

These are the minutes of the regular meeting of the Texas Transportation Commission held on December 15, 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
Victor Vandergriff	Commissioner
J. Bruce Bugg	Commissioner
Laura Ryan	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 4:22 p.m. on December 7, 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 Randy Clawson.

ITEM 2. Approval of Minutes of the November 16, 2016, workshop meeting and the November 17, 2016, regular meeting of the Texas Transportation Commission

Commissioner Ryan made a motion, which was seconded by Commissioner Bugg, and the commission approved the minutes of the November 16, 2016, workshop meeting and the November 17, 2016, regular meeting by a vote of 5 - 0.

ITEM 3. Acknowledgement of Service

Recognize by resolution Paul Montgomery, P.E., Paris District Engineer, for nearly 29 years of service to the department

This item was presented by District Operations Director Randy Hopmann. Mr. Hopmann congratulated Mr. Montgomery and thanked him for his work for the department. Mr. Montgomery then spoke and thanked the commission and various mentors in his career. The commission thanked Mr. Montgomery and congratulated him. Photographs were taken.

ITEM 4. Aviation

a. Award federal funds for non-primary entitlement grants for airport improvement projects at various locations (MO) (MO)

This item was presented by Aviation Division Director Dave Fulton. Chairman Lewis recused himself from the vote on this item and provided the gavel to Commissioner Austin. Commissioner Bugg made a motion, which was seconded by Commissioner Vandergriff, and the commission approved the following minute order by a vote of 4 - 0. Commissioner Austin returned the gavel to Chairman Lewis.

114784
AVN

The Texas Department of Transportation (department) is authorized under Title 49, United States Code, Chapter 471 to award federal funding for a capital improvement project and to assist in the development and establishment of an airport in the state of Texas.

The airport listed in Exhibit A is currently in need of improvements to preserve the airport or to meet standards. The department recommends the award of federal grant funds for the improvements.

On October 19, 2016 a public hearing was held. No comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the project described in Exhibit A at an estimated cost of \$439,800.

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

a. Award federal funds for non-primary entitlement grants for airport improvement projects at various locations (MO) (MO)

This item was presented by Aviation Division Director Dave Fulton. Commissioner Austin made a motion, which was seconded by Commissioner Bugg, and the commission approved the following minute order by a vote of 4 - 1. Commissioner Vandergriff voted against adoption of the minute order.

114785
AVN

The Texas Department of Transportation (department) is authorized under Title 49, United States Code, Chapter 471, to award federal 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 grant funds for the improvements.

On October 19, 2016, and November 16, 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 \$3,112,001.

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

b. Award federal and state funds for discretionary grants 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 Bugg, and the commission approved the following minute order by a vote of 4 - 1. Commissioner Vandergriff voted against adoption of the minute order.

114786
AVN

The Texas Department of Transportation (department) is authorized under Title 49, United States Code, Chapter 471, and Texas Transportation Code, Chapter 21, 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 October 19, 2016, and November 16, 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 \$4,398,333.

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

ITEM 5. Public Transportation

a. Various Counties - Award federal §5310 Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program funds and transportation development credits for FY 2016 (MO)

This item was presented by Public Transportation Division Director Eric Gleason. 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.

114787
PTN

The Texas Transportation Commission (commission) desires to award \$104,000 in federal funds under the Federal Transit Administration (FTA) Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities program (49 U.S.C. §5310) and up to 1,600 in transportation development credits (TDC), and further acknowledges that federal program regulations require the Texas Department of Transportation (department) to ensure that grant funds are distributed fairly and equitably within the state.

Awards to transit operators are calculated in accordance with the formula in Title 43, Texas Administrative Code (TAC), §31.31. Projects are recommended at the district level following a consultation process with local parties, including any existing Metropolitan Planning Organizations, and a local planning and development process. The department selects the final projects and award amounts for funding.

Previous commission action on June 30, 2016, Minute Order 114614, awarded funds for FY 2016 project proposals. To complete the FY 2016 program of projects, residual funds are awarded to the projects described in Exhibit A.

Projects meet the requirements of inclusion in a coordinated transportation plan as required in 49 U.S.C. §5310 and are administered through the provisions of Transportation Code, Chapter 461.

The commission recognizes that state and federal law permits the substitution of TDC as the required non-federal match for projects. Title 43, TAC, §5.109 establishes a process by which TDC may be awarded at the discretion of the commission.

In making the TDC award, the commission has considered the potential of the projects to expand the availability of funding for public transportation projects and finds that the projects meet the established program goals set forth in 43 TAC §5.102 to support public transit.

The commission finds that the projects in Exhibit A are eligible for funding and awards a total of \$104,000 in federal funds and up to 1,600 in TDC.

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, submit the necessary state application to FTA, and enter into the necessary contracts for the FY 2016 program of projects.

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

b. Various Counties - Award state funds, federal funds, and transportation development credits to Texoma Area Paratransit System, Inc. (MO)

This item was presented by Public Transportation Division Director Eric Gleason. The commission also heard remarks from Fannin County Judge Creta L. Carter, II. Commissioner Bugg made a motion, which was seconded by Commissioner Ryan, and the commission approved the following minute order by a vote of 4 - 1. Commissioner Austin voted against adoption of the minute order.

114788
PTN

The Texas Transportation Commission (commission) desires to award \$3,225,350 in state and federal funds and 260,260 transportation development credits (TDC) to Texoma Area Paratransit System, Inc.

The awards identified in Exhibit A reflect the allocation of previously withheld state and federal funds from several Federal Transit Administration grant programs to Texoma Area Paratransit System, Inc. Transportation development credits will assist with the match of federal funds for capital projects.

The commission recognizes that state and federal law permits the substitution of TDC as the required non-federal match for projects. Title 43, Texas Administrative Code (TAC), §5.109 establishes a process by which TDC may be awarded at the discretion of the commission.

In making this award, the commission has considered the potential to expand the availability of funding for public transportation projects and finds that the awards for

capital projects as identified in Exhibit A meets the established program goals set forth in 43 TAC §5.102 to support public transit.

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, submit the necessary state application to the FTA, and enter into the necessary contracts.

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

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

a. Final Adoption

(1) Chapter 9 - Contract and Grant Management

Amendments to §9.11, Definitions, §9.13, Notice of Letting and Issuance of Bid Forms, §9.15, Acceptance, Rejection, and Reading of Bids, §9.17, Award of Contract, and §9.18, After Contract Award (Highway Improvement Contracts) and §9.227, Information from Bidders (Disadvantaged Business Enterprise (DBE) Program) (MO)

This item was presented by Construction Division Director Tracy Cain. 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.

114789
CST

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §9.11, §9.13, §9.15, §9.17, and §9.18 relating to Highway Improvement Contracts and §9.227, Information from Bidders, relating to Disadvantaged Business Enterprise (DBE) Program, 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, B, and 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 §9.11, §9.13, §9.15, §9.17, §9.18 and §9.227 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.

(2) Chapter 11 - Design**New §§11.400 - 11.418 (Transportation Alternatives Set-Aside) (MO)**

This item was presented by Public Transportation Division Director Eric Gleason. Commissioner Austin made a motion, which was seconded by Commissioner Vandergriff, and the commission approved the following minute order by a vote of 5 - 0.

114790
PTN

The Texas Transportation Commission (commission) finds it necessary to adopt new §§11.400 - 11.418, relating to Transportation Alternatives Set-Aside Program, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted 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 §§11.400 - 11.418 are adopted and are authorized for filing with the Office of Secretary of State.

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

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

(3) Chapter 16 - Planning and Development of Transportation Projects**Amendments to §16.105, Unified Transportation Program (Transportation Programs), and §16.152, Cash Flow Forecast, §16.153, Funding Categories, §16.154, Transportation Allocation Funding Formulas, and §16.160, Funding Allocation Adjustments (Transportation Funding) (MO)**

This item was presented by Transportation Planning and Programming Division Director Peter Smith. Commissioner Vandergriff made a motion, which was seconded by Commissioner Ryan, and the commission approved the following minute order by a vote of 5 - 0.

114791
TPP

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §16.105 relating to Transportation Programs, and §§16.152 – 16.154, and 16.160, relating to Transportation Funding, 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, B, and 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 §§16.105, 16.152 – 16.154, and 16.160 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 4 - Employment Practices

Amendments to §4.33, Prohibited Conduct, §4.34, Illegal Drugs, §4.37, Test Results, and §4.39, Refusal to Test (Substance Abuse Program) (MO)

This item was presented by Human Resources Division Director David McMillan. 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.

114792
HRD

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§4.33, 4.34, 4.37 and 4.39 relating to Substance Abuse Program 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 §§4.33, 4.34, 4.37 and 4.39 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.

(2) Chapter 9 - Contract and Grant Management

Amendments to §9.14, Submittal of Bid (Highway Improvement Contracts) (MO)

This item was presented by Construction Division Director Tracy Cain. Commissioner Ryan made a motion, which was seconded by Commissioner Bugg, and the commission approved the following minute order by a vote of 5 - 0.

114793
CST

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §9.14, Submittal of Bid, relating to Highway Improvement Contracts, to be codified under Title 43, Texas Administrative Code, Part 1.

The commission, at a meeting, has considered the material change to the purchase order that would be made by the proposed amendment and has determined that change is acceptable and necessary.

IT IS THEREFORE ORDERED by the commission that the material change to the purchase order proposed by the department and set out in Exhibit B to this minute order is approved.

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

ITEM 8. Contested Case

Travis County - CKORP, LLC v. Texas Department of Transportation - Consider action on proposal for decision by administrative law judge concerning TxDOT's decision to debar CKORP for a period of two years, final order (MO)

This item was deferred by the commission and not considered.

ITEM 9. Contracts

Award or reject contracts for maintenance, highway and building construction (a) Construction of Highways, Department Buildings, and Other Transportation Facilities (MO)

This item was presented by Construction Division Director Tracy Cain. 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.

114795
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 December 1, 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 deferred, 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.

(b) Highway Maintenance (MO)

This item was presented by Construction Division Director Tracy Cain. Commissioner Bugg made a motion, which was seconded by Commissioner Ryan, and the commission approved the following minute order by a vote of 5 - 0.

114796
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 December 1, 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, reject or defer, 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 or deferred, as indicated therein.

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

If a condition of award is not satisfied, including, but not limited to, reason of nonconcurrence of the Federal Highway Administration, the failure of a third party to

fund or concur, or failure to meet other conditions in the contract or an Exhibit to this order, the respective award is voided and the department will return the bid guaranty.

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

ITEM 10. Eminent Domain Proceedings

Various Counties - Authorize the filing of condemnation proceedings to acquire real property by eminent domain for non-controlled and controlled access highways (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 Vandergriff and the following minute order was approved by Chairman Lewis, Commissioner Austin, Commissioner Vandergriff, Commissioner Bugg and Commissioner Ryan (a vote of 5 - 0).

114797
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 - OO. 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 - 29, 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:

CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Brazos	FM 2347	J	3138-01-026	17
Dallas	IH 635	E	2374-07-071	1
Denton	IH 35W	G	0081-13-055	5X
Galveston	IH 45	A	0500-04-120	19
Galveston	IH 45	H	0500-04-120	22
Galveston	IH 45	MM	0500-04-123	105
Galveston	IH 45	NN	0500-04-123	113
Galveston	IH 45	II	0500-04-123	210
Galveston	IH 45	R	0500-04-123	217
Galveston	IH 45	JJ	0500-04-123	226
Harris	SH 99	KK	3510-08-003	1002AAQ
McLennan	IH 35	N	0015-01-234	121,121AC
Montgomery	SH 99	D	3510-07-008	802AAQ
Tarrant	IH 820E	I	0008-13-232	1
Tarrant	IH 820E	LL	0008-13-232	4
Tarrant	IH 820E	M	0008-13-232	15
Tarrant	IH 820E	L	0008-13-232	21
Tarrant	SH 360	O	2266-02-145	103
Tarrant	SH 360	B	2266-02-145	131
Tarrant	SH 360	F	2266-02-145	132
Tarrant	SH 360	C	2266-02-145	140
Tarrant	SH 360	K	2266-02-145	141
Travis	IH 35	P	0015-13-393	1
Travis	IH 35	Q	0015-13-393	2
Travis	IH 35	OO	0015-13-393	4
Travis	IH 35	S	0015-13-393	7

CONTROLLED ACCESS (continued)

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Travis	IH 35	T	0015-13-393	8
Travis	IH 35	U	0015-13-393	10
Travis	IH 35	V	0015-13-393	12AAQ
Travis	IH 35	W	0015-13-393	15
Travis	IH 35	X	0015-13-393	19
Travis	IH 35	Y	0015-13-393	20
Travis	IH 35	Z	0015-13-393	21
Travis	IH 35	AA	0015-13-393	22
Travis	IH 35	BB	0015-13-393	23
Travis	IH 35	CC	0015-13-393	24
Travis	IH 35	DD	0015-13-393	25
Travis	IH 35	EE	0015-13-394	18
Travis	IH 35	FF	0015-13-394	26
Travis	IH 35	GG	0015-13-394	28
Travis	IH 35	HH	0015-13-394	29

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Bexar	US 281	15	0253-04-149	30
Bexar	US 281	16	0253-04-149	32
Bexar	US 281	5	0253-04-151	7A
Burleson	FM 60	17	0648-03-064	19
Burleson	FM 60	24	0648-03-064	20
Burleson	FM 60	25	0648-03-064	21
Burleson	FM 60	13	0648-03-064	26
Dawson	SH 349	6	0380-19-002	4
Galveston	SH 146	21	0389-06-092	418
Galveston	SH 146	9	0389-06-096	408
Galveston	SH 146	10	0389-06-096	409
Galveston	SH 146	11	0389-06-096	410
Grayson	FM 121	7	0729-01-044	10
Grayson	FM 121	12	0729-01-044	18
Grayson	FM 121	1	0729-01-044	23
Harris	SH 146	26	0389-05-095	114
Harris	SH 146	27	0389-05-095	115
Harris	SH 146	20	0389-05-095	126
Harris	SH 146	19	0389-05-095	130
Harris	SH 146	28	0389-05-095	136
Matagorda	FM 457	23	0605-01-063	1
Nacogdoches	FM 2609	22	2590-01-027	8
Nacogdoches	FM 2609	18	2590-01-027	9
Rockwall	FM 3549	14	1015-01-077	11

NON-CONTROLLED ACCESS (continued)

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Rockwall	FM 3549	29	1015-01-077	12
Rockwall	FM 3549	2	1015-01-077	17
Smith	FM 2493	8	0191-03-082	8
Smith	FM 2493	4	0191-03-082	14
Smith	FM 2493	3	0191-03-082	23

Note: Exhibits A - OO and 1 - 29 are on file with the commission chief clerk.

ITEM 11. Routine Minute Orders and Reports

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

114798
CSD

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) Coleman County - US 84 on Jim Ned Creek, north of Novice - Consider the quitclaim of right of way to honor a reversionary clause (MO)

114799
ROW

In COLEMAN COUNTY, on US 84, the state of Texas acquired an easement interest in certain land for highway purposes by instrument recorded in Volume 210, Page 214, Deed Records of Coleman County, Texas.

All of the residue of the easement (Tract 1), RCSJ 0054-02-034, described in Exhibit A, is no longer needed for state highway purposes.

The instrument conveying Tract 1 to the state contained a clause to the effect that if the land should cease to be used as a park, it shall revert to the grantor, his heirs, and assigns.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend the quitclaim of the state's interest to comply with a reversionary clause contained in the instrument that originally conveyed the interest to the state.

Purported heirs of Theo Dunman, the grantor, have requested that Tract 1 be quitclaimed to honor the reversionary clause.

The commission finds that it is proper and correct that the state quitclaim its right and interest in Tract 1 to comply with the reversionary clause contained in the instrument of conveyance to the state.

IT IS THEREFORE ORDERED by the commission 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 quitclaiming the state's right and interest in Tract 1 to the heirs and assigns of Theo Dunman, SAVE AND EXCEPT, any portion of Tract 1 previously deeded to the state for highway purposes.

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

(2) El Paso County - I-10 at Horizon Blvd. in El Paso - Consider the sale of right of way by sealed bid (MO)

114800
ROW

In El Paso, EL PASO COUNTY, on INTERSTATE 10 at Horizon Boulevard, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 1382, Page 279, Deed Records of El Paso County, Texas.

A portion of the land (Tract 2), RCSJ 2121-04-101, 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 no longer needed for a state highway purpose to the general public.

Tract 2 was advertised for sale, and C/K New Star, RE, submitted an acceptable bid of \$626,626.

The commission finds \$626,626 to be a fair and reasonable value of the state's right, title, and interest in Tract 2.

IT IS THEREFORE ORDERED by the commission that Tract 2 is no longer needed for a state highway purpose. The commission recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state's right, title, and interest in

Tract 2 to C/K New Star, RE, for \$626,626; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's right, title, and interest, if any, in and to all of the oil, gas, sulphur, and other minerals, of every kind and character, in, on, under, and that may be produced from the land.

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

(3) Harris County - SH 99 at Bridgeland Creek Parkway - Consider the quitclaim of easements acquired by donation (MO)

114801
ROW

In HARRIS COUNTY, on STATE HIGHWAY 99, the state of Texas acquired an easement interest for highway drainage purposes by instrument recorded as Document No. 20130596942, Official Public Records of Real Property, Harris County, Texas.

Portions of the land (Easement Tracts), RCSJ 3510-05-015, described in Exhibit A, are no longer needed for state highway purposes.

The Easement Tracts were donated to Harris County (county) and subsequently transferred to the state pursuant to agreement between the county and the state.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may recommend, if the state's title was acquired by donation, the conveyance to the grantor.

Bridgeland Development, LP (Bridgeland), is the grantor who donated the Easement Tracts and has requested that the Easement Tracts be quitclaimed to Bridgeland.

The commission finds that it is proper and correct that the state quitclaim its right and interest in the Easement Tracts to the grantor.

IT IS THEREFORE ORDERED by the commission that the Easement Tracts are 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 quitclaiming the state's right and interest in the Easement Tracts to Bridgeland Development, LP.

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

(4) Jefferson County - US 90 in Beaumont - Consider the removal from the system and designation on a new location. Also consider a quitclaim of right of way to the City of Beaumont (MO)

114802
ROW

In Beaumont, JEFFERSON COUNTY, on US 90, the state of Texas used certain land for highway purposes.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended, as shown on Exhibit A, that US 90 from I-10 at College Street, through downtown Beaumont to I-10 at Pearl Street, as shown below, be removed from the state highway system, a distance of approximately 3.31 miles; that control, jurisdiction, and maintenance be transferred to the City of Beaumont (city); and that a segment of US 90 be designated concurrently with I-10 from College Street to the Neches River Bridge, a distance of approximately 4.11 miles.

The land (Tract 1), RCSJ 0028-07-055, as shown on Exhibit A, is no longer needed for state highway purposes.

In accordance with Texas Transportation Code, §202.021, 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 county or municipality where the property is located.

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

IT IS THEREFORE ORDERED by the commission that US 90 is removed from the state highway system, a distance of approximately 3.31 miles, and control, jurisdiction, and maintenance are transferred to the city, as follows:

Eastbound and Northbound

- College Street eastbound from I-10 to Orleans Street;
- Orleans Street northbound from College Street to Pearl Street; and
- Pearl Street northbound from Orleans Street to I-10

Southbound and Westbound

- Willow Street southbound from I-10 to Laurel Street;
- Park Street southbound from Laurel Street to College Street;
- College Street westbound from Park Street to Neches Street;
- Wall Street westbound from Neches Street to Orange Street; and
- College Street westbound from Orange Street to I-10

IT IS ALSO ORDERED by the commission that US 90 is designated concurrently with I-10 from College Street to the Neches River Bridge, a distance of approximately 4.11 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 all of the state's right and interest in Tract 1 to the City of Beaumont, Texas.

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

(5) Jim Wells County - FM 1352 in Alice - Consider the sale of a former maintenance site and improvements to the county (MO)

114803
ROW

In Alice, JIM WELLS COUNTY, on FARM TO MARKET ROAD 1352, the state of Texas acquired certain land for highway maintenance purposes by instruments recorded in Volume 132,

Page 331, and Volume 207, Page 178, Deed Records of Jim Wells County, Texas.

The land (Tract 1), RCSJ 1447-01-022, 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 to a governmental entity of any interest in real property no longer needed for a state highway purpose.

Jim Wells County has requested to purchase Tract 1 for \$48,000.

The commission finds \$48,000 to be a fair and reasonable value of the state's right, title, and interest in Tract 1.

IT IS THEREFORE ORDERED by the commission that Tract 1 is no longer needed for a state highway purpose. The commission recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument conveying all of the state's right, title, and interest in

Tract 1 to Jim Wells County, Texas, for \$48,000; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's right, title, and interest, if any, in and to all of the oil, gas, sulphur, and other minerals, of every kind and character, in, on, under, and that may be produced from the land.

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

(6) Lubbock County - US 82, southeast corner at Texas Tech Parkway in Lubbock - Consider the sale of a right of way easement to Texas Tech University (MO)

114804
ROW

In Lubbock, LUBBOCK COUNTY, on US 82, the state of Texas acquired an easement interest in certain land for highway purposes by instrument recorded in Volume 7584, Page 49, Official Public Records of Lubbock County, Texas.

A portion of the easement (Tract 5), RCSJ 0380-01-053, 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.

Texas Tech University is the owner of the fee in the property and has requested to purchase Tract 5 for \$26,380.

The commission finds \$26,380 to be a fair and reasonable value for the state's right and interest in Tract 5.

IT IS THEREFORE ORDERED by the commission that Tract 5 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 releasing the state's right and interest in Tract 5 to Texas Tech University for \$26,380.

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

c. Reports

(1) Compliance Division report

Note: Confidential report to commission.

(2) Report of Environmental Review of Projects - Semiannual report on projects being processed under the department's environmental review process (MO)

114805
ENV

Section 201.762 of the Transportation Code requires the Texas Department of Transportation (department) to report on the status of environmental reviews it processes under the provisions of Transportation Code, Chapter 201, Subchapter I-1. Reports to the Texas Transportation Commission (commission) are required in June and December of each year.

This report, attached as Exhibit A, addresses environmental reviews submitted to the department between May 1, 2016 and September 30, 2016.

IT IS THEREFORE ORDERED by the commission that the report of the status of environmental reviews attached as Exhibit A is accepted.

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

d. Designation of Access Control

Brazoria County - SH 288, approximately 950 feet north of Discovery Bay Drive - Consider the designation of a location on the highway at which access will be permitted to the abutting property (MO)

114806
DES

In BRAZORIA COUNTY, on STATE HIGHWAY 288, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 1028, Page 631, Deed Records, Brazoria County, Texas, with denial of access to the abutting remainder properties as described in the instrument.

CCAC Reserve Holdings, LLC, the current owner of the abutting property, has requested that access to the southbound frontage road of SH 288 be permitted along its east property line at a 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 the new access point as a location where ingress and egress is permitted to the southbound frontage road of SH 288.

IT IS THEREFORE 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.

e. Speed Zones

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

114807
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 12. Executive Session Pursuant to Government Code, Chapter 551
Section 551.071 - Consultation with and advice from legal counsel regarding any item on this agenda, pending or contemplated litigation, or other legal matters.

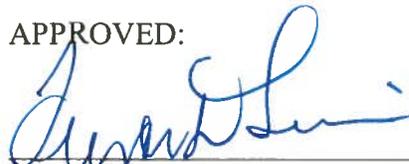
The commission recessed to executive session at 10:51 a.m. and returned from executive session at 11:23 a.m.

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 no further comments.

Commissioner Austin motioned adjournment and Commissioner Vandergriff seconded the motion. The commission voted 5 - 0 to adjourn. The regular meeting of the Texas Transportation Commission was adjourned at 11:24 a.m.

APPROVED:



Tryon D. Lewis, Chairman
Texas Transportation Commission

I hereby certify that the above and foregoing pages constitute the full, true, and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on December 15, 2016, in Austin, Texas.



Robin Carter, Commission Chief Clerk
Texas Department of Transportation