

These are the minutes of the regular meeting of the Texas Transportation Commission held on July 27, 2017, in Austin, Texas. The meeting was called to order at 9:05 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 3:10 p.m. on July 19, 2017, 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. Consider the approval of the Minutes of the June 28, 2017, workshop meeting and the June 29, 2017, 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 28, 2017, workshop meeting and the June 29, 2017, regular meeting by a vote of 5 - 0.

ITEM 3. Acknowledgement of Service

b. Recognize by resolution Tracy D. Cain, P.E., Construction Division Director, for 28 years of service to the department

This item was presented by Chief Engineer Bill Hale. The commission thanked Mr. Cain and Mr. Cain thanked various mentors and his family. State Representative Drew Darby congratulated and thanked Mr. Cain for his work and presented him with a resolution from the Texas House of Representatives. Photographs were taken.

a. Recognize by resolution Rene Garcia, P.E., Design Division Director, for 28 years of service to the department

This item was presented by Chief Engineer Bill Hale. The commission thanked Mr. Garcia and Mr. Garcia thanked various mentors and his family. Photographs were taken.

ITEM 8. Toll Roads

a. El Paso County - Camino Real Regional Mobility Authority - Consider approval of the removal of the toll project designation for the tolled managed lanes on Loop 375 from US 54 to Zaragoza Road in El Paso County (César Chávez Express Toll Lanes) when the César Chávez Express Toll Lanes are converted to a non-toll facility; and consider authorizing the executive director or his designee to negotiate and execute agreements as necessary to effectuate the conversion and to take certain actions regarding financial assistance previously approved for the Camino Real Regional Mobility Authority in the form of loans to be used for the César Chávez Express Toll Lanes project (MO)

This item was presented by Project Finance, Debt & Strategic Contracts Division Director Ben Asher. State Representative Joe Pickett and private citizen and engineer Don Dixon also spoke to the commission. 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.

114979
PFD

The Texas Department of Transportation (department) and the Camino Real Regional Mobility Authority (CRRMA) have developed the Loop 375, César Chávez - Border Highway Managed Lanes Project, including tolled managed lanes on LOOP 375 from US 54 to Zaragoza Road in EL PASO COUNTY (César Chávez Express Toll Lanes), under the jurisdictional limits of the CRRMA. The project included the complete rehabilitation of the four existing lanes of Loop 375 from US 54 to Zaragoza Road as well as the construction of two new tolled managed lanes along the same approximately nine mile corridor. After rehabilitation, the two existing lanes in each direction remained non-tolled. The new managed lanes increased the capacity of the existing facility to six lanes.

Texas 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.

Texas 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). The commission has adopted rules in 43 Texas Administrative Code, Chapter 27, Subchapter E (toll equity rules) setting forth the

policies and procedures by which the department will participate in the financing of a toll facility.

On August 27, 2007, by Minute Order 111070, the commission authorized an interest-free loan to the CRRMA in the amount of \$330,000 to be used to pay, among other things, the costs of independent financial and engineering (and other) advisors necessary for the evaluation of and negotiation with the department of 12 candidate toll projects, including the Loop 375 managed lanes. On September 27, 2007, the department and the CRRMA entered into a financial assistance agreement (2007 FAA) memorializing the terms and conditions of the \$330,000 loan, which required repayment by the CRRMA from the toll revenues of any of the 12 candidate toll projects, including the Loop 375 managed lanes.

On March 26, 2009, the commission adopted Minute Order 111743, approving an interest free loan to the CRRMA in the amount of \$1.1 million to be used to pay the costs of project management, data collection and evaluation, and preparation of a regional toll plan for four toll projects, including the Loop 375 managed lanes. On April 2, 2009, the department and the CRRMA entered into a financial assistance agreement which memorialized the terms and conditions of the \$1.1 million loan (2009 FAA) and which required the repayment of loan proceeds spent on any particular toll project from toll revenues generated by such toll project. Of the total of \$1.1 million disbursed under the 2009 FAA, \$343,594.59 was spent on the Loop 375 managed lanes and is therefore subject to repayment from toll revenues of the managed lanes.

By Minute Order 111962, dated September 24, 2009, the Texas Transportation Commission (commission) designated the César Chávez Express Toll Lanes as a toll project on the state highway system.

On July 29, 2010, the commission approved Minute Order 112349, which approved the CRRMA's proposal to develop the César Chávez Express Toll Lanes project as an improvement to the state highway system. The order also approved the CRRMA's application for financing in the amount of \$80.25 million, in the form of equity, and the department and the CRRMA entered into a financial assistance agreement effective April 18, 2011.

On April 18, 2011, the department and the CRRMA executed an Amended and Restated Market Valuation Agreement (market valuation agreement), which, among other things: (1) waived the requirement under Texas Transportation Code §228.0111 to develop a market valuation for the managed lanes; (2) set forth the terms and considerations for the development, construction, and operation of the managed lanes; and (3) established contingency plans should the managed lanes not be profitable at a certain point in time. On April 13, 2011, the CRRMA's Board of Directors passed a resolution by which the CRRMA exercised its option to develop the managed lanes, subject to the CRRMA's right to rescind its decision prior to the date the managed lanes are open to traffic.

On March 7, 2012, the department and the CRRMA entered into the Project Development Agreement – Loop 375 César Chávez – Border Highway Managed Lanes Project (project development agreement) under which the department agreed to develop, design, and construct the project on behalf of the CRRMA, and to operate and maintain the non-tolled portion of the project. Also, pursuant to the project

development agreement, the CRRMA agreed to design, construct, and install the tolling requirements, and to operate and maintain the managed lanes, subject to the CRRMA's right to rescind its option to do so prior to the opening date of the managed lanes.

Also, on March 7, 2012, the department and the CRRMA executed a Second Amended and Restated Financial Assistance Agreement by which the department agreed to provide a grant to the CRRMA in an amount not to exceed \$80.25 million to be used for the procurement, design, and construction of the project.

The CRRMA exercised its option to operate and maintain the managed lanes and submitted a request to the department for a toll equity loan of up to \$9.4 million to pay operation and maintenance costs of the managed lanes until toll revenues are sufficient to cover those costs.

In Minute Orders 113533 dated March 28, 2013, and 113622 dated June 27, 2013, the commission approved financial assistance in an amount not to exceed \$9.4 million for operations and maintenance of the César Chávez Express Toll Lanes project, and approved the terms of a financial assistance agreement that requires the repayment of the \$9.4 million loan, a \$6 million interest fee, and the two previously-approved pre-development loans under the 2007 FAA and the 2009 FAA in the combined amount of \$673,594.59, for a total loan obligation of \$16,073,594.59. In accordance with Section 27.54 of the toll equity rules, the department and the CRRMA entered into a financial assistance agreement, effective September 23, 2013 (FAA), in accordance with the terms approved by the commission in Minute Order 113622.

Section 38 of Senate Bill 312, 85th Legislature, effective September 1, 2017, adds Transportation Code §228.207, providing that if the Camino Real Regional Mobility Authority (CRRMA) approves the conversion of the portion of Loop 375 in El Paso County between IH 10 and Santa Fe Street (César Chávez Freeway) that is operated as a toll project to a nontolled project, then (i) any money advanced by the department to the CRRMA for the construction or maintenance of a toll project on the César Chávez Freeway that is unexpended on the effective date of the conversion shall be used for the construction of the Loop 375 Border Highway West Project in El Paso County from Race Track Drive to U.S. Highway 54 (Border Highway West) and added to the CRRMA's obligation for that project under terms agreeable to the department, and (ii) the department shall maintain the César Chávez Freeway as part of the state highway system without tolls.

At its meeting on June 6, 2017, the CRRMA board of directors approved a resolution directing the executive director of the CRRMA to identify all steps necessary to remove tolls from the César Chávez Express Toll Lanes and return to the CRRMA board of directors with a plan to implement such toll removal so that the removal may be effective on or after September 1, 2017.

As the César Chávez Express Toll Lanes are under the jurisdiction of the CRRMA, and to facilitate the CRRMA's potential removal of tolls from the César Chávez Express Toll Lanes, the commission has determined that it is appropriate to remove the toll project designation from the César Chávez Express Toll Lanes, subject to the CRRMA board of directors approving the removal of tolls from the César Chávez Express Toll Lanes.

The commission has determined that, in order to facilitate the CRRMA's potential removal of tolls on the César Chávez Express Toll Lanes it is appropriate to authorize the executive director or his designee to negotiate and enter into agreements as necessary to effectuate the conversion and to repurpose, repay, and cancel parts of financial assistance previously approved for the CRRMA, as documented in the FAA.

IT IS THEREFORE ORDERED THAT, subject to the CRRMA Board approving the conversion of the César Chávez Express Toll Lanes to a nontolled project, and effective upon the completion of all requirements in this minute order, the toll project designation is removed from the tolled managed lanes on Loop 375 from US 54 to Zaragoza Road in El Paso County.

IT IS FURTHER ORDERED THAT the executive director or his designee is authorized to negotiate and enter into agreements and take all actions necessary to effectuate the conversion under terms agreeable to the department, subject to the CRRMA Board approving the conversion of the César Chávez Express Toll Lanes to a nontolled project, and in accordance with and effective upon the completion of all requirements in this minute order.

IT IS FURTHER ORDERED THAT, subject to the CRRMA Board approving the conversion of the César Chávez Express Toll Lanes to a nontolled project, and effective upon the completion of all requirements in this minute order, the financial terms approved by the commission in Minute Order 113622, and in the FAA shall be modified in accordance with the following requirements:

1. Prior to the effective date of the conversion, any financial assistance in the form of a loan that has been disbursed but is unexpended shall be used for the costs of converting the César Chávez Express Toll Lanes to a standard roadway section and for any administrative, legal, and other expenses necessary to effectuate the conversion and deliver the roadway in a condition acceptable to the executive director of the department. Any financial assistance that is used by CRRMA for the conversion shall be repaid by increasing the department's relative interest in Border Highway West under the Border Highway West Memorandum of Understanding dated February 26, 2014, as supplemented, between the department and CRRMA under terms acceptable to the department, and any of the financial assistance remaining after the payment of these costs shall be cancelled and returned to the department;
2. Any financial assistance in the form of a loan that has been disbursed and expended on the César Chávez Express Toll Lanes Project shall be repaid by increasing the department's relative interest in Border Highway West under the Border Highway West Memorandum of Understanding dated February 26, 2014, as supplemented, between the department and CRRMA under terms acceptable to the department, except that the interest fee required under the FAA is not required to be repaid; and
3. Any financial assistance in the form of a loan that has not been disbursed shall be cancelled.

IT IS FURTHER ORDERED THAT, subject to the CRRMA Board approving the conversion of the César Chávez Express Toll Lanes to a nontolled project, and effective upon the completion of all requirements in this minute order, any financial assistance in the form of a grant under Minute Order 112349 and the financial assistance agreement entered into between the department and the CRRMA effective April 18, 2011, that has not been disbursed shall be cancelled.

ITEM 4. Public Transportation

a. Various Counties - Consider the award of FY 2018 state funds, federal §5310 Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program funds, federal §5311 Formula Grants for Rural Areas Program funds, and transportation development credits to various entities (MO)

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

114980
PTN

The Texas Transportation Commission (commission) desires to award state and federal program funds and transportation development credits (TDC) to support a variety of public transportation needs in urbanized and non-urbanized areas of the state. A total of \$8,616,228 in state funds, \$15,480,496 in federal funds, and up to 3,027,000 TDC are awarded in this minute order.

Of the amounts appropriated to the Texas Department of Transportation (department) by the General Appropriations Act of the 85th Texas Legislature, Regular Session, \$67,682,135 was appropriated for urban and rural public transportation systems for the 2018-2019 biennium. Title 43, Texas Administrative Code (TAC), §31.11 establishes a formula by which state public transportation funds shall be distributed to the urban and rural areas of the state. The award of \$8,616,228, which is shown in Exhibits A and B, has been calculated in accordance with the provisions of §31.11.

Title 43, TAC, §31.31 establishes a formula by which public transportation funds shall be distributed under the Federal Transit Administration (FTA) Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities program (49 U.S.C. §5310). An award of \$5,423,061 in federal §5310 funds is shown in Exhibit C and has been determined in accordance with the provisions of §31.31. An award of up to 1,085,000 TDC has also been determined for eligible projects identified in Exhibit C.

Title 43, TAC, §31.36(g)(4) establishes a formula for calculating awards to rural transit systems based on vehicle revenue miles under the FTA Formula Grants for Rural Areas Program (49 U.S.C. §5311). An award of \$9,709,836 in federal §5311 funds is shown in Exhibit D and has been determined in accordance with §31.36(g)(4). An award of up to 1,942,000 TDC has also been determined for eligible projects identified in Exhibit D.

Title 43, TAC, §31.36(g)(3) establishes a formula for calculating awards to rural transit systems for discretionary purposes under the FTA Formula Grants for Rural Areas Program (49 U.S.C. §5311). An award of \$347,599 in federal §5311 funds is shown in Exhibit E and has been determined in accordance with §31.36(g)(3) to help mitigate negative formula impacts resulting from using 2010 census data in the formula.

All entities have provided evidence of compliance with their internal ethics and compliance programs as required by 43 TAC §31.39.

In making this award, the commission has considered the potential to expand the availability of funding for public transportation projects and finds that the award of TDC for eligible program expenditures 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 Exhibits A through E, submit any necessary state applications to the FTA, and enter into the necessary contracts.

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

b. Various Counties - Consider the award of federal and state funds and transportation development credits to selected rural transit districts to purchase public transportation vehicles (MO)

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

114981
PTN

The Texas Transportation Commission (commission) desires to award \$405,000 in federal Transportation Investment Generating Economic Recovery funds, federal Surface Transportation Program – Statewide program funds flexed to §5311, and state funds and 81,000 transportation development credits (TDC) to select rural transit districts for the purchase of public transportation vehicles.

Texoma Area Paratransit System, Inc. (TAPS) previously received an award of \$1,105,000 of federal and state funds and 111,790 TDC as match in Minute Order 114788 dated December 15, 2016. TAPS determined that the entire award was not required to support their current level of service. The portion of funds exceeding TAPS' required amount is reflected in this minute order to be redistributed.

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.

All entities have provided evidence of compliance with their internal ethics and compliance programs as required by 43 TAC §31.39.

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 meet 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 shown in Exhibit A, submit the necessary state application to FTA, and enter into the necessary contracts.

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

ITEM 5. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:
Proposed Adoption
Chapter 9 - Contract and Grant Management
Amendments to §9.32, Selection Processes, Contract Types, Selection Types, and Projected Contracts (Contracting For Architectural, Engineering, and Surveying Services) (MO)

This item was presented by Professional Engineering Procurement Services Division Director Martin Rodin. Commissioner Ryan made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 5 - 0.

114982
PEPS

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §9.32 relating to Selection Processes, Contract Types, Selection Types, and Projected Contracts, to be codified under Title 43, Texas Administrative Code, Part 1.

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

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

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

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

ITEM 6. Memorandum of Understanding

Consider authorizing the department to enter into an interagency agreement with the Secretariat of Communications and Transportation of the United States of Mexico related to the Presidio-Ojinaga International Bridge project (MO)

This item was presented by Transportation Planning and Programming Division Director Peter Smith. 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.

114983
TPP

The International Bridge Act of 1972 (33 U.S.C. §535) provides authority to construct, maintain, and operate any bridge, and approaches thereto, which will connect the United States with any foreign country and to collect tolls for its use, so far as the United States of America has jurisdiction. Title 33 U.S.C. §535a authorizes the State of Texas to enter into agreements with the government of Mexico, a Mexican State, or a subdivision of instrumentality of either, in the case of a bridge connecting the United States of America and Mexico.

Texas Government Code, Chapter 792, provides that a state agency may, to the extent permitted under federal law, enter into an agreement with the United Mexican States or a political subdivision of the United Mexican States for the accomplishment of a function that the agency is authorized to perform by law. An agreement that involves the use of money appropriated from the state treasury is not valid unless it is approved by the governor and the Legislative Budget Board.

The existing Presidio-Ojinaga International Bridge and border crossing serves pedestrians, non-commercial, and commercial vehicles. The Texas Department of Transportation (department) proposes to construct a parallel two-lane twin bridge structure for southbound traffic into Mexico. The structure will be located immediately upstream of the existing bridge and will be similar to the existing bridge in length and width. The existing bridge and roadway will be reconfigured to carry northbound traffic into the United States. Crossing from the United States to Mexico will be toll free. The department anticipates letting the project in August 2017.

The department has negotiated an interagency agreement with the Secretariat of Communications and Transportation of the United States of Mexico (SCT) to construct the second bridge structure. The department will fund and construct the approach ramp located within the territory of the United States and will also construct the structure, including the substructure, superstructure, parapet, lighting and all other installations and additions on the north end of the bridge. The SCT will fund and construct the approach ramp located within the Mexican territory and will also construct the structure, including the substructure, superstructure, parapet, lighting and all other installations and additions on the south end of the bridge. The parties have agreed to collaborate on the construction of the common span, the cost of which will be shared equally.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director of the department is hereby authorized to enter into an agreement with Secretariat of Communications and Transportation of the United States of Mexico

related to the construction of the second bridge structure located at the Presidio-Ojinaga International Bridge, contingent upon approval by the governor and the Legislative Budget Board.

ITEM 7. Financial Assistance for Projects

Orange County - Orange County - Consider authorizing the executive director or designee to negotiate and execute a pass-through agreement with Orange County for construction of FM 299 on a new location from the intersection south of Walden Road and FM 105 to Conner Road (also called Center Road) and FM 105, for a distance of approximately 6.2 miles (MO)

This item was presented by Project Finance, Debt & Strategic Contracts Division Director Ben Asher. Chief Engineer Bill Hale answered questions from the commission. Orange County Precinct 4 Commissioner Jody Crump also spoke to the commission on this item. Commissioner Bugg made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 5 - 0.

114984
PFD

On December 16, 2010, by Minute Order 112526, the Texas Transportation Commission (commission) approved a program call for highway projects to be developed on the state highway system under a pass-through toll program agreement (program call). The commission further determined that (i) monies available that can be allocated among all proposals selected under this program call will be limited to an estimated total of \$250 million in Category 12 funds; (ii) only the following category of project costs described in Title 43 Texas Administrative Code (TAC) §5.53(a)(11) will be considered as eligible for reimbursement under this program call: construction cost, exclusive of construction engineering cost, and, in the case of a pass-through toll project submitted as a design-build project, the construction cost, exclusive of construction engineering costs must be broken out separately as one component of the total project cost; (iii) the value of development and implementation services and products for the project, including but not limited to environmental studies and mitigation, right-of-way acquisition, engineering, and construction inspection services that have been or will be provided by the department, will be deducted from the eligible reimbursement amounts; and (iv) federal and state funding that is otherwise programmed for or committed to a proposed pass-through toll project will not be considered as part of the proposer's contribution, nor may it be reimbursed under the program.

Pursuant to Minute Order 112526 and Title 43 TAC §§5.51-5.60 (rules), the Texas Department of Transportation (department) published a notice in the Texas Register designating a 60-day period commencing on December 31, 2010, for acceptance of proposals from both public and private entities for projects to be developed under the program call. The deadline for submitting proposals was March 1, 2011. Department staff evaluated the proposals that were timely submitted under the program call using the items of consideration set forth in §5.55 of the rules and provided its analyses of the pass-through toll proposals to the commission. Orange

County submitted a proposal to develop a project to construct FM 299 on a new location from the intersection south of Walden Road and FM 105 to Conner Road (also called Center Road) and FM 105, for a distance of approximately 6.2 miles (project).

In accordance with Transportation Code §222.104(b) and §§5.54-5.55 of the rules, on May 26, 2011, in Minute Order 112685, the commission selected Orange County's proposal as providing the best value to the state and granted conditional authority to the department to pursue negotiations if staff were unable to successfully negotiate any of the top proposals listed above Orange County. At the commission's September 29, 2011, meeting the commission was advised that there was funding available for Orange County's proposal under the 2009-2010 program call. On November 29, 2011, the department notified Orange County that it could begin negotiations on the financial terms of a pass-through agreement. The agreement will provide for the payment of pass-through tolls as reimbursement for the construction of facilities on the state highway system. A pass-through toll is a per-vehicle fee or a per-vehicle-mile fee that is determined by the number of vehicles using the facility.

In accordance with §5.58(b)(3)(A) of the rules, the commission finds that it is in the public interest to require the agreement negotiated with Orange County to contain the following provisions:

(A) An "actual cost provision" that limits reimbursement to the actual costs incurred by the county, based on the following concepts:

(1) The total reimbursement amount for the project as set forth in Exhibit A represents all or a portion of the estimated construction cost (department's proportional share). Payments of pass-through tolls will be limited to reimbursement of the department's proportional share of the actual cost of labor and materials required for construction of the project as determined by the low bid award of the construction contract (actual construction cost), subject to the exception that the department will reimburse its proportional share of the amount by which the actual construction cost exceeds the estimated total construction cost that was approved by the department for the same project (cost overrun). The department's total payment obligation for the project, however, will not exceed 110 percent of the estimated total reimbursement amount as set forth in Exhibit A.

(2) The reimbursement rate, the minimum reimbursement amount per year, and the maximum reimbursement amount per year as set forth in Exhibit A will be applicable regardless of the actual total reimbursement amount. The number of annual payments will be adjusted to reflect the total reimbursement amount as determined in accordance with paragraph (1).

(3) No change order to the construction plans or contract may be issued by the county without the department's prior written approval, if it would affect prior environmental approvals or significantly revise the scope of the project or the geometric design.

(4) "Construction cost" shall have the same meaning as described in Minute Order 112526 approving the program call.

(B) A provision that requires Orange County to start construction of the project by June 2019, or the department may terminate the agreement.

The department and the county have agreed to a total reimbursement through pass-through payments for reimbursement of the construction cost of the project, a reimbursement rate per vehicle or vehicle mile, the minimum amount to be reimbursed in any year with the project open to traffic, and the maximum amount per year, all as set forth in Exhibit A. The agreement will expire once the total amount of that agreement has been reimbursed. The project will be authorized and reimbursed from Category 12, Strategic Priority funds, as defined in the Unified Transportation Program.

In accordance with §5.57 of the rules, the commission finds that: (1) the project serves the public interest and not merely a private interest; (2) the proposed pass-through agreement is in the best interest of the state; (3) the project is compatible with existing and planned transportation facilities; and (4) the project furthers state, regional, and local transportation plans, programs, policies, and goals.

Before the project is designed, developed, or constructed using funds administered by the department, the project: (1) must be included in the department's Unified Transportation Program, thereby identifying committed funding for the project; (2) must be included in the department's Statewide Transportation Improvement Program; and (3) will be subject to any and all applicable planning and environmental processes and approvals as mandated by state and federal regulations regarding such matters.

IT IS THEREFORE ORDERED that the executive director or designee is authorized to negotiate and execute a pass-through toll agreement with Orange County for the construction of its project as identified in Exhibit A, in accordance with the negotiated terms, actual cost provision and other provisions described in this minute order, and such other terms the department determines to be necessary.

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

ITEM 8. Toll Roads (continued)

b. Webb County - Consider approval of the removal of the toll project designation from the segment of State Highway 255 from the intersection of FM 1472 and FM 255 eastward to I-35 in Webb County (MO)

This item was presented by Toll Operations Division Director Rick Nelson. Private citizen and engineer Don Dixon also spoke to the commission on this item. 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.

114985
TOD

By Minute Order 109670, dated May 27, 2004, the Texas Transportation Commission (commission) designated the former Camino Colombia Toll Road as a turnpike project on the state highway system and as STATE HIGHWAY 255 from the intersection of FM 1472 and FM 255 eastward to I-35 in WEBB COUNTY.

Section 37 of Senate Bill 312, 85th Legislature, effective September 1, 2017, adds Transportation Code §228.201(d), providing that the Texas Department of

Transportation (department) may not operate any part of State Highway 255 in Webb County as a toll project.

The commission has determined that there are no outstanding obligations secured by State Highway 255 toll revenues.

IT IS THEREFORE ORDERED that the toll project designation is removed from the segment of State Highway 255 from the intersection of FM 1472 and FM 255 eastward to I-35 in Webb County.

ITEM 9. Lease Agreement

Bastrop County - Consider authorizing the department to negotiate and execute a lease agreement with The Board of Regents of the University of Texas System, for use by The University of Texas MD Anderson Cancer Center for the purpose of installing fiber optic lines on established utility poles along SH 71 (MO)

This item was presented by Right of Way Division Director Gus Cannon. 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.

114986
ROW

In Bastrop County, on State Highway 71, the state of Texas acquired certain land for highway purposes, including that certain real property described in the attached Exhibit A (property).

The Board of Regents of the University of Texas System, for the use of The University of Texas MD Anderson Cancer Center (UT System), has requested to lease a portion of the property, for the purpose of installing fiber optic lines on utility poles owned by a local utility located in the Texas Department of Transportation's (department) right-of-way.

Transportation Code, Chapter 202, Subchapter C, authorizes the department to lease highway right of way.

The Texas Transportation Commission (commission) finds that the property to be leased will not be needed for highway purposes during the initial period of the lease, being a term of twenty-five years and if acceptable to both parties, two options of an additional ten years each subject to a twenty-four month termination provision should the department need the property for a highway purpose. The lessee's use of the property will be consistent with the safety, maintenance, operation, and beautification of the state highway system. The commission also finds that the requirement to charge fair market value may be waived for an institution of higher education as defined by the Education Code, §61.003 in accordance with Transportation Code, §202.052, and Title 43, Texas Administrative Code, §21.603.

IT IS THEREFORE ORDERED by the commission that the staff of the department is authorized and directed to enter into negotiations for and execute a lease agreement for the property with the UT System.

IT IS ALSO ORDERED by the commission that the fair market value requirement is waived for the lease of the property to UT System, an institution of higher education.

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

ITEM 10. Contracts

Consider the award or rejection of contracts for highway construction and maintenance, and construction and rehabilitation of buildings.

a. Construction of Highways and Other Transportation Facilities (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.

114987
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 11 and 12, 2017, as shown on Exhibit A.

Pursuant to cited code provisions highway improvement 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 consider the award to the lowest bidder, reject or defer, 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 Vandergriff, and the commission approved the following minute order by a vote of 5 - 0.

114988
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 July 11 and 12, 2017, 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 consider the 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.

c. Construction and Rehabilitation of Buildings (MO)

This item was presented by Support Services Division Director Andrew Chavez. 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.

114989
SSD

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 11, 2017, 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, as indicated, those highway improvement 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 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 re-advertise that project for competitive bids at the earliest practical subsequent date.

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

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

ITEM 11. Eminent Domain Proceedings

Various Counties - Consider the authorization of 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 Bugg and the following minute order was

approved by Chairman Lewis, Commissioner Austin, Commissioner Vandergriff, Commissioner Bugg and Commissioner Ryan (a vote of 5 - 0).

114990
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 - CC. 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 - 15, 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	G	3138-01-026	23AC
Dallas	IH 45	L	0092-14-091	1
Dallas	IH 45	I	0092-14-091	10
Dallas	IH 45	F	0092-14-091	12
Dallas	IH 20	E	2374-04-082	5
Dallas	IH 20	C	2374-04-082	6
Galveston	IH 45	A	0500-04-120	6B
Galveston	IH 45	Y	0500-04-120	8
Galveston	IH 45	N	0500-04-120	26
Galveston	IH 45	AA	0500-04-120	30
Galveston	IH 45	H	0500-04-123	121A
Galveston	IH 45	X	0500-04-123	205B
Galveston	IH 45	BB	0500-04-123	214,214E
Galveston	IH 45	CC	0500-04-123	230
Galveston	IH 45	R	0500-04-136	305
Galveston	IH 45	K	0500-04-136	306
Galveston	IH 45	Q	0500-04-136	308
Galveston	IH 45	T	0500-04-136	309
Galveston	IH 45	Z	0500-04-136	311
Galveston	IH 45	V	0500-04-136	315
Galveston	IH 45	S	0500-04-136	316
Galveston	IH 45	U	0500-04-136	320AC
Galveston	IH 45	J	0500-04-136	323
Galveston	IH 45	W	0500-04-136	333AC
Harris	IH 610	M	0271-17-158	7
McLennan	IH 35	D	0015-01-234	52
Montgomery	SH 249	O	3635-01-002	136
Montgomery	SH 249	P	3635-01-002	139
Nacogdoches	US 59	B	0176-01-110	40

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Brazoria	SH 36	6	0188-03-020	132
Brazoria	SH 36	7	0188-03-020	369
Brazoria	SH 36	8	0188-03-020	426
Brazoria	SH 36	15	0188-04-041	35
Brazoria	SH 36	13	0188-04-041	74
Brazoria	SH 36	14	0188-04-041	77
Brazoria	SH 36	1	0188-05-031	111
Ellis	US 77	11	0048-03-082	12
Ellis	US 77	9	0048-03-082	16
Ellis	US 77	12	0048-03-094	3

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Fort Bend	SH 36	5	0188-02-039	2
Harris	SH 146	10	0389-05-095	143
Nacogdoches	US 59	2	0176-01-110	5
Nacogdoches	US 59	3	0176-01-110	59
Smith	FM 2493	4	0191-03-082	15

Note: Exhibits A - CC and 1 - 15 are on file with the commission chief clerk.

ITEM 12. Routine Minute Orders and Reports

This item was presented by Executive Director James Bass. City of Lubbock Mayor Dan Pope also addressed the commission concerning agenda item 12.e.(2). Agenda item 12.g. was not considered. Commissioner Austin made a motion, which was seconded by Commissioner Ryan, 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)

114991
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) Bexar County - Wurzbach Parkway at West Avenue in San Antonio - Consider the sale of right of way to the abutting landowner (MO)

114992
ROW

In San Antonio, BEXAR COUNTY, on WURZBACH PARKWAY, the state of Texas acquired certain land for highway purposes by instrument recorded as Doc #20160108287, Official Public Records of Bexar County, Texas.

A portion of the land (Tract 1), RCSJ 8000-15-007, 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 to abutting landowners of any interest in real property acquired and no longer needed for a state highway purpose.

Coker United Methodist Church, Inc., is the abutting landowner and has requested to purchase Tract 1 for \$16,400.

The commission finds \$16,400 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 Coker United Methodist Church, Inc., for \$16,400; **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.

(2) Burleson County - FM 60 at FM 2155 - Consider the removal of a segment of FM 60 from the system and designation on a new location, redesignation of a segment,

transfer of control, jurisdiction and maintenance to Burleson County, and transfer of right of way to the county (MO)

114993
ROW

In BURLESON COUNTY, on FARM TO MARKET ROAD 60, the state of Texas acquired certain land for highway purposes by instruments recorded in Volume 84, Page 372; Volume 87, Page 199; and Volume 93, Page 5, Deed Records of Burleson County, Texas.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended that FM 60, shown on Exhibit A, be removed from the state highway system from FM 2155 southward, a distance of 1.0 mile, and that control, jurisdiction, and maintenance be transferred to Burleson County (county). The executive director has also recommended the designation of FM 60 on a new location from 0.5 mile north of FM 2155 southwestward to 1.0 mile south of FM 2155, a distance of 1.4 miles, and redesignation of FM 60 as FM 2155 from 0.5 mile north of FM 2155 to existing FM 2155, a distance of 0.5 mile.

A portion of the land (Tract 1), RCSJ 0648-03-056, 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 transfer of highway right of way to a governmental entity that assumes jurisdiction, control, and maintenance of the right of way for public road purposes.

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

IT IS THEREFORE ORDERED by the commission that: 1) FM 60 is removed from the system from FM 2155 southward, a distance of 1.0 mile; 2) FM 60 is designated on a new location from 0.5 mile north of FM 2155 southwestward to 1.0 mile south of FM 2155, a distance of 1.4 miles; and 3) FM 60 is redesignated as FM 2155 from 0.5 mile north of FM 2155 to existing FM 2155, a distance of 0.5 mile.

IN ADDITION, 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 transferring the state's right, title, and interest in Tract 1 to Burleson County, Texas; 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.

FURTHER, if Tract 1 ceases to be used for public road purposes, it shall immediately and automatically revert to the state.

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

(3) Kaufman County - BS 34-A in Terrell - Consider the removal of the highway north of US 80, transfer to the City of Terrell, and redesignation south of US 80 (MO)

114994
ROW

In Terrell, KAUFMAN COUNTY, on STATE HIGHWAY 34A BUSINESS (BS 34A), the state of Texas acquired certain land for highway purposes by various

instruments recorded in the Deed Records of Kaufman County, Texas, and the state used other 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 on Exhibit A, that a segment of BS 34A be removed from the state highway system from SH 34 southward to US 80. The executive director has also recommended that BS 34A be redesignated as State Spur 226 (SS 226) from US 80 southward to SH 34.

Tract 1, RCSJ 0173-05-042, described on Exhibit B, and any right of way to which there is no record title, are no longer needed for a state highway purpose.

In accordance with Texas Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may waive payment for real property transferred to a governmental entity if the governmental entity assumes control, jurisdiction, and maintenance of the right of way for public road purposes.

The City of Terrell (city) agrees to assume control, jurisdiction, and maintenance and has requested that Tract 1 and any right of way to which there is no record title be transferred to the city.

IT IS THEREFORE ORDERED by the commission that: 1) BS 34A is removed from the state highway system from SH 34 southward to US 80, a distance of 2.5 miles; and 2) BS 34A is redesignated as SS 226 from US 80 southward to SH 34, a distance of approximately 0.8 mile.

FURTHER, IT IS ORDERED by the commission that Tract 1 and any right of way to which there is no record title 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 transferring the state's right, title, and interest in Tract 1 and any interest to which there is no record title to the City of Terrell, Texas; 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.

FURTHER, if Tract 1 ceases to be used for public road purposes, the land shall immediately and automatically revert to the state.

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

c. Reports

(1) Compliance Division report

Note: Confidential report to commission.

(2) Obligation Limit Report

Quarterly status report on the FY 2017 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.

(3) Quarterly report on FY 2017 State Highway Fund 6 cash status (Report)

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

d. Finance(1) Travis and Williamson Counties - Consider the acceptance of the report of Actual Traffic and Revenue for the Central Texas Turnpike System (MO)

114995
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.

In 2002 the commission issued \$2,199,993,782 in obligations to finance a portion of the costs of the Central Texas Turnpike System (system), a toll project composed initially of the SH 130, SH 45, and Loop 1 project elements (2002 Project), pursuant to an Indenture of Trust, dated July 15, 2002 (indenture), and four supplemental indentures. The indenture prescribes the terms, provisions and covenants related to the issuance of toll revenue bonds and obligations to finance a portion of the costs of the 2002 Project. Subsequent bond refundings occurred in 2009, 2012 and 2015, pursuant to the indenture and additional supplemental indentures. The 2015 bond refinancing significantly reduced the long term interest expense of the project. Pursuant to Section 702 of the indenture, the commission has covenanted that on or before August 31 in each fiscal year, it will adopt an annual operating, maintenance and capital budget for the system for the ensuing fiscal year and provide copies of such budgets to the Trustee and the U.S. Department of Transportation.

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.

Section 501(c) of the indenture covenants that at the conclusion of the five year period, the commission may discontinue such reports if the revenues for the previous two years have been sufficient to meet the rate covenant. The revenues for the previous two years have been sufficient to meet the rate covenant; however, the commission has not exercised its option to discontinue the reports.

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.

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.

(2) Quarterly Investment Report (MO)114996
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. In Minute Order 114360, dated August 27, 2015, the commission approved and adopted a written investment policy that added an 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. In Minute Order 114706, dated August 25, 2016, the commission approved and adopted a written investment policy that added an investment strategy applicable to funds related to obligations issued for the IH 35E Project under a Trust Agreement by and between Amegy Bank, a Division of ZB, National Association, as trustee, and the department.

The commission has designated the department's chief financial officer and the director, Project Finance, Debt & Strategic Contracts Division 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 director, Project Finance, Debt & Strategic Contracts Division, 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 department for the period ending May 31, 2017, 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 attached as Exhibit A is accepted.

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

(3) Various Counties - Consider 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)

114997
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 project shown in Exhibit A that has been selected by the RTC to be funded with the SH 121 payments, and approves the placement of the project 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 project shown in Exhibit A is a transportation or highway project, or air-quality project that will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads, and is 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.

(4) Various Counties - Consider 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)

114998
TPP

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

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

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

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

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

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

location of the toll project from which these revenues are derived and the residential location of toll users in the region served by the NCTCOG.

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

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

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

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

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

e. Highway Designations

(1) Johnson and Tarrant Counties - Consider designating FM 157 concurrent with US 287, redesignating a portion of FM 917 as FM 157, and designating a portion of FM 917 concurrent with FM 157, in and near the city of Mansfield (MO)

114999
TPP

The Fort Worth District has requested the following actions: (1) designation of FM 157 concurrent with US 287 from BU 287-P southward to US 287, a distance of approximately 5.5 miles; (2) redesignation of FM 917 as FM 157 from US 287 northwestward to FM 157, a distance of 0.5 miles; and (3) designation of FM 917 concurrent with FM 157 from US 287 northwestward to FM 157, a distance of 0.5 miles.

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

The Texas Transportation Commission (commission) finds that these actions will facilitate the flow of traffic, promote public safety, and maintain continuity of the

state highway system and are necessary for the proper development and operation of the system.

IT IS THEREFORE ORDERED by the commission that: (1) FM 157 is designated concurrent with US 287 from BU 287-P southward to US 287, a distance of approximately 5.5 miles; (2) FM 917 is redesignated as FM 157 from US 287 northwestward to FM 157, a distance of 0.5 miles; and (3) FM 917 is designated concurrent with FM 157 from US 287 northwestward to FM 157, a distance of 0.5 miles, as shown on Exhibit A.

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

(2) Lubbock County - Consider designating State Loop 88 on the state highway system near the city of Lubbock (MO)

115000
TPP

In Lubbock County, the Lubbock District has requested the designation of State Loop 88 on a new location on the state highway system from US 84 northwest of Lubbock to US 84 southeast of Lubbock, a distance of approximately 36.9 miles.

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

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

IT IS THEREFORE ORDERED by the commission that State Loop 88 is designated on a new location on the state highway system from US 84 northwest of Lubbock to US 84 southeast of Lubbock, a distance of approximately 36.9 miles, as shown on Exhibit A.

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

f. Truck Lane Restriction

McLennan County - Consider the approval of proposed lane use restrictions for trucks on I-35 in McLennan County (MO)

115001
TRF

In accordance with Transportation Code §545.0651 and 43 Texas Administrative Code (TAC) §§25.601-25.604, the Texas Department of Transportation (department) is proposing a lane restriction applicable to trucks with three or more axles, and to truck tractors, regardless of whether the truck tractor is drawing another vehicle or trailer as defined in Transportation Code, §541.201. The proposed lane restriction prohibits those vehicles from using any traffic lane, other than the second and third controlled access lanes on each side of Interstate Highway 35 as counted from the center (inside left lane) of the highway from approximately 0.75 miles north of FM 2063 to the northern city limits of Bruceville-Eddy in McLennan County.

Transportation Code, §545.0651, authorizes the department to restrict through traffic, by class of vehicle, to two or more designated lanes of traffic on certain portions of the designated state highway system, and requires the Texas Transportation

Commission (commission) to adopt rules. The commission adopted these rules, 43 TAC §§25.601-25.604 that became effective on January 8, 2004.

In accordance with TAC §25.604(e)(3), the department conducted a traffic study to evaluate the impact of the lane restriction. In accordance with §25.604(d), the department published a notice in the Texas Register for a 30 day comment period on April 21, 2017 and held a public hearing on the proposed restriction on May 4, 2017. The proposed lane restriction would be in effect 24 hours a day, 7 days a week, and would allow the operation of those vehicles in a prohibited traffic lane for the purposes of passing another vehicle or entering or exiting the highway.

In accordance with 43 TAC §25.604(h)(2), the executive director may temporarily suspend the lane restriction in an emergency.

The commission, having evaluated the truck lane restriction proposal based on the safety of the traveling public and the factors listed in 43 TAC §25.604(f), finds that the proposed lane restriction should be approved.

IT IS THEREFORE ORDERED by the commission that the proposed lane restriction in McLennan County is approved and shall become effective upon placement of all necessary traffic control devices.

g. Designation of Access Control

Harris County - SH 99, approximately 500 feet south of Clay Road (SW corner) - Consider the designation of two locations on the highway at which access will be permitted to the abutting property (MO)

This minute order was not considered by the commission.

h. Speed Zones

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

115002
TRF

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

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

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

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

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

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

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

IT IS THEREFORE ORDERED by the commission that the reasonable and safe prima facie maximum speed limits determined in accordance with the department's "Procedures for Establishing Speed Zones" and shown on the attached Exhibits A and B are declared as tabulated in those Exhibits. The executive director is directed to implement this order for control and enforcement purposes by the erection of appropriate signs showing the prima facie maximum speed limits.

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

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

ITEM 13. 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 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 no further comments.

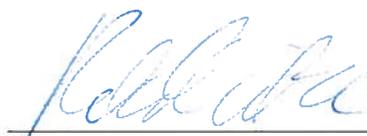
Commissioner Vandergriff motioned adjournment and Commissioner Bugg seconded the motion. The commission voted 5 - 0 to adjourn. The regular meeting of the Texas Transportation Commission was adjourned at 11:22 a.m.

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 July 27, 2017, in Austin, Texas.



Robin Carter, Commission Chief Clerk
Texas Department of Transportation