

These are the minutes of the regular meeting of the Texas Transportation Commission held on July 28, 2016, in Austin, Texas. The meeting was called to order at 9:04 a.m. by Chairman Lewis with the following commissioners present:

**Texas Transportation Commission:**

Tryon D. Lewis	Chairman
Jeff Austin, III	Commissioner
Victor Vandergriff	Commissioner
J. Bruce Bugg	Commissioner
Laura Ryan	Commissioner

Commissioner Bugg left the meeting at 11:47 a.m.

**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 3:13 p.m. on July 20, 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.

**ITEM 2. Approval of Minutes of the June 29, 2016 workshop meeting, and the June 30, 2016, regular meeting of the Texas Transportation Commission**

Commissioner Vandergriff made a motion, which was seconded by Commissioner Bugg, and the commission approved the minutes of the June 29, 2016, workshop meeting, and the June 30, 2016, regular meeting by a vote of 5 - 0.

**ITEM 3. Recognize former commissioner Jeff Moseley**

Each commissioner recognized and thanked former commissioner Moseley. Former commissioner Fred Underwood offered remarks and best wishes to commissioner Moseley. A special plaque was presented to commissioner Moseley commemorating roads in the Houston area that came to fruition during his tenure and photographs were taken.

**ITEM 4. Acknowledgment of Service****a. Recognize by resolution Mike C. McAnally, P.E., Odessa District Engineer, for nearly 35 years of service to the department**

This item was presented by District Operations Director Randy Hopmann. The commission recognized and thanked District Engineer McAnally. District Engineer McAnally thanked the commission and his family and various mentors in his career. Photographs were taken.

**b. Recognize by resolution Douglas W. Eichorst, II, P.E., Lubbock District Engineer, for 29 years of service to the department**

This item was presented by District Operations Director Randy Hopmann. Former commissioner Fred Underwood spoke to the commission about District Engineer Eichorst and thanked Eichorst for his service. The commission recognized and thanked District Engineer Eichorst. District Engineer Eichorst thanked the commission and his family and various mentors in his career. Photographs were taken.

**ITEM 5. Discussion Items****a. Unified Transportation Program (UTP)****Development of the 2017 Unified Transportation Program (Presentation)**

This item was presented by Project Planning and Development Director Lauren Garduno. The commission also heard comments from Sandy Guzman, Legislative Director for Senator Kirk Watson's office, Bexar County Commissioner Kevin Wolff, Houston-Galveston Area Council MPO Director Alan Clark, RTC Chairman Ron Jensen, and engineer and private citizen Don Dixon.

The commission took a short break from 11:47 a.m. to 12:05 p.m. Commissioner Bugg did not return from the break.

**b. Legislative Appropriations Request****Discuss the Texas Department of Transportation's Proposed Fiscal Year 2018-2019 Legislative Appropriations Request (LAR) (Presentation)**

This item was presented by Chief Financial Officer Brian Ragland.

**ITEM 6. Aviation****Various Counties - Award federal and state grant funding for airport improvement projects at various locations (MO)**

This item was presented by Aviation Division Director Dave Fulton. Commissioner Austin made a motion, which was seconded by Commissioner Vandergriff, and the commission approved the following minute order by a vote of 4 - 0.

114644

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 June 27, 2016 and July 15, 2016 public hearings were held. No comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A at an estimated cost of \$4,304,867.

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

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

**a. Final Adoption**

**Chapter 1 - Management**

**Amendments to §1.4, Public Access to Commission Meetings, §1.5, Public Hearings (Public Meetings and Hearings), and §1.11, Petition (Procedure for Adoption of Rules) (MO)**

This item was presented by General Council Jeff Graham. Commissioner Vandergriff made a motion, which was seconded by Commissioner Ryan, and the commission approved the following minute order by a vote of 4 - 0.

114645  
ADM

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §1.4, Public Access to Commission Meetings, and §1.5, Public Hearings, relating to Public Meetings and Hearings, and §1.11, Petition, relating to Procedure for Adoption of Rules, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §§1.4, 1.5, and 1.11 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**

**Chapter 28 - Oversize and Overweight Loads**

New §28.110, Purpose, §28.111, Definition, and §28.112, Districts Powers and Duties, §28.113, Permit Eligibility, §28.114, Permit Issuance Requirements and Procedures, §28.115, Permit Weight Limits for Axles, §28.116, Movement Requirements and Restrictions, §28.117, Records (Port of Harlingen Authority Permits) (MO)

This item was presented by Maintenance Division Director Michael Lee. Commissioner Ryan made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 4 - 0.

114646  
MNT

The Texas Transportation Commission (commission) finds it necessary to propose new sections §§28.110 - 28.117 relating to Port of Harlingen Authority Permits to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed new sections, 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 new §§28.110 – 28.117 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 8. Finance and Financial Assistance for Projects**

**a. Quarterly Investment Report (MO)**

This item was presented by Project Finance, Debt & Strategic Contracts Division Director Ben Asher. Commissioner Austin made a motion, which was seconded by Commissioner Vandergriff, and the commission approved the following minute order by a vote of 4 - 0.

114647  
PFD

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

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

In Minute Order 108970, dated July 25, 2002, the commission approved and adopted a written investment policy and investment strategy applicable to funds of the commission relating to the Central Texas Turnpike System held by Bank One, N.A., (in such capacity with its successors, currently Bank of New York Mellon), as Trustee under the Indenture of Trust dated July 15, 2002, between the commission and the trustee.. Pursuant to Government Code §2256.005(e) and Section 20 of the investment policy, the investment policy and investment strategies of the commission have been reviewed and revised annually by minute order since 2003, most recently by Minute Order 114360, dated August 27, 2015, which includes a written investment policy and investment strategy applicable to funds in the prepaid TxTag custodial account under the Master Lockbox and Custodial Account Agreement by and between the Bank of New York Mellon Trust Company, N.A., as custodian, and the department.

The commission has designated the department's Chief Financial Officer and Innovative Financing/Debt Management Officer as investment officers. The Chief Financial Officer is primarily responsible for the execution of investment strategy and activities on a daily basis. However, in his/her absence, the Department's Innovative Financing/Debt Management Officer, or a designee of any of the investment officers (as evidenced in a delegation memorandum) shall perform these duties and responsibilities.

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

Section 9.0 of the investment policy requires the investment officer to prepare and submit to each member of the commission and the executive director of the department an investment report on no less than a quarterly basis. The report must be prepared in accordance with the requirements of that section, including containing sufficient information to provide for a comprehensive review of investment activity and current investment instruments and performance for the reporting period. A quarterly investment report for the period ending May 31, 2016, attached as Exhibit A, has been prepared in accordance with Government Code §2256.023 and Section 9.0 of the investment policy.

IT IS THEREFORE ORDERED by the commission that the quarterly investment report for the period ending May 31, 2016, as presented to the commission and attached as Exhibit A, is accepted.

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

b. Cameron County - Cameron County Regional Mobility Authority - Consider granting preliminary approval of a request from the Cameron County Regional Mobility Authority to receive financial assistance in the form of a grant of up to \$6,000,000 to be used for construction of a controlled access toll facility on SH 550 from .53 mi East of Old Alice Road to .48 mi West of FM 1847 called the Gap I project (MO)

This item was presented by Project Finance, Debt & Strategic Contracts Division Director Ben Asher. Commissioner Vandergriff made a motion, which was seconded by Commissioner Ryan, and the commission approved the following minute order by a vote of 4 - 0.

114648  
PFD

The Texas Department of Transportation (department) and the Cameron County Regional Mobility Authority (CCRMA) have been proceeding with the development of the SH 550 Toll Project in Cameron County, a project under the jurisdictional limits of the CCRMA.

Part of the SH 550 Toll Project, called the GAP I project, is a controlled access toll facility on SH 550 from .53 mi East of Old Alice Road to 0.48 mi West of FM 1847 consisting of four main lanes, two in each direction (project). The project is located within the boundaries of the CCRMA, and CCRMA has exercised its option to develop, construct, and operate the project pursuant to Transportation Code §228.0111(f-1), pursuant to which the department and the CCRMA executed a market valuation waiver agreement dated September 9, 2009.

Transportation Code §370.301 authorizes the department to provide for or contribute to the payment of costs of the design, financing, construction, operation, or maintenance of a turnpike project by a regional mobility authority (RMA) on terms agreed to by the department and the RMA. Transportation Code §222.103 authorizes the department to participate, by spending money from any available source, in the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the Texas Transportation Commission (commission).

Pursuant to Transportation Code §222.103, the commission adopted Title 43 Texas Administrative Code §§27.50-27.58 (financial assistance rules) to prescribe conditions for the commission's financing of a toll facility of a public or private entity.

In accordance with Section 27.53 of the financial assistance rules, the CCRMA has submitted requests to receive a grant of up to \$6,000,000, all to pay for the construction of the project. The information and data required by Section 27.53 of the financial assistance rules is either contained in the request for financing, is already in the department's possession, or may be waived.

On February 24, 2011, the commission adopted Minute Order 112605, directing that if financial assistance is provided to a public entity under Transportation Code §222.103 from a statewide funding source: (1) that assistance shall be repaid, or (2) the department shall require the entity to which the assistance is provided to agree to share project revenue with the department, in such amounts and for such period of time as is approved by the commission. These requirements do not apply to financial assistance

provided from funds allocated to metropolitan planning organizations and department districts.

In accordance with 43 TAC §27.54(a)(2), the commission finds that: (1) the project is consistent with the Statewide Long-Range Transportation Plan and the metropolitan transportation plan developed by the applicable metropolitan planning organization; (2) the project is not in a Clean Air Act non-attainment area; (3) the project will improve the efficiency of the state's transportation systems; and (4) the project will expand the availability of funding for transportation projects or reduce direct state costs.

IT IS THEREFORE DETERMINED AND ORDERED that the requests submitted by the Cameron County Regional Mobility Authority for financial assistance in the form of a grant meet the applicable requirements of 43 TAC §§27.53 and 27.54(a) and, in accordance with those provisions, and including an exception to the requirements of Minute Order 112605, the commission grants preliminary approval of the request for financial assistance in an amount not to exceed \$6,000,000 as a grant, to be used for construction of the project.

**ITEM 9. Design-Build Contract**

**Dallas County - Authorize the department to issue a request for proposals for the design, development, construction, and potential maintenance of the Southern Gateway Project, including improvements to I-35E from south of the I-35E/US 67 interchange to Colorado Boulevard, with transition work extending north to Reunion Boulevard and improvements to US 67 from the I-35E/US 67 interchange to I-20 in Dallas County, and approve stipulated amounts as payment for the work product of unsuccessful proposers (MO) (Presentation)**

This item was presented by Comprehensive Development Director Katherine Holtz. Commissioner Vandergriff made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 4 - 0.

114649  
PFD

Subchapter F, Chapter 223, Transportation Code prescribes the process by which the Texas Department of Transportation (department) may enter into a design-build contract with a private entity that provides for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project. Transportation Code § 223.242 authorizes the department to enter into, in each fiscal year, up to three design-build contracts.

On April 28, 2016, by Minute Order 114563, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the design, development, construction, and potential maintenance of the Southern Gateway Project in Dallas County, consisting of improvements to I-35E from south of the I-35E/US 67 interchange to Colorado Boulevard, with transition work extending north to Reunion Boulevard, and improvements to US 67 from the I-35E/US 67 interchange to I-20.

The department issued the RFQ on May 13, 2016. Five proposer teams responded to the RFQ. The department is evaluating the qualifications statements to determine which proposer teams are best qualified to be on the short list of proposer teams that will be requested to submit detailed proposals to design, develop, construct, and potentially maintain the project.

Transportation Code § 223.246 and 43 TAC § 9.153(d) provide that, if authorized by the commission, the department will issue a request for proposals (RFP) from all private entities qualified for the short list. The department intends to issue an RFP for the Southern Gateway Project and to request detailed proposals from the short listed teams to design, develop, construct, and potentially maintain the project.

Transportation Code § 223.249(a) and 43 TAC § 9.153(f) require the department to pay an unsuccessful private entity that submits a detailed proposal that is responsive to the requirements of the RFP a stipulated amount in exchange for the work product contained in the proposal. The stipulated amount must be stated in the RFP and may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. Payment for this work product would allow the department to use the work product for the benefit of the Southern Gateway Project or other department projects without further payment to the unsuccessful proposer. Transportation Code § 223.249(b) and 43 TAC § 9.153(f) require the department to pay a partial stipend in the event that a procurement is terminated before the execution of a design-build contract.

**IT IS THEREFORE ORDERED** that the department, after it determines the best qualified proposer teams to be on the short list, is authorized to issue an RFP to design, develop, construct, and potentially maintain the Southern Gateway Project in Dallas County, consisting of improvements to I-35E from south of the I-35E/US 67 interchange to Colorado Boulevard, with transition work extending north to Reunion Boulevard, and improvements to US 67 from the I-35E/US 67 interchange to I-20.

**IT IS FURTHER ORDERED** that, after consideration of the criteria in 43 TAC § 9.153(f), the department is authorized to pay each proposer that submits a responsive, but unsuccessful, proposal for the Southern Gateway Project an amount based upon the value of the work product provided in the proposal that can, as determined by the department, be used by the department in the performance of its functions, up to a maximum amount per proposer of 0.25% of the successful proposer's price for all work under the design-build agreement.

**IT IS FURTHER ORDERED** that in the event the procurement is terminated prior to the execution of the design-build agreement, and after consideration of the criteria in 43 TAC § 9.153(f), the department is authorized to pay each proposer a partial stipend based upon the value of the work product that can, as determined by the department, be used by the department in the performance of its functions, up to a maximum amount per proposer of \$1,564,000.

**IT IS FURTHER ORDERED** that payment for work product may only be paid to the extent that the work product submitted meets the minimum criteria and the proposer satisfies the conditions for payment identified by the department in the Southern Gateway Project procurement documents.

**ITEM 10. Surface Transportation Corporation**

**Various Counties - Authorize the termination of two advance funding agreements between the Texas Department of Transportation (department) and the Grand Parkway Association (association) and the payment by the department of certain outstanding financial obligations of the association in order to complete the association's final accounting (MO)**

This item was presented by Deputy Executive Director Marc Williams. Commissioner Ryan made a motion, which was seconded by Commissioner Vandergriff, and the commission approved the following minute order by a vote of 4 - 0.

114650  
ADM

The Texas Transportation Commission (commission) by order adopted on October 25, 1984, created the Grand Parkway Association (association), as a non-profit transportation corporation, to perform route and environmental studies and other matters in support of the development of State Highway (SH) 99, the Grand Parkway.

The association is in the process of terminating or completing all outstanding contracts and is conducting a final accounting of its obligations in order to make a determination that it has accomplished the purposes for which it was created and should be dissolved. At a duly called association meeting held on June 28, 2016, the board of directors of the association authorized terminating the various contracts the association is a party to, including authorization to terminate two advance funding agreements between the association and the Texas Department of Transportation (department) upon conclusion of pending work authorized by those agreements.

The "Local Transportation Project Advance Funding Agreement For Transportation Improvement Projects (On-System) SH 99 (Grand Parkway) US 59N to IH 10E (Segments H & I-1)" between the association and the department dated October 20, 2005 (Segments H and I-1 agreement) was approved by Minute Order No. 110044 adopted by the commission on April 29, 2005.

The "Advance Funding Agreement For Transportation Improvement Projects (On-System) SH 99 (Grand Parkway Segment - B): SH 288 to IH 45" between the association and the department dated June 24, 2002 (Segment B agreement) was approved by Minute Order No. 108543 adopted by the commission on June 28, 2001.

Pursuant to Section 4 of the Segments H and I-1 agreement and Section 10 of the Segment B agreement, the respective agreements may be terminated in writing with the mutual consent of the parties.

Texas Transportation Code, Chapter 431, provides that a transportation corporation such as the association must determine that all of its obligations have been fully paid at the time its board of directors authorizes its dissolution based on completion of purpose. The association has authorized the department to perform a final accounting of the outstanding authorized obligations of the association and the amounts due and payable in order to wind up the association's activities and to

determine the sources of funds available to pay the final authorized obligations of the association.

NOW, THEREFORE, IT IS ORDERED that the commission consents to the termination of the Segments H and I-1 agreement and the Segment B agreement and the executive director of the department is authorized to evidence the commission's consent to termination.

IT IS FURTHER ORDERED that the executive director or his designee is authorized and directed to execute all ancillary agreements, instruments and certificates necessary to effect the termination of the Segments H and I-1 agreement and the Segment B agreement.

IT IS FURTHER ORDERED that the department is authorized to pay the outstanding authorized obligations of the association, including any amounts due pursuant to the Segments H and I-1 agreement and the Segment B agreement, prior to the association's dissolution, to the extent that funds available to the association are insufficient therefor.

**ITEM 11. Contracts**

**Award or reject contracts for maintenance, highway and building construction**

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

This item was presented by Construction Division Director Tracy Cain. Commissioner Austin made a motion, which was seconded by Commissioner Ryan, and the commission approved the following minute order by a vote of 4 - 0.

114651  
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 June 7 and 8, 2016, and July 7 and 8, 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)**

This item was presented by Construction Division Director Tracy Cain. Commissioner Ryan made a motion, which was seconded by Commissioner Vandergriff, and the commission approved the following minute order by a vote of 4 - 0.

114652  
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 July 7 and 8, 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, reject, or defer until the next commission meeting 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 or if additional information is required to make a final decision, defer the award or rejection of the contract until the next regularly scheduled meeting. The award or rejection of Project Number STP 2014(167)TE is hereby deferred to a later date.

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.

**(c) Highway Maintenance and Department Building Construction**

**Rescind and Award: Maintenance Project RMC-629856001, Harris County, IH-610**

This item was presented by Construction Division Director Tracy Cain. Commissioner Austin made a motion, which was seconded by Commissioner Vandergriff, and the commission approved the following minute order by a vote of 4 - 0.

114653  
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 June 7, 2016, as shown on Exhibit A.

Pursuant to Title 43, Texas Administrative Code Section 9.17(h), the Texas Transportation Commission (commission) may rescind the award of any contract prior to contract execution upon a determination that it is in the best interest of the state.

The department recommends that the commission respectively rescind the award to the bidder listed for the highway maintenance and department building construction contract for the Houston District, Harris County project RMC-629856001, awarded on June 30, 2016 by Minute Order 114629, and award the highway maintenance and department building construction contract as identified on the attached Exhibit A to this order.

The Commission finds that it is in the best interest of the State to rescind the award of the referenced contract.

IT IS THEREFORE ORDERED by the commission that the award of the contract for Harris County project RMC-629856001, awarded on June 30, 2016 and described in Exhibit A of Minute Order 114629, be and is hereby rescinded.

IT IS FURTHER ORDERED that the award of the contract described in Exhibit A attached to this order, be and is hereby respectively awarded as indicated therein.

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

**ITEM 12. Eminent Domain Proceedings**

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

This item was presented by Right of Way Division Director Gus Cannon. Commissioner Ryan 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 Austin and the following minute order was approved by Chairman Lewis, Commissioner Austin, Commissioner Vandergriff, and Commissioner Ryan (a vote of 4 - 0).

114654  
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 - T. 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 - 26, 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	US 190	9	0185-01-035	8, 8E
Burleson	FM 60	19	0648-03-064	36
Collin	FM 2514	16	2679-02-009	39
Collin	FM 2514	17	2679-02-009	43
Collin	FM 2514	18	2679-02-009	47
Denton	FM 1830	10	1785-01-036	2
El Paso	SL 375	11	2552-04-041	3
El Paso	SL 375	12	2552-04-041	48
Fort Bend	FM 2234	7	2105-01-053	304
Fort Bend	US 90A	14	0027-08-175	4
Fort Bend	US 90A	26	0027-08-175	3
Grayson	FM 121	23	0729-01-044	6
Harris	SH 146	2	0389-05-095	118
Harris	SH 146	3	0389-05-095	137
Hunt	SS 1570	20	2659-02-002	12
Hunt	SS 1570	21	2659-02-002	13
Hunt	SS 1570	22	2659-02-002	8
Navarro	SH 31	1	0162-11-002	50
Nueces	SH 358	6	0617-01-172	18
Rockwall	SH 276	4	1290-03-028	34
Rockwall	SH 276	24	1290-02-021	20, 20E
Rockwall	SH 276	25	1290-02-021	1, 1E
Wharton	US 59	13	0089-07-150	35
Williamson	FM 1660	5	1566-02-021	22
Williamson	FM 1660	8	1566-02-021	24
Williamson	FM 1660	15	1566-02-021	9

**CONTROLLED ACCESS**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Bell	US 190	H	0185-01-035	57
Bell	US 190	I	0185-01-035	71
Bell	US 190	K	0185-01-035	62,62E
Bell	US 190	L	0185-01-035	35, 35AC

**CONTROLLED ACCESS (continued)**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Bexar	SL 1604	F	2452-01-061	4
Dallas	IH 20	G	2374-04-078	10
Dallas	IH 35E	S	0196-03-248	113AC
Galveston	IH 45	M	0500-04-123	102
Galveston	IH 45	N	0500-04-123	225
Galveston	IH 45	O	0500-04-123	109
Galveston	IH 45	P	0500-04-123	127
Galveston	IH 45	Q	0500-04-120	12
Galveston	IH 45	R	0500-04-120	24
Maverick	SL 480	D	0299-14-021	10
McLennan	IH 35	A	0015-01-234	62
Navarro	SH 31	E	0162-11-002	66,66AC
Navarro	SH 31	J	0162-11-002	68,68AC
Navarro	SH 31	T	0162-11-002	13, 13E
Tarrant	IH 30	B	1068-02-123	19B, 19BTE
Tarrant	IH 30	C	1068-02-123	19A, 19ATE

Note: Exhibits A - T and 1 - 26 are on file with the commission chief clerk.

**ITEM 13. Routine Minute Orders**

This item was presented by Executive Director James Bass. Commissioner Vandergriff made a motion, which was seconded by Commissioner Ryan, and the commission approved the following minute orders by a vote of 4 - 0.

**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)

114655  
CPD

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) Archer County - US 82/277 at SH 25 southwest of Holliday - Consider removal from the system and designation on a new location and exchange of land for a highway relocation project (MO)**

114656  
ROW

In ARCHER COUNTY, on US 82/277, the state of Texas assumed an easement interest in certain land for highway purposes by instrument recorded in Volume G, Page 198, Commissioners Court Minutes, Archer County, Texas.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended, as shown in Exhibit A, that the old alignment of US 82/277, from Station 10462+44 to Station 10590+00 along the alignment of the new location, be removed from the state highway system, a distance of 2.53 miles. The executive director has also recommended that US 82/277 be designated on a new location between Station 10462+44 and Station 10590+00, a distance of 2.42 miles.

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

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the exchange of an interest in real property acquired but not needed for a highway purpose as whole or partial consideration for another interest in land needed for a state highway purpose.

Robert H. Henry, Margaret Green Henry, Individually and as Trustee of the Margaret Green Henry Trust, Helen Henry Wright, and Clayton Moore Henry (Henrys) have agreed to convey to the state certain land needed for highway purposes (Parcels), described in Exhibit C, and have requested that Tract 1 be quitclaimed to Henrys in exchange for the Parcels.

IT IS THEREFORE ORDERED by the commission that: 1) a segment of US 82/277 on an old alignment is removed from the state highway system from Station 10462+44 to Station 10590+00 along the alignment of the new location, a distance of 2.53 miles; and 2) US 82/277 is designated on a new location from Station 10462+44 to Station 10590+00, a distance of 2.42 miles.

FURTHER, IT IS 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 quitclaiming the state's right and interest in Tract 1 to Robert H. Henry, Margaret Green Henry, Individually and as Trustee of the Margaret Green Henry Trust, Helen Henry Wright, and Clayton Moore Henry, in exchange and as consideration for the Parcels.

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

**(2) Bastrop County - US 290 at West Brenham Street in Elgin - Consider the sale of right of way to the abutting landowner (MO)**

114657  
ROW

In the City of Elgin, BASTROP COUNTY, on US 290, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 103, Page 273, Deed Records of Bastrop 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.

Jeanne Bracewell Family Limited Partnership, a Texas limited partnership, is the abutting landowner and has requested to purchase Tract 1 for \$7,630.

The commission finds \$7,630 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 Jeanne Bracewell Family Limited Partnership, a Texas limited partnership, for \$7,630; 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.

**(3) Dallas County - I-635 at US 75 and Churchill Way in Dallas - Consider the sale of right of way (Tract 3) to the City of Dallas (city) (MO)**

114658  
ROW

In the City of Dallas, DALLAS COUNTY, on INTERSTATE HIGHWAY 635, the state of Texas acquired certain land for highway purposes by instruments recorded in Volume 79044, Page 2120, Deed Records of Dallas County, Texas.

A portion of the land (Tract 3) 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 acquired and no longer needed for a state highway purpose.

The City of Dallas has requested to purchase Tract 3 for \$1,000.

The commission finds \$1,000 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 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 3 to the City of Dallas, Texas, for \$1,000; 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.

(4) El Paso County - FM 258 (Old Pueblo Road) from SH 20 south to Socorro Road in El Paso - Consider the removal of a segment of highway from the system, transfer of control, jurisdiction, and maintenance to the City of El Paso (city), and designation on a new location; also consider the quitclaim of right of way to the city (MO)

114659  
ROW

In the City of El Paso, EL PASO COUNTY, on FARM TO MARKET ROAD 258, the state of Texas used certain land for highway purposes to which there is no record title.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended, as shown in Exhibit A, that a segment of FM 258 be removed from the state highway system along Old Pueblo Road from SH 20 south to Socorro Road, a distance of 0.16 mile, and that jurisdiction, control, and maintenance be transferred to the City of El Paso (city). The executive director has also recommended that FM 258 be designated along Socorro Road from Old Pueblo Road west to Zaragoza Road and north to SH 20, a distance of 0.29 mile.

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

In accordance with Texas Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the quitclaim of any interest that might have accrued to the state by use of the property to the municipality where the property is located.

The city has agreed to assume jurisdiction, control, and maintenance and has requested that Tract 1 be quitclaimed to the city.

IT IS THEREFORE ORDERED by the commission that: 1) a segment of FM 258 is removed from the state highway system along Old Pueblo Road from SH 20

south to Socorro Road, a distance of 0.16 mile, and jurisdiction, control, and maintenance are transferred to the city; and 2) FM 258 is designated on a new location along Socorro Road from Old Pueblo Road west to Zaragoza Road and north to SH 20, a distance of 0.29 mile.

FURTHER, IT IS 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 quitclaiming the state's right and interest in Tract 1 to the City of El Paso, Texas.

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

**(5) Hidalgo County - FM 396 at US 83 in Mission - Consider the sale of right of way to the abutting landowner (MO)**

114660  
ROW

In the City of Mission, HIDALGO COUNTY, on FARM TO MARKET ROAD 396, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 956, Page 508, Deed Records of Hidalgo 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 land no longer needed for a state highway purpose to abutting or adjoining landowners.

Belton, LLC, is an abutting landowner and has requested to purchase Tract 1 for \$95,985.

The commission finds \$95,985 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 the state's right, title, and interest in Tract 1 to Belton, LLC, for \$95,985; 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.

**(6) Hidalgo County - US 281, southeast corner at Trenton Road in Edinburg - Consider the sale of right of way to the City of Edinburg (city) (MO)**

114661  
ROW

In the City of Edinburg, HIDALGO COUNTY, on US 281, the state of Texas acquired certain land by instrument recorded in Volume 1317, Page 336, Deed Records of Hidalgo County, Texas.

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

The City of Edinburg has requested to purchase the Tracts for \$1,707,990.

The commission finds \$1,707,990 to be a fair and reasonable value of the state's right, title, and interest in the Tracts.

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 a proper instrument conveying all of the state's right, title, and interest in the Tracts to the City of Edinburg, Texas, for \$1,707,990; 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) Shelby County - US 84 at County Road 3598 in Joaquin - Consider the sale of right of way to the abutting landowner (MO)

114662  
ROW

In the City of Joaquin, SHELBY COUNTY, on US 84, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 174, Page 557, Deed Records of Shelby 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.

Donald G. Paul, Sr., is the abutting landowner and has requested to purchase Tract 1 for \$3,250.

The commission finds \$3,250 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 Donald G. Paul, Sr., for \$3,250; 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) Travis County - SH 130 southeast quadrant at US 290 - Consider the exchange of drainage easements and acknowledgement of the acceptance of a donation (MO)

114663  
ROW

In TRAVIS COUNTY, on STATE HIGHWAY 130, the state of Texas acquired an easement interest in certain land by instruments recorded as Document No. 2007039702 and 2007048390, Official Public Records of Travis County, Texas.

The easement (Tract 2), described in Exhibit A, is no longer needed for a state highway purpose.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the exchange of an interest in real property acquired but not needed for a highway purpose as whole or partial consideration for another interest in land needed for a state highway purpose.

Butler Family Partnership, Ltd., and Butler Grandchildren's Partnership, Ltd., (Butler) have granted to the state an easement interest in certain land (Parcel 1E), described in Exhibit B, needed for a state highway purpose. Butler is the owner of the fee in the property and has requested that Tract 2 be released in exchange for Parcel 1E.

V.T.C.A., Transportation Code, Chapter 201, Subchapter D, authorizes the Texas Department of Transportation (department) to accept donations of real property for the purpose of carrying out its functions and duties.

V.T.C.A., Government Code, Chapter 575, requires the commission to acknowledge the acceptance of a gift or donation valued at over \$500 by majority vote at an open meeting not later than the 90th day after the date the donation is accepted. An Agreement Concerning the Donation of Property to the Texas Department of Transportation (donation agreement) has been executed by owner and tendered to the department for acceptance under the provisions of Title 43, Texas Administrative Code, Chapter 1, Subchapter M, since the value of

Parcel 1E, which is \$47,430, exceeds the value of Tract 2, which is \$38,410, resulting in a difference in value of \$9,020.

Butler has executed and delivered a document under the terms of the donation agreement granting Parcel 1E to the state and has requested that the state's right and interest in Tract 2 be released to Butler.

It is the opinion of the commission that it is proper and correct that the state release its interest in Tract 2 in exchange and as consideration for Parcel 1E and the partial donation to the state.

IT IS THEREFORE ORDERED by the commission that it acknowledges the acceptance of the donation of \$9,020 in accordance with Title 43, Texas Administrative Code, Chapter 1, Subchapter M.

FURTHER, in consideration of the foregoing premises and in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that Tract 2 is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument releasing the state's right and interest in Tract 2 to Butler Family Partnership, Ltd., and Butler Grandchildren's Partnership, Ltd., in exchange and as consideration for Parcel 1E and the partial donation to the state.

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

(9) Williamson County - US 183 at Whitewing Drive north of Leander - Consider the exchange of right of way and acknowledgement of the acceptance of a donation (MO)

114664  
ROW

In WILLIAMSON COUNTY, on US 183, the state of Texas acquired certain land for highway purposes by instrument recorded in Document No. 2009091845, Official Public Records of Williamson 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 exchange of an interest in real property acquired but not needed for a highway purpose as whole or partial consideration for another interest in land needed for a state highway purpose.

Caughfield Ranch, Ltd., (Caughfield) has agreed to convey to the state certain land (Parcel 2), described in Exhibit B, needed for a state highway purpose and has requested that Tract 1 be conveyed to Caughfield in exchange for Parcel 2.

V.T.C.A., Transportation Code, Chapter 201, Subchapter D, authorizes the Texas Department of Transportation (department) to accept donations of real property for the purpose of carrying out its functions and duties.

V.T.C.A., Government Code, Chapter 575, requires the commission to acknowledge the acceptance of a gift or donation valued at over \$500 by majority vote at an open meeting not later than the 90th day after the date the donation is accepted.

An Agreement Concerning the Donation of Property to the Texas Department of Transportation (donation agreement) has been executed by owner and tendered to the department for acceptance under the provisions of Title 43, Texas Administrative Code, Chapter 1, Subchapter M, since the value of Parcel 2, which is \$315,000, exceeds the value of Tract 1, which is \$300,000, resulting in a difference in value of \$15,000.

Caughfield has executed and delivered a document under the terms of the donation agreement to convey Parcel 2 to the state and has requested that the state's right, title, and interest in Tract 1 be conveyed to Caughfield.

It is the opinion of the commission that it is proper and correct that the state convey its interest in Tract 1 in exchange and as consideration for Parcel 2 and the partial donation to the state.

IT IS THEREFORE ORDERED by the commission that it acknowledges the acceptance of the donation of \$15,000 in accordance with Title 43, Texas Administrative Code, Chapter 1, Subchapter M.

FURTHER, in consideration of the foregoing premises and in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that Tract 1 is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying the state's right, title, and interest in Tract 1 to Caughfield Ranch, Ltd., in exchange and as consideration for Parcel 2 and partial donation 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.

**c. Reports**

**(1) Obligation Limit Report**

Quarterly status report on the FY 2016 Obligation Limit, the actual obligations utilized through the current month, proposed remaining highway maintenance and construction contract letting for the fiscal year and an update on motor fuel tax receipts (Report)

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

**(2) Quarterly report on FY 2016 State Highway Fund 6 cash status (Report)**

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

**(3) Compliance Division**

Compliance Division report

Note: Confidential report to commission.

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

114665  
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 \$2,402,352,000 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 in accordance with the SH 121 Toll Project Agreement (MO)**

114666  
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)

114667  
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, through an extensive public involvement process, has identified additional project costs in the NCTCOG MPA boundary to be funded with the SH 161 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 161 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 161 payments, and approves the placement of the projects in the work program with CONSTRUCT authority, to be developed consistent with applicable state and federal laws, regulations, and procedures. Pursuant to the finding of the RTC, the commission determines that the projects shown in Exhibit A are transportation or highway projects, or air-quality projects that will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads, and are therefore eligible to be funded with the SH 161 payments. 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 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 - C are 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)**

114668  
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.

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.

**ITEM 14. 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.**

The commission did not meet in executive session.

**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 Roger Polson concerning his centennial book Miles and Miles of Texas 100 Years of the Texas Highway Department; from Robert Nobles, Sandra Nobles, and Judy Hopson concerning SH 249; and from Douglas Brown of Tensar International concerning geogrid use on I-10.

Commissioner Ryan motioned adjournment and Commissioner Austin seconded the motion. The commission voted 4 - 0 to adjourn. The regular meeting of the Texas Transportation Commission was adjourned at 1:04 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 July 28, 2016, in Austin, Texas.

  
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Robin Carter, Commission Chief Clerk  
Texas Department of Transportation