

These are the minutes of the regular meeting of the Texas Transportation Commission held on May 24, 2018, in Austin, Texas. The meeting was called to order at 9:02 a.m. by Chairman Bugg with the following commissioners present:

Texas Transportation Commission:

J. Bruce Bugg, Jr.	Chairman
Jeff Austin, III	Commissioner
Laura Ryan	Commissioner
Alvin New	Commissioner

Administrative Staff:

James Bass, Executive Director
 Jeff Graham, General Counsel
 Robin Carter, Commission Chief Clerk

A public notice of this meeting containing all items on the proposed agenda was filed in the Office of the Secretary of State at 4:22 p.m. on May 16, 2018, 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. Special Safety Presentation

Special guest David Mills of the Kailee Mills Foundation provided insights and awareness into seat belt safety and usage.

Chairman Bugg recognized Senator Juan "Chuy" Hinojosa, who spoke concerning the I-2/I-69C interchange design-build project, agenda item 6.b. Chairman Bugg then recognized Senator Don Huffines, who spoke to the commission concerning the I-635 LBJ East design-build project, agenda item 6.a.

ITEM 3. Consider the approval of the Minutes of the April 26, 2018, regular meeting of the Texas Transportation Commission

Commissioner Austin made a motion, which was seconded by Commissioner Ryan, and the commission approved the minutes of the April 26, 2018, regular meeting by a vote of 4 - 0.

ITEM 4. Acknowledgment of Service

Recognize by resolution James K. (Kelly) Selman, P.E., Dallas District Engineer, for 32 years of service to the department

Chief Engineer Bill Hale presented the resolution, thanked Mr. Selman for his service and friendship, and recounted some of Mr. Selman's career highlights. Senator Don Huffines presented a resolution from the Texas Senate and thanked Mr. Selman for his work. The commission thanked Mr. Selman for his work and service to the state of Texas. Mr. Selman spoke and thanked the commission, various mentors and colleagues, his district staff, the TxDOT executive team, and his family. Photographs were taken.

ITEM 5. 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 Gina Gallegos. Chief Engineer Bill Hale answered questions from the chairman. Commissioner Austin made a motion, which was seconded by Commissioner Ryan, and the commission approved the following minute order by a vote of 4 - 0.

115217
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 May 1 and 2, 2018; 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 Construction Division Director Gina Gallegos. Commissioner New made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 4 - 0.

115218
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 May 1 and 2, 2018; 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 Austin made a motion, which was seconded by Commissioner New, and the commission approved the following minute order by a vote of 4 - 0.

115219
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 May 1, 2018, 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 6. Design-Build Contracts

a. Dallas County - I-635 LBJ East Project - Consider authorizing the department to issue a request for qualifications to design, develop, construct, and potentially maintain improvements in the I-635 corridor from US 75 to I-30 in Dallas County (I-635 LBJ East Project), with no new toll lanes, and consider approving the department's determination to exercise its option to develop, finance, construct, and operate the I-635 LBJ East Project. The project includes the full reconstruction of the facility with the addition of one general purpose lane in each direction, to "grandfather" and permit the

reconstruction of the existing one tolled managed lane in each direction, construction of continuous frontage roads, and improvements to the I-635/I-30 interchange. The project will not include funding from either Propositions 1 or 7. (MO) (Presentation)

This item was presented by Strategic Contracts Section Director Katherine Holtz. The commission also heard comments from Senator Don Huffines; Rob Franke, Mayor of Cedar Hill and Chairman of the Regional Transportation Council; Adam McGough, Dallas councilmember and chairman of public safety; Brad McCutcheon with LBJ Now; Walter Zaykowski with the Austin Chamber of Commerce; Kathy Stewart, Executive Director of Lake Highlands PID; Christie Myers with LBJ Now; and B.J. Williams, former councilmember, City of Garland. Commissioner Austin made a motion, which was seconded by joint motion of Commissioners Ryan and New, and the commission approved the following minute order by a vote of 4 - 0.

115220
PFD

The Texas Department of Transportation (department) has been evaluating the design, construction, financing, operation and maintenance of a project to reconstruct and widen Interstate Highway 635 from US 75 to I-30 in Dallas County, including the I-635/I-30 interchange improvements (I-635 LBJ East Project). The department has agreed to “grandfather” and permit the reconstruction of the existing one tolled managed lane in each direction as part of the project scope. The project will include the full reconstruction and widening of the facility from eight to ten general purpose lanes and the full reconstruction of the two existing tolled managed lanes, for a total of 12 general purpose and tolled managed lanes, construction of continuous frontage roads, and improvements to the I-635/I-30 interchange.

Transportation Code, Chapter 373 establishes a process for providing local toll project entities, including the North Texas Tollway Authority (NTTA), with the first option to develop, finance, construct, and operate toll projects located within the boundaries of the local toll project entity.

By resolution adopted on May 16, 2018, the NTTA Board of Directors elected to waive and decline to exercise the NTTA’s option to develop, finance, construct, and operate the I-635 LBJ East Project.

Transportation Code, §373.053 provides that if a local toll project entity fails or declines to exercise its option to develop, finance, construct, and operate a toll project, the department has 60 days after that date to decide whether it will exercise its option to develop, finance, construct, and operate the project. Transportation Code §373.007 provides that, unless otherwise provided by a toll project agreement under Transportation Code §373.006, or other agreement, an exercise of primacy over a phase of a toll project is an exercise of primacy over the entire project, with additional phases to be developed as the entity determines the phases financially feasible. The department has determined that its option to develop, finance, construct, and operate the I-635 LBJ East Project should be exercised.

Subchapter F, Chapter 223, Transportation Code prescribes the process by which the department may enter into a design-build contract with a private entity that provides for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project. Transportation Code §223.242

authorizes the department to enter into, in each fiscal year, up to three design-build contracts for highway projects with estimated construction costs of \$150 million or more.

The planned improvements for the I-635 LBJ East Project will provide continuous frontage roads and increased capacity through the addition of general purpose lanes from US 75 to I-30 that are critical to the region's continued mobility and economic viability. The project will improve safety and mobility, enhance system continuity, and accommodate projected growth through the region. Increasing capacity will relieve congestion and reduce travel time as well as provide social and economic benefits locally, regionally and statewide.

Transportation Code, §223.245 prescribes requirements for a design-build contract procurement, and requires the department to publish a notice advertising a request for qualifications in the Texas Register and on the department's Internet website.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the department's determination to exercise its option to develop, finance, construct and operate the I-635 LBJ East Project, pursuant to Transportation Code, §373.053, is approved.

IT IS FURTHER ORDERED that the department is authorized to issue a request for qualifications to design, develop, construct, and potentially maintain the I-635 LBJ East Project in Dallas County, from US 75 to I-30, and to publish in the Texas Register and post on the department's website a notice advertising the issuance of the request for qualifications.

b. Hidalgo County - I-2/I-69C Interchange Project - Authorize the department to issue a request for qualifications to design, develop, construct, and potentially maintain the non-tolled I-2/I-69C Interchange Project, which provides for the full reconstruction of the I-2/I-69C interchange and operational improvements to I-2 and I-69C in McAllen, Pharr, and San Juan in Hidalgo County (MO) (Presentation)

This item was presented by Strategic Contracts Section Director Katherine Holtz. Commissioner New made a motion, which was seconded by Commissioner Ryan, and the commission approved the following minute order by a vote of 4 - 0.

115221
PFD

Subchapter F, Chapter 223, Transportation Code prescribes the process by which the Texas Department of Transportation (department) may enter into a design-build contract with a private entity that provides for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project. Transportation Code § 223.242 authorizes the department to enter into, in each fiscal year, up to three design-build contracts for highway projects with estimated construction costs of \$150 million or more.

Transportation Code §§ 223.245-223.250 prescribe requirements for a design-build contract procurement, and require the department to publish a notice advertising a request for qualifications in the Texas Register that includes the criteria that will be

used to evaluate any qualification submittals, the relative weight given to the criteria, and a deadline by which qualification submittals must be received.

The I-2/I-69C Interchange Project will provide approximately 7.8 miles of non-tolled improvements along I-2 from just west of 2nd Street to just east of FM 2557 (S. Stewart Road) and I-69C from Nolana Loop to I-2 in McAllen, Pharr, and San Juan, in Hidalgo County, Texas. The proposed improvements include the full reconstruction of the I-2/I-69C interchange to include two-lane direct connectors in all four directions. The I-2 general purpose lanes will be reconstructed and/or widened from six to eight non-tolled general purpose lanes (four in each direction) from 2nd Street to the I-2/I-69C interchange, while operational improvements include the reconfiguration of main lane ramps on I-2 from 2nd Street to FM 2557 (S. Stewart Road) and improvements to the approaches and departures to and from the direct connectors. The proposed improvements would add capacity and optimize main lane ramp and interchange operations, decreasing congestion and improving mobility and connectivity throughout the project area.

IT IS THEREFORE ORDERED by the commission that the department is authorized to issue a request for qualifications to design, develop, construct, and potentially maintain the I-2/I-69C Interchange Project in Hidalgo County, and to publish in the Texas Register and on the department's website a notice advertising the issuance of the request for qualifications.

ITEM 7. Discussion Item

Legislative Appropriations Request (LAR)

Discussion regarding the development of the Texas Department of Transportation's Fiscal Year 2020-2021 Legislative Appropriations Request (Presentation)

This discussion was led by Financial Management Division Director Stephen Stewart. Chief Engineer Bill Hale also answered questions from the commission. The commission asked questions and discussed the topic.

ITEM 8. Strategic Plan

Consider the adoption of the 2019-2023 Strategic Plan for submission to the Legislative Budget Board and Governor's Office (MO) (Presentation)

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

115222
GOV

Texas Government Code, Chapter 2056, requires that each state agency prepare a five-year strategic plan every biennium. The Governor's Office and the Legislative Budget Board require certain items to be covered in the plan.

The strategic plan represents the commitment by the Texas Department of Transportation (department) to fulfill its mission to, through collaboration and

leadership, deliver a safe, reliable, and integrated transportation system that enables the movement of people and goods.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the document entitled Agency Strategic Plan for the Fiscal Years 2019-2023 Period, as shown in Exhibit A, is adopted and approved for submission to the Governor's Office, the Legislative Budget Board, and other required officials.

IT IS FURTHER ORDERED that the executive director or his designee is authorized to approve alterations to the plan as necessary to meet the requirements of the Governor's Office and the Legislative Budget Board.

IT IS FURTHER ORDERED that the executive director or his designee shall proceed with the publication of the plan on the department's website, as required by the Governor's Office and the Legislative Budget Board.

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

ITEM 9. Public Transportation

Various Counties - Consider the award of state and federal grant funds to various entities for projects submitted in the biennial Coordinated Call for Projects, and the award of residual funds to East Texas Council of Governments for fleet replacement (MO)

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

115223
PTN

The Texas Transportation Commission (commission) desires to award \$3,891,609 of Federal Transit Administration (FTA) grant program and state funds. The commission further acknowledges that federal program regulations require the Texas Department of Transportation (department) to ensure that grant funds are distributed fairly and equitably within the state.

Title 43, Texas Administrative Code, Sections 31.22, 31.36, and 31.37 establish the process by which program proposals shall be evaluated and funds distributed. On November 17, 2017, the department published a Notice of Call for Projects in the Texas Register. Project criteria included project planning and coordination, demonstration of project need and benefits, and project management. The commission finds that the projects in Exhibit A are eligible for funding and awards a total of \$3,778,241 in federal funds.

The commission also desires to award up to \$113,368 to East Texas Council of Governments for the purchase of replacement vehicles. This amount represents residual funds from the federal Transportation Investment Generating Economic Recovery program, federal Surface Transportation Program-Statewide program flexed to \$5311, and state funds previously awarded to rural transit districts for the purchase of replacement vehicles.

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

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

ITEM 10. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

Proposed Adoption

a. Chapter 2 - Environmental Review of Transportation Projects

Amendments to §§2.5, 2.7, 2.14 (General Provisions), §§2.43, 2.45, 2.49 (Environmental Review Process for Highway Projects), §§2.81, 2.83-2.85 (Requirements for Classes of Projects), §§2.101-2.103, 2.105-2.110 (Public Participation); Repeal of §2.12 (General Provisions), §2.104 (Public Participation), and §2.131 (Requirements for Specific Projects and Programs); and New §2.104 (Public Participation) (MO)

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

115224
ENV

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§2.5, 2.7, 2.14, 2.43, 2.45, 2.49, 2.81, 2.83 - 2.85, 2.101 - 2.103, and §§2.105 - 2.110, the repeal of §§2.12, 2.104, and 2.131, and new §2.104, all relating to the environmental review of transportation projects, 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, B, C, D, E, and F, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the general counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the commission that the amendments to §§2.5, 2.7, 2.14, 2.43, 2.45, 2.49, 2.81, 2.83 - 2.85, 2.101 - 2.103, and §§2.105 - 2.110, the repeal of §§2.12, 2.104, and 2.131, and new §2.104 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 - F are on file with the commission chief clerk.

b. Chapter 9 - Contract and Grant Management

Amendments to §§9.300-9.302, 9.305, 9.314, 9.316, 9.325, and 9.330, Small Business Enterprise (SBE) Program (MO)

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

115225
CIV

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§9.300 – 9.302, 9.305, 9.314, 9.316, 9.325, and 9.330 relating to Small Business Enterprise (SBE) Program to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §§9.300 – 9.302, 9.305, 9.314, 9.316, 9.325, and 9.330 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 9 - Contract and Grant Management

Amendments to §9.2, Contract Claim Procedures, §9.12, Qualification of Bidders, §9.13, Notice of Letting and Issuance of Bid Forms, §9.15, Acceptance, Rejection, and Reading of Bids, and §9.17, Award of Contract; New §9.22, Liquidated Damages, §9.23, Evaluation and Monitoring of Contract Performance, §9.24, Performance Review Committee and Actions, §9.25, Appeal of Remedial Action, and §9.26, Inclusion of Contract Remedies in Contracts; Repeal of §§9.101-9.115 (MO)

This item was presented by Construction Division Director Gina Gallegos. Engineering and Safety Operations Director Michael Lee also answered questions from the commission. Commissioner New made a motion, which was seconded by Commissioner Ryan, and the commission approved the following minute order by a vote of 4 - 0.

115226
CST

The Texas Transportation Commission (commission) finds it necessary to propose the repeal of §§9.101-9.115, amendments to §§9.2, 9.12, 9.13, 9.15, and 9.17, and new §§9.22-9.26, relating to Contract and Grant Management, 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, B, C, and D, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the general counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the commission that the repeal of §§9.101-9.115, amendments to §§9.2, 9.12, 9.13, 9.15, and 9.17, and new §§9.22 - 9.26, 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 - D are on file with the commission chief clerk.

d. Chapter 10 - Ethical Conduct by Entities Doing Business with the Department
Amendments to §§10.1, 10.2, 10.5, and 10.7 (General Provisions); §§10.101 and 10.102 (Required Conduct by Entities Doing Business with the Department); and §§10.251 - 10.254, 10.256, and 10.257 (Sanctions for Ethical Violations by Other Entities); Repeal of §§10.151 - 10.160 (Score Reduction for Ethical Violations by Architectural, Engineering, and Surveying Service Providers); §§10.201 - 10.206 (Removal of Precertification of Architectural, Engineering, and Surveying Service Providers for Ethical Violations); and §10.255, Application of Sanction (MO)

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

115227
CMP

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§10.1, 10.2, 10.5, 10.7, 10.101, 10.102, 10.251 - 10.254, 10.256, and 10.257, and the repeal of §§10.151 - 10.160, 10.201 - 10.206, and 10.255 all concerning Ethical Conduct by Entities Doing Business with the Department, 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, B, C, D, E, and F, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the general counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the Texas Register.

IT IS THEREFORE ORDERED by the commission that the amendments to §§10.1, 10.2, 10.5, 10.7, 10.101, 10.102, 10.251 - 10.254, 10.256, and 10.257, and the repeal of §§10.151 - 10.160, 10.201 - 10.206, and 10.255 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 - F are 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. The commission also heard comments from Grimes County property owners Amy Nobles and Chad Nobles. Commissioner New made a motion that the Texas Transportation Commission authorize the Texas Department of Transportation to use the power of eminent domain to acquire the properties described in the minute order set forth in the agenda for the current month for construction, reconstruction, maintenance, widening, straightening, or extending the highway facilities listed in the minute order as a part of the state highway system, and that the first record vote applies to all units of property to be condemned. The motion was seconded by Commissioner Austin and the following minute order was approved by Chairman Bugg, Commissioner Austin, Commissioner Ryan, and Commissioner New (a vote of 4 - 0).

115228
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 - EE. 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 - 98, in accordance with Transportation Code, Sections 203.002 and 203.003.

The commission finds and determines that condemnation of the parcels is required.

IT IS THEREFORE ORDERED that the initiation of condemnation proceedings for the parcels is adopted and authorized by a single order for the parcels, and this first vote by the commission applies to all of the parcels.

IT IS FURTHER ORDERED that the executive director is hereby authorized to proceed to condemnation on the parcels and directed to transmit or cause to be transmitted this request of the commission to the Office of the Attorney General to file or cause to be filed against all owners, lienholders, and any owners of any other interests in the parcels, proceedings in condemnation to acquire in the name of and on behalf of the state, fee simple title to each parcel or such lesser estates or property interests as are more fully described in each of the attached Exhibits, save and excepting oil, gas, and sulfur, as provided by law, as follows:

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Brazoria	SH 36	73	0188-03-020	116
Brazoria	SH 36	9	0188-03-020	122
Brazoria	SH 36	7	0188-03-020	202
Brazoria	SH 36	87	0188-03-020	213
Brazoria	SH 36	85	0188-03-020	216
Brazoria	SH 36	98	0188-03-020	324
Brazoria	SH 36	66	0188-03-020	325
Brazoria	SH 36	84	0188-03-020	332
Brazoria	SH 36	72	0188-03-020	338
Brazoria	SH 36	83	0188-03-020	368
Brazoria	SH 36	86	0188-03-020	432
Collin	SH 121	89	0549-03-030	6
Collin	SH 121	10	0549-03-030	8
Collin	FM 2478	2	2351-01-022	9
Collin	FM 2478	11	2351-01-022	17
Collin	FM 2478	5	2351-01-022	18
Collin	FM 2478	6	2351-01-022	44
Crane	US 385	63	0229-03-038	5
Crane	US 385	60	0229-03-038	8
Dallas	SL 9	42	2964-10-010	19
Dallas	SL 9	43	2964-10-010	20
Dallas	SL 9	44	2964-10-010	21
Dallas	SL 9	46	2964-10-010	74

NON-CONTROLLED ACCESS (continued)

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Dallas	SL 9	45	2964-10-010	75
Dallas	SL 9	47	2964-10-010	98
Dallas	SL 9	48	2964-10-010	99
Dallas	SL 9	49	2964-10-010	101
Dallas	SL 9	50	2964-10-010	102
Dallas	SL 9	51	2964-10-010	103
Dallas	SL 9	52	2964-10-010	107
Dallas	SL 9	53	2964-10-010	108
Dallas	SL 9	54	2964-10-010	112
Dallas	SL 9	55	2964-10-010	113,113E
Dallas	SL 9	56	2964-10-010	122
Dallas	SL 9	57	2964-10-010	127
Dallas	SL 9	58	2964-10-010	129,129E
Dallas	SL 9	61	2964-10-010	143
Dallas	SL 9	59	2964-10-010	145
Dallas	SL 9	80	2964-10-011	181
Dallas	SL 9	81	2964-10-011	200
Ellis	SL 9	12	2964-12-003	1
Ellis	SL 9	13	2964-12-003	2
Ellis	SL 9	14	2964-12-003	4
Ellis	SL 9	15	2964-12-003	6
Ellis	SL 9	16	2964-12-003	7
Ellis	SL 9	17	2964-12-003	8
Ellis	SL 9	18	2964-12-003	9
Ellis	SL 9	19	2964-12-003	11
Ellis	SL 9	20	2964-12-003	12
Ellis	SL 9	21	2964-12-003	13
Ellis	SL 9	22	2964-12-003	14
Ellis	SL 9	23	2964-12-003	15
Ellis	SL 9	24	2964-12-003	16
Ellis	SL 9	25	2964-12-003	18
Ellis	SL 9	74	2964-12-003	23
Ellis	SL 9	26	2964-12-003	29
Ellis	SL 9	27	2964-12-003	32
Ellis	SL 9	28	2964-12-003	33
Ellis	SL 9	29	2964-12-003	34
Ellis	SL 9	30	2964-12-003	35
Ellis	SL 9	31	2964-12-003	39
Ellis	SL 9	32	2964-12-003	40
Ellis	SL 9	33	2964-12-003	43
Ellis	SL 9	34	2964-12-003	45
Ellis	SL 9	35	2964-12-003	46

NON-CONTROLLED ACCESS (continued)

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Ellis	SL 9	36	2964-12-003	49
Ellis	SL 9	37	2964-12-003	50
Ellis	SL 9	38	2964-12-003	55
Ellis	SL 9	39	2964-12-003	71
Ellis	SL 9	40	2964-12-003	73
Ellis	SL 9	41	2964-12-003	91
Ellis	SL 9	75	2964-12-004	146
Ellis	SL 9	76	2964-12-004	148
Ellis	SL 9	77	2964-12-004	150
Ellis	SL 9	78	2964-12-004	151
Ellis	SL 9	79	2964-12-004	152
Fort Bend	SH 36	90	0188-02-038	140C
Fort Bend	SH 36	88	0188-02-039	23B
Fort Bend	SH 36	8	0188-02-039	51
Fort Bend	SH 36	71	0188-02-039	60B
Gonzales	FM 108	64	0715-01-020	1
Gonzales	FM 108	65	0715-01-020	2
Gregg	FM 2206	62	2073-01-012	37
Grimes	SH 249	82	3635-02-003	308
Grimes	SH 249	3	3635-02-003	309
Grimes	SH 249	97	3635-02-003	317
Grimes	SH 249	92	3635-02-003	319
Grimes	SH 249	93	3635-02-003	322
Grimes	SH 249	91	3635-02-003	323
Grimes	SH 249	4	3635-02-003	324
Grimes	SH 249	94	3635-02-003	326
Grimes	SH 249	96	3635-02-003	328
Grimes	SH 249	95	3635-02-003	329
Randall	SL 335	1	0904-11-060	11
Travis	RM 2222	70	2100-01-061	4
Travis	RM 2222	67	2100-01-061	9
Travis	RM 2222	68	2100-01-061	13,13E
Travis	RM 2222	69	2100-01-061	15

CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Bexar	IH 35	T	0017-10-278	1
Bexar	IH 35	U	0017-10-278	3
Bexar	IH 35	V	0017-10-278	4
Bexar	IH 35	W	0017-10-278	5
Collin	SH 121	AA	0549-03-030	5
Dallas	IH 635	S	2374-01-151	94

CONTROLLED ACCESS (continued)

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Dallas	IH 635	A	2374-01-189	22
Dallas	IH 635	B	2374-01-189	29
Dallas	IH 635	J	2374-02-115	73E
Dallas	IH 635	R	2374-02-115	77,77E
Dallas	IH 635	CC	2374-02-115	78,78E
Dallas	IH 635	K	2374-02-115	83E
Dallas	IH 635	D	2374-02-115	109E
Dallas	IH 635	G	2374-02-115	111E
Dallas	IH 635	H	2374-02-115	112E
Dallas	IH 635	F	2374-02-115	114E
Dallas	IH 635	I	2374-02-115	115E
Dallas	IH 635	E	2374-02-115	116
Dallas	SL 9	EE	2964-10-010	22
Dallas	SL 9	L	2964-10-010	97
Dallas	SL 9	M	2964-10-010	105
Dallas	SL 9	X	2964-10-010	109
Dallas	SL 9	N	2964-10-010	121,121E
Dallas	SL 9	O	2964-10-010	141
Dallas	SL 9	P	2964-10-010	142
Ellis	SL 9	Y	2964-12-004	147
Ellis	SL 9	Z	2964-12-004	149
Galveston	IH 45	BB	0500-04-123	223
Grimes	SH 249	DD	3635-02-003	302
Hidalgo	FM 907	C	1586-01-072	23,23AC
Wharton	US 59	Q	0089-07-153	22

Note: Exhibits A - EE and 1 - 98 are on file with the commission chief clerk.

ITEM 12. Routine Minute Orders and Reports

This item was presented by Executive Director James Bass. Engineering and Safety Operations Director Michael Lee and Traffic Operations Division Director Michael Chacon also answered questions from the commission concerning speed zones. Commissioner Austin made a motion, which was seconded by Commissioner Ryan, and the commission approved the following minute orders by a vote of 4 - 0.

a. Donations to the Department

Various Districts - Consider the acknowledgment of donations with a value of \$500 or more, including donations of money, materials, services, or real property, that are made to the department for the purpose of assisting the department in carrying out its functions and duties or for improving access to or from a highway on the state highway system (see attached itemized list) (MO)

115229
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.

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.

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. Exhibit A lists donations resulting from a contract executed by the department under Transportation Code, §223.049 and other donations accepted under Transportation Code, §201.206.

The executive director has determined that the donations identified in the attached Exhibit comply with the applicable provisions of 43 TAC §§1.500-1.506, 43 TAC §12.353, Government Code, Chapter 575 and Transportation Code, §201.206, §223.049 and §224.001, and has approved acceptance of those donations. All required donation agreements have been executed under 43 TAC §1.504 and §1.506, as applicable.

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

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

b. Real Estate Dispositions

(1) El Paso County - FM 1505 in El Paso - Consider the removal from the system, transfer of control, jurisdiction, and maintenance to the City of El Paso (city), and quitclaim of right of way to the city (MO)

115230
ROW

In El Paso, EL PASO COUNTY, on FARM TO MARKET ROAD 1505, the state of Texas used certain land for highway purposes to which there is no record title.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended, as shown on Exhibit A, that FM 1505 be removed from the state highway system, a distance of 0.7 mile, and that control, jurisdiction, and maintenance be transferred to the City of El Paso (city).

The land (Tract 1), RCSJ 0002-16-016, 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, if there is no record title to the property, the quitclaim to the city of any interest that might have accrued to the state by use of property.

The city will assume control, jurisdiction, and maintenance of Tract 1 and has requested the quitclaim to the city.

IT IS THEREFORE ORDERED by the commission that: 1) FM 1505 is removed from the state highway system from Trowbridge Drive south to SH 20, a distance of 0.7 mile; and 2) control, jurisdiction, and maintenance are transferred to the City of El Paso.

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

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

(2) Kaufman County - BS 34-A in Terrell - Consider the correction of an error in a portion of the description of right of way to be transferred to the City of Terrell (MO)

115231
ROW

In Terrell, KAUFMAN COUNTY, on STATE HIGHWAY 34-A BUSINESS (BS 34-A), 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.

Tracts 1 and 1A, RCSJ 0173-05-042, described in Exhibit A, attached to this minute order, are no longer needed for a state highway purpose.

Minute Order 114994, passed July 27, 2017, contained an error in a portion of Exhibit B to that minute order, which described Tract 1, and did not include Tract 1A in the property to revert to the state upon ceasing to be used for public road purposes. This minute order corrects the error in that Exhibit B and includes Tract 1A in the property subject to the reversion. All other provisions of MO 114994 remain in effect.

In accordance with Texas Transportation Code, Chapter 202, Subchapter B, the Texas Transportation Commission (commission) may waive payment for highway right of way transferred to a governmental entity if the governmental entity assumes or has assumed control, jurisdiction, and maintenance of the right of way for public road purposes. A grant transferring such right of way will contain a reservation providing that if the right of way ceases to be used for public road purposes, it will revert to the state.

The City of Terrell (city) has agreed to assume control, jurisdiction, and maintenance and has requested that Tracts 1 and 1A be transferred to the city.

IT IS THEREFORE ORDERED by the commission that Tracts 1 and 1A 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 Tracts 1 and 1A, described in Exhibit A, 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.

IT IS FURTHER ORDERED that the grant transferring Tracts 1 and 1A will contain a reservation providing that if the right of way ceases to be used for public road purposes, then Tracts 1 and 1A shall immediately and automatically revert to the state.

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

(3) Smith County - US 69 at County Road 145 in Bullard - Consider the sale of a drainage easement (MO)

115232
ROW

In Bullard, SMITH COUNTY, on US HIGHWAY 69, the state of Texas acquired an easement interest in certain land for highway drainage purposes by instrument recorded in Volume 1783, Page 506, Deed Records of Smith County, Texas.

The easement (Tract 1), RCSJ 0191-01-088, 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.

R & B Agency, LLC, is the owner of the fee in the property and has requested to purchase Tract 1 for \$10,000.

The commission finds \$10,000 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 R & B Agency, LLC, for \$10,000.

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

c. Reports

Compliance Division report

Note: Confidential report to commission.

d. Finance

Travis and Williamson Counties - Consider the acceptance of the annual Inspection Report for the Central Texas Turnpike System (MO)

115233
TOD

In TRAVIS and WILLIAMSON COUNTIES, STATE HIGHWAY 130 has been designated a toll project and a controlled-access state highway from I-35 north of

Georgetown to a southern terminus at US 183.

In TRAVIS and WILLIAMSON COUNTIES, STATE HIGHWAY 45N has been designated a toll project and a controlled-access state highway from west of US 183 to SH 130.

In TRAVIS and WILLIAMSON COUNTIES, STATE HIGHWAY LOOP 1 has been designated a toll project and a controlled-access state highway from Farm to Market 734 (Parmer Lane) in Austin to the intersection of Loop 1 and SH 45N.

In TRAVIS COUNTY, STATE HIGHWAY 45 SOUTHEAST has been designated as a turnpike project and a controlled access state highway from I-35 at FM 1327 south of Austin to the SH 130 / US 183 interchange.

The Texas Transportation Commission (commission) has issued toll revenue bonds and other obligations to finance a portion of the costs of the 2002 Project of the Central Texas Turnpike System (system), a toll project originally composed of the SH 130, SH 45N, and Loop 1 project elements, and has entered into an Indenture of Trust, with Bank of New York Mellon Trust Company, National Association, as Trustee to secure the revenue bonds and other obligations issued for the 2002 Project.

On August 30, 2012, the commission ordered the addition of SH 45 Southeast to the system in accordance with the terms of the sixth supplemental indenture (sixth supplement) and the minute order approving the sixth supplement.

In Section 707 of the Indenture of Trust, the commission covenants that it shall cause the general engineering consultant to make an inspection of the system at least once in the fiscal year following the substantial completion of the 2002 Project and in each fiscal year thereafter.

Following each inspection and on or before the 90th day prior to the end of each fiscal year, the general engineering consultant shall submit to the commission a report concerning the inspection, setting forth: (a) their findings as to whether the system has been maintained in good repair, working order, and condition; (b) their advice and recommendations as to the proper maintenance, repair, and operation of the system during the ensuing fiscal year; and (c) an estimate of the amount of money necessary for such purposes, including their recommendations, as to the total amounts and classifications of items and amounts that should be provided for in the annual operating budget, the annual maintenance budget, and annual capital budget for the next ensuing fiscal year.

Section 707 of the Indenture of Trust requires copies of the report to be filed with the U.S. Department of Transportation and the Trustee.

The commission has previously engaged PBS&J to serve as general engineering consultant in accordance with the Indenture of Trust. The FY 2018 Central Texas Turnpike System Annual Inspection Report, attached as Exhibit A, has been prepared by Atkins North America, Inc. (formerly PBS&J) in accordance with Section 707 of the Indenture of Trust.

IT IS THEREFORE ORDERED by the commission that the general engineering consultant's FY 2018 Central Texas Turnpike System Annual Inspection Report attached as Exhibit A is accepted.

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

e. Highway Designation

Chambers County - In and near the cities of Old River-Winfree, Mont Belvieu and Cove, consider extending the designation of FM 1409 on a new location (MO)

115234
TPP

Minute Order 112208, dated March 25, 2010, extended the designation of FM 1409 on a new location with the stipulation that the order would be null and void in the event construction did not begin in 36 months of the date of the order. Construction has not yet been initiated on the extension of FM 1409.

In Chambers County, local officials are in agreement with the Beaumont District to move forward with the project development process for the proposed extension of FM 1409. Therefore, the Beaumont District requests the extension of the designation of FM 1409 on a new location from FM 565 in Old River-Winfree southward through Mont Belvieu to FM 565 in Cove, a distance of approximately 3.8 miles.

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

The Texas Transportation Commission (commission) finds that this action will facilitate the flow of traffic, promote public safety, 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 FM 1409 is extended on a new location from FM 565 in Old River-Winfree southward through Mont Belvieu to FM 565 in Cove, a distance of approximately 3.8 miles, as shown in Exhibit A.

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

f. Rail Clearance Deviations

Consider the approval of rail clearance deviations (MO)

115235
RRD

Transportation Code, §191.001 and §191.002 establish height requirements for structures over railroad tracks and distance requirements of structures and materials near railroad tracks. Texas Transportation Code §191.005 establishes that the Texas Transportation Commission (commission), for good cause shown, may, by order, permit a railroad company or other corporation, firm, partnership, or individual or county or municipality to deviate from a provision of the statute.

The Texas Department of Transportation (department) received an application from Chevron Phillips requesting a clearance deviation for multiple locations within their facility located in Sweeny, Texas. The department has conducted investigations for each location to determine whether good cause could be shown and whether the deviations could be operated in a reasonable and safe manner.

In determining whether the facility has demonstrated good cause for the requested clearance deviations, the department considered:

- (1) the safety of railroad and non-railroad workers near railroad tracks;
- (2) limitations impacting loading and unloading commodities transported by rail; and
- (3) limitations of existing equipment and structures near railroad tracks.

In determining whether the requested clearance deviations are reasonable and safe, the department conducted investigations as to whether the facility plans include:

- (1) sufficient warning signs, pavement markings, lighting and/or other control devices to inform employees of the limited clearance locations; and
- (2) sufficient safety rules and training regarding the limited clearance locations to address employee safety.

Based on the investigations, the department has determined that the clearance deviations as listed in Exhibit A meet the requirements of Transportation Code §191.005. The Attorney General of Texas has been notified as required by §191.005(a).

IT IS THEREFORE ORDERED by the commission that the railroad clearance deviation application from Chevron Phillips for their facility located in Sweeny, Texas as described in Exhibit A is approved.

Note: Exhibit A is 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)

115236
TRF

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

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

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

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

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

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

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

implement this order for control and enforcement purposes by the erection of appropriate signs showing the prima facie maximum speed limits.

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

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

ITEM 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 comments from private citizen and engineer Don Dixon.

Commissioner Ryan motioned adjournment and Commissioner New seconded the motion. The commission voted 4 - 0 to adjourn. The regular meeting of the Texas Transportation Commission was adjourned at 12:06 p.m.

APPROVED by the Texas Transportation Commission on June 28, 2018:



J. Bruce Bugg, Jr., 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 May 24, 2018, in Austin, Texas.



Robin Carter, Commission Chief Clerk
Texas Department of Transportation