this item. This item was presented by Toll

Operations Division Director Rick Nelson. The commission also heard remarks from Senator Kirk Watson, Representative Celia Israel, private citizen Don Dixon, and Texas Trucking Association President John Esparza.

114528  
TOD

Title 43, Texas Administrative Code, §27.82(d) provides that the Texas Transportation Commission (commission) will establish toll rates for the use of a toll project on the state highway system. In setting toll rates, the commission is required to consider: (1) the results of traffic and revenue studies and any schedule of toll rates established in a traffic and revenue report; (2) the requirements of project bond covenants, if applicable; and (3) vehicle classifications, type and location of the facility, and similar criteria that apply to a specific project.

State Highway 130 (Segments 1-4) is a four-lane, controlled access toll facility extending approximately 49 miles from Interstate 35 north of Georgetown to the intersection of US 183 and SH 130 at SH 45 Southeast, and is an original element of the Central Texas Turnpike System (CTTS).

SH 45 Southeast is a four-lane, controlled access toll facility extending approximately 7.4 miles from I-35 at FM 1327 south of Austin to the SH 130 / US 183 interchange, added to the CTTS in 2012.

Minute Order 113244, dated August 30, 2012, authorized the executive director of the Texas Department of Transportation (department) to annually escalate toll rates on the CTTS in accordance with established indices and the toll escalation policy set forth in the minute order. Minute Order 114411, dated October 29, 2015, authorized the toll rates on the CTTS for calendar year 2016, effective automatically on January 1, 2016.

The department desires to establish temporary toll rate tables on SH 130 (Segments 1-4) and SH 45 Southeast, on Monday to Friday, for a continuous twelve (12) hour period, from 7:00 AM to 7:00 PM, utilizing a two-phased approach, for a combined period ending no later than August 31, 2017. Phase I is from April 18, 2016 to October 31, 2016. Phase II is from November 1, 2016 to August 31, 2017. During Phase I, the rate schedule will retain the current base toll rate, set in Minute Order 114411, as escalated or amended, for two-, and three-axle vehicles, but will hold the three-axle TxTag and Pay By Mail (PBM) toll rates for vehicles with any additional axles. During Phase II, the rate schedule will provide for the two-axle TxTag toll rate to apply to all vehicles with a valid transponder, regardless of classification, and will retain the applicable base PBM toll rates for two-, and three-axle vehicles, but will hold the three-axle PBM toll rate for vehicles with any additional axles.

For all other days and times during the temporary period phases, the rates will remain at the rates set forth in Minute Order 114411, as escalated or as amended by the commission. The purpose of the temporary program is to reduce traffic congestion on I-35 and to make central Texas roadways safer by encouraging greater through trips of trucks on central Texas toll roads. At the end of the temporary program, the toll rates will revert back to the previously-approved rates, as escalated or amended.

In accordance with Section 502 of the Indenture of Trust for the CTTS (indenture), any change in classification that results in a reduced toll or any new classification shall be subject to a traffic consultant approving the same before it is

implemented unless it is temporary. In all events, the commission shall not make a change in classification or any new classification unless the commission determines that such change is not expected to result in the receipt of revenues in amounts less than that contemplated in the rate covenant in the indenture.

In 2015, the state budget passed by the 84th Texas Legislature as House Bill 1 (HB 1), appropriated to the department under Rider 49.B (Rider 49.B) receipts from the sale of department real property and receipts from the sale of surplus property to provide funding for certain toll discount programs, including a truck toll discount program to be used for congestion relief and air quality mitigation strategies. The amounts of \$9.35 million in fiscal year 2016 and \$9.35 million in fiscal year 2017 are appropriated for the purpose of providing toll discounts for large trucks traveling on SH 130 (Segments 1-4) and SH 45 Southeast. Of that amount, \$18.7 million will be used to make up the difference in revenues between the temporary toll rates charged to vehicles with more than three axles and, in certain cases during Phase II of the temporary period, more than two axles, and the toll rates for those vehicles approved by the commission in Minute Order 114411, as escalated or amended. The commission has determined that the expenditure of public funds to pay the cost of tolls not paid by certain large trucks is a public purpose.

The department's traffic consultant has delivered a certification indicating that the adoption of such a temporary change in classification of truck toll rates for fiscal years 2016 and 2017, coupled with and limited by the funds provided to the department in Rider 49.B as necessary to offset any loss in revenue, will not adversely affect the ability of the commission to comply with the rate covenant in Section 501 of the indenture.

**IT IS THEREFORE ORDERED** and determined by the commission that the temporary changes in classification and reduction in certain truck toll rates as set forth in Exhibit A-1 and A-2 to this minute order is not expected to result in the receipt of revenues in amounts less than that contemplated in the rate covenant in the indenture, and the department is authorized to charge tolls on SH 130 (Segments 1-4) and SH 45 Southeast in the amounts stated in Exhibit A-1 and A-2 from April 18, 2016 to August 31, 2017, or until the date of any earlier termination of the temporary program, as described in this order.

**IT IS FURTHER ORDERED** that the department shall pay to the appropriate indenture account from the \$18.7 million in funds allocated by Rider 49.B the cost of tolls not paid by vehicles with more than three axles or two axles, as applicable, for fiscal years 2016 and 2017. The payments to make up the difference in revenues between the temporary toll rates charged to vehicles with more than three axles or two axles, as applicable, and the toll rates for those vehicles approved by the commission in Minute Order 114411, as escalated or amended, are limited to the amount of funds that are allocated by Rider 49.B for that purpose. Once the funds allocated by Rider 49.B are depleted, the temporary program will end.

**IT IS FURTHER ORDERED** that the toll rates will revert back to the previously approved rates, as escalated or as amended by the commission, on September 1, 2017, or on the date of any earlier termination of the temporary program.

Note: Exhibits A-1 and A-2 are on file with the commission chief clerk.

**ITEM 3. Acknowledgment of Service**

Recognize Russell Zapalac, P.E., Chief Planning and Projects Officer for his service to the department.

This item was presented by Deputy Executive Director Marc Williams. Mr. Zapalac spoke to and thanked the commission. The commission thanked Mr. Zapalac and photographs were taken.

**ITEM 4. Discussion**

**a. Legislative Appropriations Request (LAR)**

Discussion regarding the development of the Texas Department of Transportation's Fiscal Year 2018-2019 LAR (Presentation)

This item was presented by Chief Financial Officer Brian Ragland.

**b. Energy Sector Program (Presentation)**

This item was presented by Director of District Operations Randy Hopmann.

**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 4 - 0. At the time of this vote Commissioner Austin was temporarily out of the meeting room. Upon Commissioner Austin's return, he was recognized by the Chairman to state that he would have voted yes on this item. This item was presented by Aviation Division Director Dave Fulton.

114529  
AVN

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

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

On Thursday, March 3, 2016 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 \$240,000.

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

**ITEM 6. Public Transportation**

**a. Various Counties - Award state funds to public transportation providers as appropriated by the 84th Texas Legislature (MO)**

Commissioner Bugg made a motion, which was seconded by Vice Chairman Moseley, and the commission approved the following minute order by a vote of 4 - 0. At the time of this vote Commissioner Austin was temporarily out of the meeting room. Upon Commissioner Austin's return, he was recognized by the Chairman to state that he would have voted yes on this item. This item was presented by Public Transportation Division Director Eric Gleason.

114530  
PTN

The General Appropriations Act enacted by the 84th Texas Legislature, Regular Session, appropriated funds for public transportation grants for small urban and rural areas of the state. The appropriation included funds to help mitigate formula allocation impacts when using the 2010 census. This minute order awards a portion of the funds specifically targeted to address census impacts.

Title 43, Texas Administrative Code, §31.11 establishes a formula by which public transportation funds shall be distributed to the small urban and rural areas of the state.

On June 25, 2015, under Minute Order 114282, the Texas Transportation Commission (commission) awarded FY 2015 state funds by formula, including funds to mitigate formula allocation impacts when using the 2010 census data.

The Texas Department of Transportation (department) issued a call for projects on October 23, 2015, to address specific census impact circumstances which were not addressed by formula awards in June 2015. The commission now desires to award \$400,000 for FY16 and \$350,000 for FY 17 for selected projects as shown in Exhibit A.

Transportation Code, Chapter 455 assigns a broad spectrum of public transportation roles and missions to the department.

Transportation Code, Chapter 456 authorizes the commission to administer funds appropriated for public transportation.

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the awards as described in Exhibit A and enter into the necessary contracts in accordance with the priorities established in this minute order.

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

**b. Various Counties - Award federal and state funds to Ark-Tex Council of Governments, Public Transit Services, Rolling Plains Management Corporation, and SPAN, Inc. (MO)**

Vice Chairman Moseley made a motion, which was seconded by Commissioner Bugg, and the commission approved the following minute order by a vote of 4 - 0. At the time of this vote Commissioner Austin was temporarily out of the meeting room. Upon Commissioner Austin's return, he was recognized by the Chairman to state that he would have voted yes on this item. This item was presented by Public Transportation Division Director Eric Gleason.

114531  
PTN

The Texas Transportation Commission (commission) desires to award funds previously awarded to the Texoma Area Public Transportation System, Inc. (TAPS) to Ark-Tex Council of Governments, Public Transit Services, Rolling Plains Management Corporation, and SPAN, Inc., as identified in Exhibit A.

On January 6, 2016, the board of directors of TAPS, a rural transit district, voted to temporarily suspend services in its six-county service area. Neighboring transit districts are providing service during this temporary period, thereby ensuring continuity of service in Cooke, Clay, Fannin, Grayson, Montague, and Wise counties.

Transportation Code, Chapter 455 assigns a broad spectrum of public transportation roles and missions to the Texas Department of Transportation (department).

Transportation Code, Chapter 456 authorizes the commission to administer public transportation programs.

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is hereby authorized to proceed with the awards not to exceed the balance amounts shown in Exhibit A and to enter into the necessary contracts.

IT IS FURTHER ORDERED by the commission that the executive director or the director's designee is hereby authorized to notify the recipients in writing.

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

c. Various Counties - Award federal funds for Rural Areas Intercity Bus Transportation program (MO)

Commissioner Vandergriff made a motion, which was seconded by Commissioner Bugg, and the commission approved the following minute order by a vote of 4 - 0. At the time of this vote Commissioner Austin was temporarily out of the meeting room. Upon Commissioner Austin's return, he was recognized by the Chairman to state that he would have voted yes on this item. This item was presented by Public Transportation Division Director Eric Gleason.

114532  
PTN

The Texas Transportation Commission (commission) desires to award \$371,658 of Federal Transit Administration §5311(f) Formula Grants for Rural Areas Intercity Bus Transportation Program funds to Greyhound Lines, Inc. and further acknowledges that federal program regulations require the Texas Department of Transportation (department) to ensure that these grant funds are distributed fairly and equitably within the state.

Title 43, Texas Administrative Code, Sections 31.22, 31.36, and 31.37 establish the process by which program proposals shall be evaluated and funds distributed. On

November 7, 2014, the department published a Notice of Call for Projects in the *Texas Register*. Project criteria included project planning and coordination, demonstration of need and benefits of the project, and project management.

The commission finds that the project is eligible for funding and awards a total of \$371,658 in federal funds.

Transportation Code, Chapter 455 assigns a broad spectrum of public transportation roles and missions to the department.

Transportation Code, Chapter 456 authorizes the commission to administer funds appropriated for public transportation.

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the award, submit the necessary state application to the FTA, and enter into the necessary contracts.

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

**a. Final Adoption**

**(1) Chapter 9 - Contract and Grant Management**

**Amendments to §9.102, §9.107, §9.111, §9.113, and §9.114 (Highway Improvement Contract Sanctions) (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 Construction Division Director Tracy Cain.

114533  
CST

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §9.102, §9.107, §9.111, §9.113, and §9.114, relating to Highway Improvement Contract Sanctions, 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 §9.102, §9.107, §9.111, §9.113, and §9.114 are proposed for adoption 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 21 - Right of Way**

**Amendments to §21.31, §21.33, §21.41, and new §21.57 (Utility Accommodation), and §§21.962-21.963 (Leasing of Right of Way to Saltwater Pipeline Operators) (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 Right of Way Division Director Gus Cannon.

114534  
ROW

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §21.31, §21.33, and §21.41, and new §21.57, concerning Utility Accommodation, and §§21.962 - 21.963, concerning Leasing of Right of Way to Saltwater Pipeline Operators, 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 - C, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the general counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §21.31, §21.33, §21.41, and §§21.962 - 21.963, and new §21.57, 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 - C are on file with the commission chief clerk.

**b. Proposed Adoption**

**(1) Chapter 2 - Environmental Review of Transportation Projects**

Amendments to §§2.1, 2.3, 2.5, 2.11, and 2.14 (General Provisions), §§2.44, 2.48, 2.49, and 2.50 (Environmental Review Process for Highway Projects), §§2.81, 2.83, 2.84, and 2.85 (Requirements for Classes of Projects), §§2.102, 2.104, 2.105, 2.106, 2.107, 2.108, and 2.110 (Public Participation), and §2.131 (Requirements for Specific Types of Projects and Programs) (MO)

Commissioner Vandergriff 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 Environmental Affairs Division Director Carlos Swonke.

114535  
ENV

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§2.1, 2.3, 2.5, 2.11, 2.14, 2.44, 2.48, 2.49, 2.50, 2.81, 2.83, 2.84, 2.85, 2.102, 2.104, 2.105, 2.106, 2.107, 2.108, 2.110, and 2.131, codified under Title 43, Texas Administrative Code, Part 1, and all relating to the environmental review of transportation projects.

The preamble and the proposed amendments attached to this minute order as Exhibits A - F are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by

the general counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §§2.1, 2.3, 2.5, 2.11, 2.14, 2.44, 2.48, 2.49, 2.50, 2.81, 2.83, 2.84, 2.85, 2.102, 2.104, 2.105, 2.106, 2.107, 2.108, 2.110, and 2.131, are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

**(2) Chapter 6 - State Infrastructure Bank**

**Repeal of §6.24, Suspension of Applications (Procedures), and Amendments to §6.31, Department Action, and §6.32, Commission Action (Department and Commission Action) (MO)**

Commissioner Austin 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 Project Finance & Debt Management Division Director Ben Asher.

114536  
DMO

The Texas Transportation Commission (commission) finds it necessary to propose the repeal of §6.24, Suspension of Applications, and amendments to §6.31, Department Action, and §6.32, Commission Action, relating to the State Infrastructure Bank, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the repeal of §6.24 and amendments to §§6.31 and 6.32 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

Note: Exhibits A - C are on file with the commission chief clerk.

**(3) Chapter 7 - Rail Facilities**

**Amendments to §§7.31, 7.33, 7.34, and 7.36, (Rail Safety) (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 Traffic Operations Division Director Carol Rawson.

114537  
TRF

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§7.31, 7.33, 7.34, and 7.36, relating to Rail Facilities to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §§7.31, 7.33, 7.34, and 7.36 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

**(4) Chapter 9 - Contract and Grant Management**  
**Amendments to §§9.31, 9.32, 9.34, 9.35, 9.37, and 9.41 (Contracting for Architectural, Engineering, and Surveying Services) (MO)**

Commissioner Austin 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 Professional Engineering Procurement Services Director Martin Rodin.

114538  
PEPS

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§9.31, 9.32, 9.34, 9.35, 9.37, and 9.41 relating to Contracting for Architectural, Engineering, and Surveying Services, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §§9.31, 9.32, 9.34, 9.35, 9.37, and 9.41 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

**ITEM 9. Appointments****a. Grand Parkway Transportation Corporation****Appoint director to the Grand Parkway Transportation Corporation (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 Associate General Counsel Rebecca Bronson.

114539  
DMO

By Minute Order 111551 adopted on October 30, 2008, the Texas Transportation Commission (commission) authorized the creation of the Texas Private Activity Bond Surface Transportation Corporation (corporation) under the authority of Transportation Code, Chapter 431, Subchapters A through C and as further authorized by Title 43, Texas Administrative Code, Section 15.94. The corporation was created to assist and act on behalf of the commission to promote and develop new and expanded public transportation facilities and systems including the issuance of private activity bonds for comprehensive development agreement proposers approved by the commission.

The powers of the corporation are exercised through its board of directors consisting of three persons appointed by the commission. Under the articles of incorporation of the corporation, as approved by the commission, the directors of the corporation must be employees of the Texas Department of Transportation (department), and the commission duly appointed three initial members in Minute Order 111551. In Minute Order 112797 dated August 25, 2011, the commission appointed directors to a six-year term.

There is now a vacancy on the corporation's board of directors due to one director, James Bass, having withdrawn from the board of directors upon his becoming executive director of the department, as of January 1, 2016.

IT IS THEREFORE ORDERED that Brian Ragland, an employee of the department, is appointed to the board of directors of the corporation to serve Mr. Bass' remaining term expiring on August 31, 2017.

**b. Private Activity Bond Surface Transportation Corporation****Appoint director to the Texas Private Activity Bond Surface Transportation Corporation (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 Associate General Counsel Rebecca Bronson.

114540  
DMO

By Minute Order 113046 adopted on March 29, 2012, the Texas Transportation Commission (commission) authorized the creation of the Grand Parkway Transportation Corporation (corporation) under the authority of Transportation Code, Chapter 431, Subchapters A through C and as further authorized by Title 43, Texas Administrative Code, Section 15.95. The corporation was created to facilitate the developing, financing, refinancing, designing, constructing, reconstructing, expanding,

operating, and maintaining of various segments of State Highway 99 (Grand Parkway) and act on behalf of the commission to promote and develop various segments of the Grand Parkway.

The powers of the corporation are exercised through its board of directors consisting of three persons appointed by the commission. Under the articles of incorporation of the corporation, as approved by the commission, the directors of the corporation must be employees of the Texas Department of Transportation (department), and the commission duly appointed three initial members in Minute Order 113046 to serve an initial term expiring on August 31, 2015. In Minute Order 114306 dated July 30, 2015, the commission appointed directors to a six-year term commencing September 1, 2015.

There is now a vacancy on the corporation’s board of directors due to one director, James Bass, having resigned from the board effective with his becoming executive director of the department.

IT IS THEREFORE ORDERED that Brian Ragland, an employee of the department, is hereby appointed to the board of directors of the corporation to serve Mr. Bass' remaining term expiring on August 31, 2021.

**ITEM 10. Contracts**

Award or reject contracts for maintenance, highway and building construction

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

Commissioner Austin 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 Construction Division Director Tracy Cain.

114541  
MNT

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for maintenance of the State Highway System, which were publicly opened and read on March 3 and 4, 2016, 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, 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)**

Commissioner Bugg 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 Construction Division Director Tracy Cain.

114542  
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 March 3 and 4, 2016, 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 11. 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 Vice Chairman Moseley 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 Director Gus Cannon.

114543  
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 - FF. 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 - 48, 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>
Bell	FM 2410	40	2304-02-041	4
Cherokee	US 69	35	0199-03-039	39
Collin	US 75	13	0047-14-072	61
Collin	US 75	28	0047-14-072	9
Collin	SH 289	12	0091-05-064	4
Collin	SH 289	14	0091-05-064	12
Collin	SH 289	15	0091-05-064	5
Collin	SH 289	16	0091-05-064	13
Collin	SH 289	17	0091-05-064	9
Collin	SH 289	37	0091-05-064	7
Collin	SH 121	21	0549-03-026	13
Dallas	SL 12	43	0581-02-115	108
Denton	US 377	25	0081-03-057	3TE
Denton	US 377	26	0081-03-057	10,10TE
Denton	US 377	31	0081-03-057	4,4TE
Denton	US 377	32	0081-03-057	29,29TE
Denton	US 377	33	0081-03-057	17
Denton	US 377	38	0081-03-057	30
Denton	US 377	44	0081-03-057	15
Denton	US 377	45	0081-03-057	28,28TE
Denton	BS 114K	34	0353-02-077	4,4TE
Denton	BS 114K	36	0353-02-077	7TE

**NON-CONTROLLED ACCESS (continued)**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Denton	BS 114K	42	0353-02-077	3TE
Denton	BS 114K	47	0353-02-077	6TE
Denton	FM 720	4	1567-01-038	11
Eastland	FM 2214	29	1697-02-025	6
Ellis	FM 664	3	1051-01-043	27,27TE
Ellis	FM 664	20	1051-01-043	57
Ellis	FM 664	23	1051-01-043	62
Ellis	FM 664	24	1051-01-043	56
Ellis	FM 664	27	1051-01-043	16
Fort Bend	FM 2234	9	2105-01-036	39A
Fort Bend	FM 2234	11	2105-01-036	39B
Harris	FM 521	39	0111-01-093	2
Harris	FM 521	41	0111-01-093	3
Montgomery	FM 1488	46	0523-10-037	32
Navarro	SH 31	1	0162-11-002	9
Navarro	SH 31	2	0162-11-002	2
Navarro	SH 31	8	0162-11-002	1
Navarro	SH 31	7	0162-11-002	27
Smith	Spur 248	30	2558-01-016	11
Wharton	US 59	18	0089-06-084	5
Wharton	US 59	19	0089-06-084	21
Wharton	US 59	48	0089-06-084	17
Wheeler	US 83	5	0030-08-036	15
Wheeler	US 83	10	0030-08-036	13
Wheeler	US 83	22	0030-08-036	2
Wheeler	US 83	6	0030-08-036	4

**CONTROLLED ACCESS**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Dallas	IH 30	P	1068-04-137	8
El Paso	IH 10	EE	2121-02-154	3A
El Paso	IH 10	T	2121-02-154	15
El Paso	IH 10	U	2121-02-154	22
El Paso	IH 10	V	2121-02-154	2A
El Paso	IH 10	W	2121-02-154	4,4TE
El Paso	IH 10	X	2121-02-154	2
Harris	IH 45	N	0500-03-566	7
Harris	IH 45	O	0500-03-566	6
Harris	IH 10	J	0508-01-326	208TE
McLennan	IH 35	B	0015-01-234	41
McLennan	IH 35	C	0015-01-234	42
McLennan	IH 35	D	0015-01-234	19
McLennan	IH 35	E	0015-01-234	13

**CONTROLLED ACCESS (continued)**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
McLennan	IH 35	F	0015-01-234	21
McLennan	IH 35	G	0015-01-234	49
McLennan	IH 35	H	0015-01-234	115
McLennan	IH 35	K	0015-01-234	129AC
McLennan	IH 35	L	0015-01-234	28
McLennan	IH 35	M	0015-01-234	23
McLennan	IH 35	I	0015-01-234	40,40AC
Navarro	SH 31	A	0162-11-002	8
Tarrant	SH 183	AA	0364-05-038	22
Tarrant	SH 183	BB	0364-05-038	25
Tarrant	SH 183	CC	0364-05-038	29
Tarrant	SH 183	DD	0364-05-038	675
Tarrant	SH 183	FF	0364-05-038	676
Tarrant	IH 30	R	1068-02-123	80,80TE
Tarrant	IH 30	Z	1068-02-123	23
Tarrant	IH 30	Q	1068-02-123	79
Tarrant	IH 30	Y	1068-02-123	16
Wharton	US 59	S	0089-06-084	3

Note: Exhibits A - FF and 1 - 48 are on file with the commission chief clerk.

**ITEM 12. Routine Minute Orders**

Commissioner Vandergriff made a motion, which was seconded by Commissioner Bugg, and the commission approved the following minute orders by a vote of 5 - 0. This item was presented by Executive Director James Bass.

**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)**

114544  
C&P

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) Bee County - US 181 south of Skidmore - Consider the sale of right of way to Bee County (MO)**

114545  
ROW

In BEE COUNTY, on US 181, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 540, Page 624, Real Property Records, Bee County, Texas.

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

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

Bee County (county) has requested to purchase Tract 1 for \$16,704.

The commission finds \$16,704 to be a fair and reasonable value for 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 Bee County, Texas, for \$16,704; 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) Hays County - FM 967 at Garlic Creek - Consider the sale of a drainage Easement (MO)**

114546  
ROW

In HAYS COUNTY, on FARM TO MARKET ROAD 967, the state of Texas acquired an easement interest in certain land by Channel Easement recorded in Volume 146, Page 101, Deed Records of Hays County, Texas.

A 0.201-acre portion of the easement (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 any interest in real property acquired and no longer needed for a state highway purpose.

Meritage Homes of Texas, LLC, an Arizona limited liability company, is the owner of the fee in the property and has requested to purchase Tract 1 for \$500. The commission finds \$500 to be a fair and reasonable value for the state's right 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 releasing all of the state's right and interest in Tract 1 to Meritage Homes of Texas, LLC, an Arizona limited liability company, for \$500.

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

**(3) McLennan County - US 81 at S. Martin Luther King, Jr., Blvd. in Waco - Consider the sale of a drainage easement (MO)**

114547  
ROW

In the City of Waco, McLENNAN COUNTY, on US 81, the state of Texas acquired an easement interest in certain land by instrument recorded in Volume 847, Page 393, Deed Records of McLennan County, Texas.

A portion of the easement (Tract 10E), 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 acquired and no longer needed for a state highway purpose. Baylor University, a Texas nonprofit corporation, is the owner of the fee in the property and has requested to purchase Tract 10E for \$33,000.

The commission finds \$33,000 to be a fair and reasonable value for the state's right and interest in Tract 10E.

IT IS THEREFORE ORDERED by the commission that Tract 1E is no longer needed for a state highway purpose. The commission recommends, subject to approval of the attorney general, that the governor of Texas execute a proper instrument releasing all of the state’s right and interest in Tract 10E to Baylor University, a Texas nonprofit corporation, for \$33,000.

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

(4) Montague County - US 82, south side, east of Hillcrest Drive in Nocona - Consider the transfer of right of way to the City of Nocona (MO)

114548  
ROW

In the City of Nocona, MONTAGUE COUNTY, on US 82, the state of Texas acquired certain land by instrument recorded in Volume 728, Page 210, Deed Records of Montague County, Texas.

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

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may waive payment for real property transferred to a governmental entity if the estimated cost of future maintenance on the property equals or exceeds the fair value of the property.

The fair value of Tract 1 has been determined to be \$63,000, and the estimated cost for future maintenance on the property is \$75,000.

The city of Nocona (city) has requested that Tract 1 be transferred to the city.

The commission finds \$63,000 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 transferring all of the state's right, title, and interest in Tract 1 to the City of Nocona, Texas, in consideration of the savings to the state of future maintenance costs; **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.

**c. Report**

(1) Compliance Office report

Note: Confidential report to commission.

**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 in accordance with the SH 121 Toll Project Agreement (MO)

114549  
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, through an extensive public involvement process, has identified additional project costs in the NCTCOG MPA boundary to be funded with the SH 121 payments, as shown in Exhibit A. The RTC has also identified changes to the list of previously-approved projects, which are shown in Exhibit B. A summary of funds associated with the SH 121 work program is set forth in Exhibit C, 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 projects as shown in Exhibit A that have been selected by the RTC to be funded with the SH 121 payments, and approves the placement of the projects in the work program with CONSTRUCT authority, to be developed consistent with applicable state and federal laws, regulations, and procedures. Pursuant to the finding of the RTC, the commission determines that the projects shown in Exhibit A are transportation or highway projects, or air-quality projects that will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads, and are therefore eligible to be funded with the SH 121 payments. The commission also concurs with the changes to the list of previously-approved projects as shown in Exhibit B.

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 - C 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 in accordance with the SH 161 Toll Project Agreement (MO)

114550  
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. Highway Designation**

**Camp County - In the city of Pittsburg, redesignate SL 238 as BU 271-H (MO)**

114551  
TPP

In Camp County, the Atlanta District has requested the redesignation of State Loop 238 as Business U.S. Highway 271-H on the state highway system from US 271, approximately 0.1 mile south of SL 179 to US 271, approximately 0.4 mile south of FM 556, a distance of approximately 1.8 miles.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director of the Texas Department of Transportation has recommended this action.

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

IT IS THEREFORE ORDERED by the commission that State Loop 238 is redesignated on the state highway system as Business U.S. Highway 271-H from US 271, approximately 0.1 mile south of SL 179 to US 271, approximately 0.4 mile south of FM 556, a distance of approximately 1.8 miles, as shown in Exhibit A.

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

**f. Designation of Access Control**

**(1) Collin County - SH 121, Between Alma Road and Stacy Road in McKinney - Consider the designation of one location on the southbound frontage road at which access will be permitted to the abutting property (MO)**

114552  
DES

In COLLIN COUNTY, on State Highway 121, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 4671, Page 2112, Deed Records of Collin County, Texas, with denial of access to the abutting remainder property as described in the instrument.

DFW RINGS, LLC, the current owner of the abutting property, has requested that access from the southbound frontage road of SH 121 be permitted along the southern property line at one new access point, described in Exhibit A.

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

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

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

NOW, THEREFORE, the commission finds that the new access point will not compromise the mobility, safety or operation of the existing state highway facility, and designates this new access point as a location where ingress and egress are permitted to and from the southbound frontage road of SH 121.

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

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

(2) Tarrant County - SH 121, north of Stone Myers Parkway in Grapevine - Consider the redesignation of one location on the northbound frontage road at which access will be permitted to the abutting property (MO)

114553  
DES

In TARRANT COUNTY, on State Highway 121, a designated controlled-access highway, access onto the northbound frontage road was permitted to the abutting property owner as described by metes and bounds and recorded in Document No. D210290492 of the Deed Records of Tarrant County, Texas.

2501 PARTNERS, LTD, the current owner of the abutting property, has requested a redesignation of the control of access along their property line. The existing access point, as shown in Exhibit A, will become controlled whereby access is denied. Access will be permitted at the new access point as described in Exhibit A.

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

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

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

NOW, THEREFORE, the commission finds that the new access point will not compromise the mobility, safety or operation of the existing state highway facility, and authorizes redesignation of permitted access along 60.01 linear feet of the SH 121

northbound frontage road from its original access point to the location described in Exhibit A.

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

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

**g. Speed Zones**

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

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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.

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 Exhibit C are canceled.

Note: Exhibits A - C 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 Norma Saldana; President of Rivera's Machinery Phil Rivera; Amy Nobles; and Sandra Nobles.

**ITEM 13. Executive Session Pursuant to Government Code, Chapter 551**

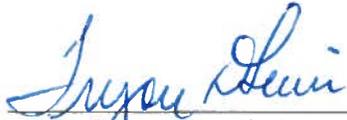
**a. Section 551.071 - Consultation with and advice from legal counsel regarding any item on this agenda, pending or contemplated litigation, or other legal matters.**

**b. Section 551.074 - Discuss the evaluation and duties of the executive director.**

The commission recessed to executive session at 12:29 p.m. and returned from executive session at 1:17 p.m.

Commissioner Austin motioned adjournment and Vice Chairman Moseley seconded the motion. The commission voted 5 - 0 to adjourn. The regular meeting of the Texas Transportation Commission was adjourned at 1:18 p.m.

APPROVED:



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Tryon D. Lewis, Chairman  
Texas Transportation Commission

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I hereby certify that the above and foregoing pages constitute the full, true, and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on March 31, 2016, in Austin, Texas.



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Robin Carter, Commission Chief Clerk  
Texas Department of Transportation