

These are the minutes of the regular meeting of the Texas Transportation Commission held on September 28, 2017, in Austin, Texas. The meeting was called to order at 9:00 a.m. by Chairman Bugg with the following commissioners present:

**Texas Transportation Commission:**

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

Commissioner Laura Ryan did not attend the September 28, 2017, meeting.

**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 4:06 p.m. on September 20, 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 August 31, 2017, regular meeting of the Texas Transportation Commission**

Commissioner Jeff Austin made a motion, which was seconded by Commissioner Tryon Lewis, and the commission approved the minutes of the August 31, 2017, regular meeting by a vote of 4 - 0.

**ITEM 3. Acknowledgment of Service**

**a. Recognize by resolution Glenn Hagler, Procurement Division Director, for 36 years of service to the department**

This item was presented by Chief Administrative Officer Rich McMonagle. Mr. Hagler spoke and thanked the commission, various mentors, and his family. The commissioners congratulated Mr. Hagler and photographs were taken.

**b. Recognize by resolution Dennis R. Cooley, P.E., Tyler District Engineer, for 35 years of service to the department**

This item was presented by District Operations Director Randy Hopmann. Mr. Cooley spoke and thanked the commission, various mentors, and his family. The commissioners congratulated Mr. Cooley and photographs were taken.

**ITEM 4. Discussion Item**

**a. Texas Freight Mobility Plan Update (Presentation)**

This item was presented by Freight Plan Section Director Caroline Mays. The commission also heard comments from Roger Guenther, Executive Director, Port of Houston; Assistant Vice President of Public Affairs for Union Pacific Railroad and the Texas Railroad Association Brenda Mainwaring; and Barbara Koslov, Transportation Policy Advisor to Harris County Judge Ed Emmett.

**b. Unified Transportation Program (UTP) (Presentation)**

This item was presented by Project Planning and Development Director Lauren Garduno.

The commission took a short break from 11:30 a.m. - 11:41 a.m.

**ITEM 5. Advisory Committee Appointments**

**a. Aviation Advisory Committee**

**Consider the appointment of members to the Aviation Advisory Committee (MO)**

This item was presented by Aviation Division Director Dave Fulton. The commission also heard comments from committee nominees Shelly deZevallos, President of West Houston Airport and John White, retired Vice President of Aviation for Valero Energy. Commissioner Austin made a motion, which was seconded by Commissioner Lewis, and the commission approved the following minute order by a vote of 4 - 0.

115043  
AVN

Transportation Code §21.003, requires the Texas Transportation Commission (commission) to appoint a six-member Aviation Advisory Committee (committee) to advise the commission and the Texas Department of Transportation (department) on aviation matters.

Transportation Code §21.003, further provides that the majority of the committee must have five years of successful experience as an aircraft pilot, an aircraft facilities manager or a fixed-base operator.

The department’s administrative rules governing statutory advisory committees (Title 43, Texas Administrative Code, §1.84) provide that committee members serve staggered three-year terms.

The terms of two members expired on August 31, 2017; therefore, it is necessary for the commission to appoint new members for terms to expire on August 31, 2020.

The commission has determined that the individuals listed below fulfill the statutory requirements to serve as members of the committee:

Shelly Lesikar deZevallos  
Houston, Texas

John White  
Corpus Christi, Texas

IT IS THEREFORE ORDERED by the commission that the individuals identified above are hereby appointed to serve as members of the Aviation Advisory Committee with a term effective September 29, 2017, and expiring on August 31, 2020.

b. Border Trade Advisory Committee

Consider the appointment of members to the Border Trade Advisory Committee (MO)

This item was presented by Transportation Planning and Programming Division Director Peter Smith. Commissioner Vandergriff made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 4 - 0.

115044  
TPP

Transportation Code, Section 201.114, requires the Texas Transportation Commission (commission) to appoint members to the Border Trade Advisory Committee (committee) to assist the commission in defining and developing a strategy and making recommendations for addressing the highest priority border trade transportation challenges.

Transportation Code, Section 201.114, also provides that the committee must include, to the extent practicable: (1) the presiding officers, or persons designated by the presiding officers, of the policy boards of metropolitan planning organizations wholly or partly in the Texas Department of Transportation's (department's) Pharr, Laredo, Odessa, or El Paso transportation districts; (2) the person serving, or a person designated by the person serving, in the capacity of executive director of each entity governing a port of entry in this state; (3) a representative each from at least two institutes or centers operated by a university in this state that conduct continuing research on transportation or trade issues; and (4) the port director of the Port of Brownsville or the port director's designee.

The department's administrative rules governing statutory advisory committees, Title 43, Texas Administrative Code, Section 1.84, provide that the committee members serve staggered three-year terms expiring on August 31 of each year.

With respect to the terms expiring on August 31, 2020, six individuals are being re-appointed to the committee and one individual is a new member. In addition, it is necessary to fill a vacancy on the committee and the new member will serve out the remaining term of the previous member, which expires on August 31, 2019.

The commission has determined that the individuals or positions listed below fulfill the statutory requirements to serve as members of the committee and shall serve the term specified:

Terms expiring August 31, 2020

The Honorable Pete Saenz, Laredo Metropolitan Planning Organization

The Honorable Chris Boswell, Harlingen-San Benito Metropolitan Planning Organization

The Honorable Tony Martinez, Brownsville Metropolitan Planning Organization

The Honorable Robert Garza, City of Del Rio port-of-entry

Andrew Canon, Hidalgo County Metropolitan Planning Organization  
 Eduardo Campirano, Port of Brownsville  
 Julian Alvarez, Texas Workforce Commission  
 Term expiring August 31, 2019  
 Dante Galeazzi, Texas International Produce Association

IT IS THEREFORE ORDERED by the commission that the individuals or positions named above are appointed to the Border Trade Advisory Committee for the terms specified.

c. Bicycle Advisory Committee

Consider the appointment of members to the Bicycle Advisory Committee (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 4 - 0.

115045  
PTN

The Bicycle Advisory Committee (committee) makes recommendations to the Texas Transportation Commission (commission) on the development of bicycle tourism trails in this state, and reviews and makes recommendations on items of mutual concern between the Texas Department of Transportation and the bicycling community. The committee functions under Title 43, Texas Administrative Code, §1.85 concerning advisory committees.

The commission desires to make the following five committee appointments:

Name	Location	Term Expiration
David Ham	Midland, TX	August 31, 2020
Karla Weaver	Arlington, TX	August 31, 2020
Cristian Sandoval	San Antonio, TX	August 31, 2020
Jeffery Pollack	Corpus Christi, TX	August 31, 2020
Margaret Obrien-Nelson	Houston, TX	August 31, 2019

IT IS THEREFORE ORDERED by the commission that the five individuals identified above are appointed as members of the Bicycle Advisory Committee for the terms specified.

**ITEM 6. Public Transportation**

**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, and federal §5311(b)(3) Rural Transportation Assistance Program funds (MO)**

This item was presented by Public Transportation Division Director Eric Gleason. Commissioner Lewis made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 4 - 0.

115046  
PTN

The Texas Transportation Commission (commission) desires to award state and federal program funds to support a variety of public transportation needs in urbanized and non-urbanized areas of the state. A total of \$863,363 in state funds and \$1,129,244 in federal funds 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 \$863,363, which is shown in Exhibit A, 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 \$1,127,244 in federal §5310 funds is shown in Exhibit B and has been determined in accordance with the provisions of §31.31.

Title 43, TAC, §31.37 establishes a process by which eligible proposals will be selected to receive funds for training and technical assistance needs under the FTA Rural Transportation Assistance Program (49 U.S.C. §5311(b)(3)). An award of \$2,000 in federal §5311(b)(3) funds to Southwest Area Regional Transit District to host a regional van rodeo has been determined in accordance with §31.37.

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

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 above and in Exhibits A and B, submit any necessary state applications to the FTA, and enter into the necessary contracts.

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

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

**Chapter 2001:**

**Proposed Adoption**

**a. Chapter 1 - Management**

**Amendments to §1.82, §§1.84 - 1.87 and new §1.88 (Advisory Committees) (MO)**

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

115047  
ADM

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §1.82, and §§1.84 - 1.87 and new §1.88, all relating to advisory committees, 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 §1.82, and §§1.84 - 1.87 and new §1.88 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.

**b. Chapter 27 - Toll Projects**

**Amendments to §27.82, Toll Operations (Operation of Department Toll Projects) (MO)**

This item was presented by Toll Operations Division Director Rick Nelson. Commissioner Austin made a motion, which was seconded by Commissioner Lewis, and the commission approved the following minute order by a vote of 4 - 0.

115048  
TOD

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §27.82 relating to Toll Operations 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 §27.82 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.

**c. Chapter 28 - Oversize and Overweight Vehicles and Loads**

**Amendments to §28.102, Authority's Powers and Duties (Hidalgo County Regional Mobility Authority Permits) (MO)**

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

115049  
MNT

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §28.102 relating to Authority's Powers and Duties 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 §28.102 are proposed for adoption and are authorized for publication in the Texas Register for the purpose of receiving public comments.

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

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

**ITEM 8. State Infrastructure Bank**

**Hockley County - City of Levelland - Consider final approval of a request from the City of Levelland for a State Infrastructure Bank loan in the amount of up to \$890,000 to pay the costs of utility relocation necessary for a state highway improvement project on US 385 (MO)**

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

115050  
PFD

The City of Levelland (city) has submitted an application for financial assistance in the form of a loan of up to \$890,000 from the State Infrastructure Bank (SIB) under Transportation Code, Chapter 222, Subchapter D, and Title 43 Texas Administrative Code (TAC), Chapter 6 (SIB rules). The application satisfies all requirements of the rules, including passage by the city of a resolution authorizing submission of the application to the Texas Department of Transportation (department). The city intends to use the financial assistance to pay for utility relocation necessary for a highway improvement project on US 385 (project).

The city has proposed a pledge of water and sewer system revenues as security for repayment of the loan.

Section 6.32 of the SIB rules allows for final approval by the commission of any SIB loan in the principal amount of \$10 million or less without first going through the preliminary approval process described in the SIB rules if the financial assistance is to be used for a project for which the department has primary responsibility.

The intended use of the financial assistance conforms to the purposes of the SIB. The present and projected financial condition of the SIB is sufficient to cover the requested financial assistance for the project. Under the SIB rules, the executive director or his designee determined that the requirement to submit any information or data that was not submitted by the city is waived as permitted by the rules either because the information or data is not relevant or the department already possesses the information or data.

In accordance with 43 TAC §6.32(c), the commission finds that: (1) the project is consistent with the Statewide Long-Range Transportation Plan and the metropolitan transportation plan developed by the applicable metropolitan planning organization; (2) the project is not in a Clean Air Act non-attainment area; (3) the project will improve the efficiency of the state's transportation systems; (4) the project will expand the availability of funding for transportation projects or reduce direct state costs; and (5) the application shows that the city is likely to have sufficient water and sewer system revenues to assure repayment of the financial assistance.

In accordance with 43 TAC §6.41, the executive director has negotiated all the terms of an agreement as necessary to protect the public's safety and to prudently provide for the protection of public funds while furthering the purposes of the SIB.

The executive director or his designee implemented actions authorized and required by the SIB rules for final approval. The executive director affirms that the necessary social, economic, and environmental impact studies have been completed and approved by the department. The executive director recommends that the commission grant final approval of the city's application for financial assistance from the SIB.

In accordance with 43 TAC §6.32(e), the commission finds that providing financial assistance will protect the public's safety and prudently provide for the protection of public funds, while furthering the purposes of the SIB; and that the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate for adverse environmental impacts.

IT IS THEREFORE DETERMINED AND ORDERED that the application submitted by the city for financial assistance in the form of a loan from the SIB meets the applicable requirements of the SIB rules and, in accordance with those provisions, the commission grants final approval of the city's application for a SIB loan in an amount not to exceed \$890,000 to be used to pay the costs of utility relocation necessary for the project.

IT IS FURTHER ORDERED that the executive director or his designee is directed and authorized to enter into a financial assistance agreement with the city which complies with the SIB rules and which contains the following terms:

1. The loan will be repaid over a period of no more than fifteen years at 2.60 percent interest per annum.
2. The city will pledge water and sewer system revenues as security for repayment of the loan.
3. The loan must be fully disbursed within three years of the date of this minute order.
4. As a requirement for closing the loan and for disbursement of SIB funds, the city shall provide a certificate warranting that the proposed security is eligible to be

used to repay the loan and that the financial assistance will not violate any of the borrowing or bond commitments the city has in place.

5. No deferral of repayment is authorized.

**ITEM 9. Financial Assistance for Projects**

**Bexar County - Alamo Regional Mobility Authority - Consider granting preliminary approval of a request from the Alamo Regional Mobility Authority to receive a grant of up to \$17,000,000 to be used to pay for project development of the Loop 1604 Managed Lanes Project, which includes the addition of two tolled managed lanes in each direction along Loop 1604 from SH 16 to I-35 (MO)**

This item was presented by Project Finance, Debt & Strategic Contracts Division Director Ben Asher. San Antonio District Engineer Mario Jorge also answered questions from the commission. The commission heard comments from Bexar County Commissioner and Alamo Area Metropolitan Planning Organization Chairman Kevin Wolff; Chairman Elect of the San Antonio Mobility Coalition Ray Lopez; engineer and private citizen Don Dixon; and Executive Director Texas TURF and Texans for Toll Free Highways Terri Hall. Commissioner Lewis made a motion, which was seconded by Commissioner Vandergriff, and the commission approved the following minute order by a vote of 3 - 0. Commissioner Austin voted against approval of this minute order.

115051  
PFD

The Texas Department of Transportation (department) and the Alamo Regional Mobility Authority (ARMA) have been proceeding with the development of the Loop 1604 Managed Lanes Project in Bexar County, as a toll project (Loop 1604 Project).

The Loop 1604 Project consists of tolled and non-tolled improvements, including the addition of two tolled managed lanes in each direction along Loop 1604 from SH 16 to I-35, and the addition of eight direct connectors at the Loop 1604 and Interstate Highway 10 interchange. Additional improvements to Loop 1604 are planned as part of the project and include: (1) mill, overlay, and re-striping of the existing mainlanes; and (2) improvements to the non-tolled portions of the roadway, including frontage roads, ramps, intersections, and bicycle and pedestrian facilities.

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

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

Pursuant to Transportation Code §372.002, added by S.B. 312, Acts of the 85th Legislature, the department may contribute funds as participation in the cost of a

project for which repayment is not required if a toll project entity commenced the environmental review process for the project on or before January 1, 2014. ARMA commenced the environment review process for the Loop 1604 Project before January 1, 2014, and is nearing the completion of the environmental study for the Loop 1604 Project.

In accordance with Section 27.53 of the financial assistance rules, the ARMA has submitted a request to receive a grant of up to \$17,000,000, previously allocated by the Alamo Area Metropolitan Planning Organization (MPO) (allocated in the Unified Transportation Program as Category 2 funds), to be used to pay development costs of the Loop 1604 Project, including the costs of (1) an investment grade traffic and revenue study, (2) environmental review work, and (3) design work. The information and data required by Section 27.53 of the financial assistance rules is either contained in the request for financing, is already in the department's possession, or may be waived.

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

In accordance with 43 TAC §27.54(a)(2), the commission finds that: (1) the project is consistent with the Statewide Long-Range Transportation Plan and the metropolitan transportation plan developed by the applicable metropolitan planning organization; (2) the project is in a Clean Air Act non-attainment area and will be consistent with the Statewide Transportation Improvement Program, with the conforming plan and Transportation Improvement Program for the metropolitan planning organization in which the project is located, and with the State Implementation Plan; (3) the project will improve the efficiency of the state's transportation systems; and (4) the project will expand the availability of funding for transportation projects or reduce direct state costs.

IT IS THEREFORE DETERMINED AND ORDERED that the request submitted by the Alamo Regional Mobility Authority for a grant in the amount of up to \$17,000,000, to be used to pay development costs of the Loop 1604 Project, including the costs of (i) an investment grade traffic and revenue study, (2) environmental review work, and (3) design work, meets the applicable requirements of 43 TAC §§27.53 and 27.54(a) and, in accordance with those provisions, and in accordance with the requirements of Minute Order 112605, the commission grants preliminary approval of the request for financial assistance, and directs the executive director to commence negotiations and other actions authorized and required by its rules, subject to the condition that the sources of funds for the grant may not be from:

1. Money transferred to the State Highway Fund pursuant to Texas Constitution, Article III, Section 49-g, as amended by Senate Joint Resolution 1 (83rd Legislature, Third Called Session), as approved by statewide election on November 4, 2014 (Proposition 1); or

2. Money deposited to the credit of the State Highway Fund under Texas Constitution, Article VIII, Section 7-c, as amended by Senate Joint Resolution 5 (84th Legislature, Regular Session), as approved by statewide election on November 3, 2015 (Proposition 7); or

3. Money in the State Highway Fund which is available to the department for projects as a result of the enactment of House Bill 20 (84th Legislature, Regular Session), which amended Transportation Code §222.001(a) to discontinue the use of State Highway Fund money by the Department of Public Safety.

**ITEM 10. Audit and Compliance**

Consider the approval of the Internal Audit Work Plan and the Compliance Work Plan for Fiscal Year 2018 and determine whether adequate resources have been dedicated to the internal audit and the compliance programs (MO) (Presentation)

This item was presented by Chief Audit and Compliance Officer Benito Ybarra. Commissioner Austin made a motion, which was seconded by Commissioner Lewis, and the commission approved the following minute order by a vote of 4 - 0.

115052  
AUD/CMP

The Texas Internal Auditing Act, Government Code, Chapter 2102, requires the internal auditor to create an annual Audit Plan that is prepared using risk assessment techniques and that identifies the individual audits to be conducted during the year. The Audit Plan must be approved by the state agency's governing board. In addition, the governing board must periodically review the resources dedicated to the internal audit program and determine if adequate resources exist to ensure that risks identified in the annual risk assessment are adequately covered within a reasonable time frame.

The Chief Audit and Compliance Officer has developed an Audit Plan for Fiscal Year (FY) 2018, which is set forth in Exhibit A. This Audit Plan was prepared by completing a risk assessment of the Texas Department of Transportation's (department's) functions and obtaining input from the Internal Audit Division, the Compliance Division, the Federal Highway Administration (FHWA), members of the department's administration and management team, and the Texas Transportation Commission (commission). This Audit Plan identifies the audits to be conducted and the resources available to the Internal Audit Division for FY 2018.

Additionally, the Compliance Division, which is under the direct management and supervision of the Chief Audit and Compliance Officer, has developed a work plan of external audits for FY 2018, which is set forth in Exhibit B. This compliance work plan was based on an agency-wide fraud risk assessment using input from members of the commission, the department's administration and management team, divisions, and districts, FHWA, and the Office of Inspector General of the United States Department of Transportation. This work plan was developed to implement Transportation Code, Chapter 201, Subchapter F-1, and is designed with engagements and activities focused on preventing and detecting serious breaches of department policy, fraud, waste, and abuse of office.

The Chief Audit and Compliance Officer considers the resources for FY 2018 to be adequate to address the risks that warrant audit coverage.

The Audit Plan and work plan of external audits for FY 2018 are presented to the commission for approval and for a determination that adequate resources exist to ensure that the risks identified are adequately covered.

IT IS THEREFORE ORDERED by the commission that the Audit Plan for FY 2018, as shown in Exhibit A, and the work plan of external audits for FY 2018, as shown in Exhibit B, are hereby approved.

FURTHER, the commission finds that adequate resources have been dedicated to the internal audit program and to the compliance program to ensure that the risks identified in the annual risk assessment, including fraud risks, are covered within a reasonable time.

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

**ITEM 11. 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 Maintenance Division Director Michael Lee. Commissioner Lewis made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 4 - 0.

115053  
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation solicited and received sealed competitive bid proposals for improvement of the State Highway System, which were publicly opened and read on September 7, 2017; as well as Dallas District, Dallas County, Job Number 3202, Project Number HP 1702(355), which was deferred from the June 29 2017, Texas Transportation Commission (commission) meeting, 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 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.

**b. Highway Maintenance (MO)**

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

115054  
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 September 7, 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.

**ITEM 12. 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 Lewis 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 Bugg, Commissioner Austin, Commissioner Vandergriff, and Commissioner Lewis (a vote of 4 - 0).

115055  
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 - Z. 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 - 40, 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>
Chambers	SH 99	D	3510-10-017	1302
Dallas	IH 45	I	0092-14-091	1
Dallas	IH 45	H	0092-14-091	2
Dallas	IH 45	R	0092-14-091	6
Dallas	IH 45	Y	0092-14-091	9
Dallas	IH 45	J	0092-14-091	11
Dallas	IH 45	S	0092-14-091	13
Dallas	IH 45	F	0092-14-091	14
Dallas	IH 35E	E	0442-02-144	32
El Paso	FM 659	Z	1046-01-033	10
Ellis	SH 360	G	2266-03-005	206AC
Galveston	IH 45	W	0500-04-136	301
Galveston	IH 45	V	0500-04-136	319
Galveston	IH 45	X	0500-04-136	322,322AC
Galveston	IH 45	K	0500-04-136	325,325AC
Harris	IH 610	M	0271-16-141	101
Harris	IH 610	N	0271-16-141	102
Harris	IH 610	O	0271-16-141	103
Harris	IH 610	P	0271-16-141	105,105AC
Harris	IH 610	T	0271-16-141	107
Harris	IH 610	Q	0271-16-141	110

**CONTROLLED ACCESS (continued)**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
McLennan	IH 35	C	0015-01-234	60
Nacogdoches	US 59	A	0176-01-110	38
Nacogdoches	US 59	B	0176-01-110	41
Waller	IH 10	U	0271-04-092	375
Waller	IH 10	L	0271-04-092	376

**NON-CONTROLLED ACCESS**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Brazoria	SH 36	39	0188-03-020	208
Brazoria	SH 36	38	0188-03-020	209
Brazoria	SH 36	35	0188-03-020	372
Brazoria	SH 36	36	0188-03-020	413
Brazoria	SH 36	37	0188-03-020	430
Comal	FM 1103	4	1268-01-014	1
Comal	FM 1103	6	1268-01-014	2
Comal	FM 1103	7	1268-01-014	3
Comal	FM 1103	33	1268-01-014	6
Denton	US 377	40	0081-04-036	24OAS
Eastland	US 183	28	0127-02-146	1
Fort Bend	SH 36	17	0188-02-038	111
Fort Bend	SH 36	15	0188-02-038	112
Fort Bend	SH 36	11	0188-02-038	114
Fort Bend	SH 36	12	0188-02-038	130
Fort Bend	SH 36	13	0188-02-038	152A
Fort Bend	SH 36	14	0188-02-038	220
Fort Bend	SH 36	16	0188-02-038	222
Fort Bend	SH 36	29	0188-02-039	45
Guadalupe	FM 1103	8	1268-02-028	14
Guadalupe	FM 1103	9	1268-02-028	35
Guadalupe	FM 1103	10	1268-02-028	43
Guadalupe	FM 1103	18	1268-02-028	54
Harris	FM 525	32	1005-02-002	6
Harris	FM 2100	31	1062-04-053	118
Harris	FM 2100	34	1062-04-053	137
Hopkins	SH 11	5	0083-02-054	1
Navarro	SH 31	20	0162-11-002	70
Navarro	SH 31	19	0162-11-002	71
Navarro	SH 31	21	0162-11-002	73
Navarro	SH 31	22	0162-11-002	74
Navarro	SH 31	23	0162-11-002	75
Navarro	SH 31	24	0162-11-002	76
Navarro	SH 31	25	0162-11-002	77

**NON-CONTROLLED ACCESS (continued)**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Navarro	SH 31	26	0162-11-002	78
Navarro	SH 31	27	0162-11-002	79
Nueces	US 181	1	0101-06-109	102
Nueces	US 181	2	0101-06-109	103
Nueces	US 181	30	0101-06-109	107
Nueces	US 181	3	0101-06-109	201

Note: Exhibits A - Z and 1 - 40 are on file with the commission chief clerk.

**ITEM 13. Routine Minute Orders and Reports**

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

**a. Donations to the Department**

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

115056  
CSD

Transportation Code, §201.206, authorizes the Texas Department of Transportation (department) to accept a donation in any form, including realty, Transportation Code, §201.206, authorizes the Texas Department of Transportation (department) to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 90th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

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

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department’s acceptance of donations. Section 1.503 authorizes the executive director to approve acceptance of donations to the department and requires that donations valued at \$500 or more must be acknowledged by order of the commission not later than the 90th day after the date the donation is accepted by the

department. It further prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the executive director may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if the executive director determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

The executive director found that the donations identified on the attached Exhibit A were in compliance with the provisions of 43 TAC §§1.500-1.506, Government Code, Chapter 575, Transportation Code, §201.206, and Transportation Code, §223.049.

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

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

**b. Real Estate Dispositions**

**(1) Bexar County - I-10, southeast corner at Fresno Drive in San Antonio - Consider the sale of right of way to the successful bidder (MO)**

115057  
ROW

In San Antonio, BEXAR COUNTY, on INTERSTATE 10, the state of Texas acquired certain land for highway purposes by various instruments.

A portion of the land (Tract 1), RCSJ 0072-12-195, 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 no longer needed for a state highway purpose to the general public.

Tract 1 was advertised for sale, and Briarwood Commerce, LLC, submitted a bid of \$250,100, the only acceptable bid.

The commission finds \$250,100 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 Briarwood Commerce, LLC, for \$250,100; 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) Denton County - FM 407, old alignment at Hilltop Road in Bartonville - Consider the sale of right of way to the abutting landowner (MO)**

115058  
ROW

In Bartonville, DENTON COUNTY, on FARM TO MARKET ROAD 407, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 348, Page 419, Deed Records of Denton County, Texas.

A portion of the land (Tract 1), RCSJ 1785-01-037, 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 to abutting landowners.

Pitner Bartonville Property, LP, is the abutting landowner and has requested to purchase Tract 1 for \$152,808.

The commission finds \$152,808 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 Pitner Bartonville Property, LP, for \$152,808; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's right, title, and interest, if any, in and to all of the oil, gas, sulphur, and other minerals, of every kind and character, in, on, under, and that may be produced from the land.

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

**(3) El Paso County - SL 375, northwest corner at I-10 in El Paso - Consider the sale of right of way to the abutting landowner (MO)**

115059  
ROW

In El Paso, EL PASO COUNTY, on STATE LOOP 375, the state of Texas acquired certain land for highway purposes by instrument recorded in Book 1320, Page 251, Deed Records of El Paso County, Texas.

A portion of the land (Tract 1), RCSJ 2552-01-045, 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 to abutting landowners.

Red Road Compound, Ltd., is the abutting landowner and has requested to purchase Tract 1 for \$120,000.

The commission finds \$120,000 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 Red Road Compound, Ltd., for \$120,000; 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.

**(4) Harris County - I-10, northeast corner at Barker Cypress Road in Houston - Consider the sale of right of way to an abutting landowner (MO)**

115060  
ROW

In Houston, HARRIS COUNTY, on INTERSTATE 10, the state of Texas acquired certain land for highway purposes by instruments recorded in File No. B892813 and File No. C028448, Deed Records of Harris County, Texas.

A portion of the land (Tract 1), RCSJ 0271-06-124, 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 to abutting landowners.

Park Ten Commons Partners, L.P., is an abutting landowner and has requested to purchase Tract 1 for \$2.3 million.

The commission finds \$2.3 million 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 Park Ten Commons Partners, L.P., for \$2.3 million; 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.

**(5) Lubbock County - SS 327 at US 62 in Lubbock - Consider the sale of right of way to the abutting landowner (MO)**

115061  
ROW

In Lubbock, in LUBBOCK COUNTY, on STATE SPUR 327, the state of Texas acquired certain land by instrument recorded in Volume 695, Page 125, Deed Records of Lubbock County, Texas.

A portion of the land (Tract 1), RCSJ 0380-15-019, 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 to abutting landowners.

Zephyr Tree Farms, Inc., is the abutting landowner and has requested to purchase Tract 1 for \$141,000.

The commission finds \$141,000 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 Zephyr Tree Farms, Inc., for \$141,000; 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) Sutton County - FM 864 at I-10 east of Sonora - Consider the sale of right of way to the abutting landowner (MO)

115062  
ROW

In SUTTON COUNTY, on FARM TO MARKET ROAD 864, the state of Texas acquired certain land and easement interest for highway purposes by instruments recorded in Volume 53, Page 371, and Volume 96, Page 118, Deed Records of Sutton County, Texas.

Portions of the land (Parts A and B), RCSJ 1846-01-024, described in Exhibit A, are no longer needed for a state highway purpose.

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

Max Howorth is the owner of the fee in the property underlying Part A, valued at \$6,480, the abutting landowner to Part B, valued at \$5,520, and has requested to purchase Parts A and B for a total of \$12,000.

The commission finds \$12,000 to be a fair and reasonable value for the state's right, title, and interest in Parts A and B.

IT IS THEREFORE ORDERED by the commission that Parts A and B 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 releasing the state's right and interest in Part A and conveying all of the state's right, title, and interest in Part B to Max Howorth for \$12,000; 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.

(7) Travis County - SL 275, S. Congress Avenue at W. Slaughter Lane in Austin - Consider the sale of a drainage easement (MO)

115063  
ROW

In Austin, TRAVIS COUNTY, on STATE LOOP 275, the state of Texas acquired an easement interest in certain land for highway drainage purposes by instrument recorded in Volume 11705, Page 449, Real Property Records of Travis County, Texas.

A portion of the easement (Tract 1), RCSJ 0016-01-118, shown on 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.

HEB Grocery Company, LP, a Texas limited partnership, is the owner of the fee in the property and has requested to purchase Tract 1 for \$13,180.

The commission finds \$13,180 to be a fair and reasonable value for the state's right and interest in Tract 1.

IT IS THEREFORE ORDERED by the commission that Tract 1 is no longer needed for a state highway purpose. The commission recommends, subject to approval of the attorney general, that the governor of Texas execute a proper instrument releasing the state's right and interest in Tract 1 to HEB Grocery Company, LP, a Texas limited partnership, for \$13,180.

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

**c. Reports**

**(1) Compliance Division report**

Note: Confidential report to commission.

**d. Highway Designation**

**Hidalgo County - Consider extending the designation of FM 676 near the cities of Edinburg and McAllen (MO)**

115064  
TPP

The Pharr District has requested the extension of the designation of FM 676 from 0.3 mile east of N. Taylor Road along Auburn Avenue to FM 2220 (Ware Road), a distance of approximately 1.0 mile.

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 the designation of FM 676 is extended from 0.3 mile east of N. Taylor Road along Auburn Avenue to FM 2220 (Ware Road), a distance of approximately 1.0 mile, as shown in Exhibit A.

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

**e. Designation of Access Control**

**(1) Coryell County - US 190, east of FM 3046 in Copperas Cove - Consider the redesignation of one location on the eastbound frontage road at which access will be permitted to the abutting property (MO)**

115065  
DES

In CORYELL COUNTY, on US HIGHWAY 190, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded in Document No. 197289, Official Public Records of Coryell County, Texas, with denial of access to the abutting remainder property as described in the instrument.

WESLEY ATKINSON, the current owner of the abutting property, has requested a redesignation of the control of access along his property line. The existing access point described in Document No. 197289, Official Public Records of Coryell County, Texas, will become controlled whereby access is denied to and from the eastbound frontage road of US 190. Access to and from the eastbound frontage road of US 190 will be permitted at one location along the northern 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 layout, construct, maintain, and operate a modern state highway system, with an emphasis on the construction of controlled-access highways.

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

NOW, THEREFORE, the commission finds that the new access point will not compromise the mobility, safety or operation of the existing state highway facility, and authorizes redesignation of permitted access along 120.41 linear feet of the eastbound US 190 eastbound frontage road from its original access point to the location described in Exhibit A.

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

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

**(2) Guadalupe County - I-10, approximately 300 feet west of SH 80 - Consider the designation of two locations on the highway at which access will be permitted to the abutting property (MO)**

115066  
DES

In GUADALUPE COUNTY, on INTERSTATE HIGHWAY 10, a designated controlled-access highway, the State of Texas acquired certain land for highway

purposes by instrument recorded in Volume 407, Page 397 of the Deed Records of Guadalupe County, Texas, with denial of access to the abutting remainder properties as described in the instrument.

Whitsett Real Estate, LLC, the current owner of the abutting property, has requested that access to the eastbound frontage road of I-10 be permitted along its north property line at two new access points 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 two new access points will not compromise the mobility, safety, or operation of the existing state highway facility, and designates the new access points as locations where ingress and egress is permitted to the eastbound frontage road of I-10.

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.

(3) Harris County - SH 99, south of Clay Road - Consider the designation of one location on the frontage road at which access will be permitted to the abutting property (MO)

115067  
DES

In HARRIS COUNTY, on STATE HIGHWAY 99, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded under Harris County Clerk's File No. 20130596943, Film Code No. 089-67-0336, of the Official Public Records of Real Property of Harris County, Texas, with denial of access to the abutting remainder property as described in the instrument.

99 CLAY PROJECT, LTD., the current owner of the abutting property, has requested that access to and from the northbound frontage road of SH 99 be permitted at one location along the western 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 layout, 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 described in Exhibit A as a location where ingress and egress are permitted to and from the northbound frontage road of SH 99.

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

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

(4) Harris County - SH 99, approximately 300 feet north of Peek Road - Consider the designation of one location on the highway at which access will be permitted to the abutting property (MO)

115068  
DES

In HARRIS COUNTY, on STATE HIGHWAY 99, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded in the Official Public Records of the Real Property of Harris County under file number 20130596943, with denial of access to the abutting remainder properties as described in the instrument.

Clay Road 628 Development, L.P., the current owner of the abutting property, has requested that access to the southbound frontage road of SH 99 be permitted along its east property line at the 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 99.

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.

(5) McLennan County - I-35, south of New Road - Consider the designation of one location on the frontage road at which access will be permitted to the abutting property (MO)

115069  
DES

In MCLENNAN COUNTY, on INTERSTATE HIGHWAY 35, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded under McLennan County Clerk's Document 2003037970 of the Official Public Records of McLennan County, Texas, with denial of access to the abutting remainder property as described in the instrument.

ANS REALTY WACO, LP, the current owner of the abutting property, has requested that access to and from the southbound frontage road of I-35 be permitted at one location along the eastern 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 layout, 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 described in Exhibit A as a location where ingress and egress are permitted to and from the southbound frontage road of I-35.

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

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

(6) Reeves County - I-20, approximately 200 feet west of US 285 - Consider the designation of one location on the highway at which access will be permitted to the abutting property (MO)

115070  
DES

In REEVES COUNTY, on INTERSTATE HIGHWAY 20, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 235, Page 567, Deed Records, Reeves County, Texas, with denial of access to the abutting remainder properties as described in the instrument.

Pecos Drive-In Property Investors, LLC, the current owner of the abutting property, has requested that access to the westbound frontage road of I-20 be permitted along its south property line at the 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 westbound frontage road of I-20.

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.

**f. Transportation Planning**

**Various Counties - Consider the certification of eligible counties for the 2018 Economically Disadvantaged Counties Program and establish local match adjustments for each county and certain cities (MO)**

115071  
TPP

Transportation Code, §222.053(a), defines an “economically disadvantaged county” as a county that has, in comparison to other counties in the state: (1) below average per capita taxable property value; (2) below average per capita income; and (3) above average unemployment.

Transportation Code, §222.053(c), directs the Texas Transportation Commission (commission), when evaluating a proposal for a highway project in a political subdivision that consists of all or a portion of an economically disadvantaged county, to adjust the minimum local matching funds requirement after evaluating the political subdivision's effort and ability to meet the requirement.

Transportation Code, §222.053(f), requires the commission to certify a county as economically disadvantaged on an annual basis as soon as possible after the Comptroller of Public Accounts (comptroller) provides reports on the economic indicators listed above.

Title 43 TAC §15.55(b)(2) provides that, in determining the adjustment to the local matching funds requirement, and the local government's efforts and ability to meet the requirement, the commission will consider a local government's: (A) population level; (B) bonded indebtedness; (C) tax base; (D) tax rate; (E) extent of in-kind resources available; and (F) economic development sales tax.

The comptroller has provided the data needed to determine the counties eligible for the Economically Disadvantaged Counties Program for 2018. The counties' efforts and ability to provide a local match have been considered using the criteria set forth in 43 TAC §15.55. Exhibit A lists the eligible counties and the respective recommended

local match adjustments. Exhibit B establishes additional local match adjustments for cities within these counties participating in the program.

IT IS THEREFORE ORDERED by the commission that the list of counties eligible for the 2018 Economically Disadvantaged Counties Program is certified and the local match adjustment for each county is established, as shown in Exhibit A, as well as additional adjustments for cities participating in the program, as shown in Exhibit B.

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

**g. Speed Zones**

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

115072  
TRF

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

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

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

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

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

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

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

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

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

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

**ITEM 14. Executive Session Pursuant to Government Code, Chapter 551  
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 Austin seconded the motion. The commission voted 4 - 0 to adjourn. The regular meeting of the Texas Transportation Commission was adjourned at 12:42 p.m.

APPROVED by the Texas Transportation Commission on October 26, 2017.



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J. Bruce Bugg, Jr., Chairman  
Texas Transportation Commission

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I hereby certify that the above and foregoing pages constitute the full, true, and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on September 28, 2017, in Austin, Texas.



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Robin Carter, Commission Chief Clerk  
Texas Department of Transportation