

These are the minutes of the regular meeting of the Texas Transportation Commission held on August 30, 2018, 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
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 two parts with the Office of the Secretary of State at 3:25 p.m. and 3:27 p.m. on August 22, 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 Randy Clawson.

ITEM 2. Resolution

Resolution to extend sympathy to the relatives of Cesar "Alex" Martinez, an employee of the Amarillo District, who died while performing his duties with the Texas Department of Transportation

Chief Engineer Bill Hale provided remarks and expressed the commission's sympathy for the family members of Cesar "Alex" Martinez.

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

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

ITEM 4. Acknowledgment of Service

Recognize by resolution Larry D. Tegtmeier, P.E., Wichita Falls District Engineer, for 34 years of service to the department

This item was presented by Chief Engineer Bill Hale. Mr. Tegtmeyer thanked the commission and colleagues, including Mr. Hale. The commission thanked Mr. Tegtmeyer and wished him well.

Recognize by resolution Gregg A. Freeby, P.E., Bridge Division Director, 31 years of service to the department

This item was presented by Chief Engineer Bill Hale. Mr. Freeby thanked his family, various mentors and colleagues, and the commission. The commission thanked Mr. Freeby and wished him well.

c. Recognize by resolution Christopher D. Caron, P.E., Corpus Christi District Engineer, for 30 years of service to the department

This item was presented by Chief Engineer Bill Hale. Mr. Caron thanked his his district staff and the TxDOT family, particularly for the support during Hurricane Harvey, and the commission. The commission thanked Mr. Caron and wished him well.

Photographs of the retirees and the commission were taken.

ITEM 5. Contracts

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

a. Construction of Highways and Other Transportation Facilities (MO)

This item was presented by Construction Division Director Gina Gallegos. 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.

115288
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 August 7 and 8, 2018; as well as Austin District, Travis County, Job Number 3201, Project number CC 440-6-18, which was publicly opened and read on June 6, 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 Ryan, and the commission approved the following minute order by a vote of 4 - 0.

115289
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 August 7 and 8, 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 Project Development Branch Manager Warren Rose. Commissioner Ryan made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 4 - 0.

115290
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 August 7, 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. Unified Transportation Program (UTP)

Consider the approval of the 2019 UTP (MO) (Presentation)

This item was presented by Transportation Planning and Programming Division Director Peter Smith. Traffic Operations Division Director Michael Chacon also answered questions from the commission. The commission heard remarks and comments from CAMPO Chairman Will Conley; Chief of Staff for Representative Paul Workman, Don Barber; Executive Assistant to Travis County Commissioner Gerald Daugherty, Bob Moore; former City of Austin Mayor Lee Cooke; President, The Legal Connection, Debbie Hartzler; Bexar County Commissioner and Alamo Area MPO chairman Kevin Wolff; Hays County Commissioner Ray Whisenant, Jr.; Chairman, Steiner Ranch Neighborhood Association Brian Thompto; Vice President of Public Policy for the Greater Waco Chamber of Commerce Jessica Attas; and private citizen and engineer Don Dixon. Commissioner Ryan made a motion, which was seconded by Commissioner Austin, and the commission approved the following minute order by a vote of 4 - 0.

115291
TPP

Transportation Code, §201.991 provides that the Texas Department of Transportation (department) shall develop a Unified Transportation Program (UTP) covering a period of 10 years to guide the development of and authorize construction of transportation projects. Transportation Code, §201.602 requires the Texas Transportation Commission (commission) to annually conduct a public hearing on its highway project selection process and the relative importance of the various criteria on which the commission bases its project selection decisions. The commission has adopted rules located in Title 43, Texas Administrative Code, Chapter 16, governing the planning and development of transportation projects, which include guidance regarding public involvement related to the project selection process and the development of the UTP. These rules also require the commission to adopt the UTP not later than August 31 of each year.

The department conducted a public meeting across the state via WebEx on July 12, 2018, and a public hearing on August 7, 2018, to receive comments and testimony concerning the development of the 2019 UTP and the project selection process.

The 2019 UTP, which is attached as Exhibit A, authorizes funding for each of the twelve funding categories established by the rules and outlines the various project selection methods. The 2019 UTP lists the connectivity and new capacity roadway projects that the department intends to develop and potentially let during the 10-year period and references for each listed project the funding category to which it is assigned. Projects listed that have been authorized by previous legislative action or prior actions of the commission are still approved and their inclusion in the UTP in no way modifies that prior approval. The remaining funding levels and projects listed for aviation, public transportation, rail, and state waterways and coastal waters are

authorized by separate minute orders and this UTP does not supersede those prior actions.

IT IS THEREFORE ORDERED by the commission that the 2019 UTP, including the project selection process, as shown in Exhibit A, is hereby approved and supersedes the previously-approved 2018 UTP for fiscal years 2019-2027.

IT IS FURTHER ORDERED that the executive director is hereby authorized to develop the projects listed in the UTP to the level of authority indicated to include any necessary agreements, right of way acquisitions, utility adjustments, and relocation assistance, subject to the policies of the department and all applicable federal and state laws governing the acquisition of real property.

IT IS FURTHER ORDERED that pursuant to Transportation Code, §222.052, the commission may accept financial contributions from political subdivisions of the state for development of projects in the 2019 UTP.

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

ITEM 7. Statewide Transportation Improvement Program (STIP)

Various Counties - Consider the approval of the Fiscal Year 2019-2022 STIP (MO)

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

115292
TPP

Title 23, United States Code, §§134 and 135 require each designated metropolitan planning organization (MPO) and the State of Texas (state), respectively, to develop a Transportation Improvement Program (TIP) and a Statewide Transportation Improvement Program (STIP) as a condition to securing federal funds for transportation projects under either Title 23 or the Federal Transit Act.

Section 134 requires an MPO to develop its TIP in cooperation with the state and affected transit operators, and further requires the TIP to be updated at least once every four years.

Section 135 requires the state to develop a STIP for all areas of the state in cooperation with the MPOs designated for each metropolitan planning area and, with respect to non-metropolitan areas, in consultation with affected local officials.

Sections 134 and 135 and 43 TAC §§16.101 - 16.103 specify the requirements and eligibility criteria for projects to be included in the respective TIPs and the STIP. In accordance with those requirements, TIPs have been developed for each metropolitan planning area, as well as those areas of the state outside designated MPO boundaries (rural TIPs). The individual TIPs are incorporated into the STIP. The process for approval of the STIP is set forth in 43 TAC §16.103.

The various TIPs developed by the designated MPOs have been presented for public comment by means of various public meetings conducted by relevant authorities throughout the state. Rural TIPs were made available to citizens, affected public agencies, representatives of transportation agencies, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of

public transit, and other interested parties for review and comment in each of the Texas Department of Transportation's (department's) 25 district offices and at the department's headquarters in Austin. On August 9, 2018, a public hearing was held to receive comments and testimony on the STIP.

After due deliberation and consideration, the Texas Transportation Commission (commission) finds that the requirements of §134 and 43 TAC §16.101 have been fully satisfied as they pertain to the development of the prescribed TIPs by each of the 25 MPOs. The commission also finds that the STIP, attached as Exhibit A to this order, fully satisfies the requirements of §135 and 43 TAC §16.103, as well as the project selection criteria developed for the Unified Transportation Program (UTP), and is consistent with the Statewide Long Range Transportation Plan, the UTP, and the Strategic Plan.

IT IS THEREFORE ORDERED by the commission that the Fiscal Year 2019-2022 STIP, which incorporates the respective TIPs of each designated MPO, as well as rural TIPs and is attached as Exhibit A to this order, is hereby approved.

IT IS FURTHER ORDERED that the executive director, or his designee, shall sign all necessary certifications required by federal regulations.

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

ITEM 8. Financial Management

Consider the adoption of the Fiscal Year 2019 Budget (MO)

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

115293
FIN

The General Appropriations Act of the 85th Legislature, Regular Session, has appropriated funds for the operations of the Texas Department of Transportation (department) for Fiscal Year 2019.

The funds appropriated are necessary to effectively operate the activities of the department in accordance with the guidelines set forth in the General Appropriations Act.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that a cash operating budget of \$14,182,601,254 be authorized for the operations of the department for Fiscal Year 2019; and the executive director is hereby ordered to administer this cash operating budget in the most feasible and economical manner within the guidelines prescribed by the 85th Legislature, Regular Session.

IT IS FURTHER ORDERED that the executive director is hereby authorized to make necessary adjustments to spending levels in accordance with the General Appropriations Act or other legislation as may be necessary in the operations of the department.

ITEM 9. Legislative Appropriations Request (LAR)

Consider the adoption of the Texas Department of Transportation's Fiscal Year 2020-2021 Legislative Appropriations Request (MO) (Presentation)

This item was presented by Financial Management Division Director Stephen Stewart. 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.

115294
FIN

The Government Code provides the statutory basis for each agency to submit a biennial request for legislative appropriations. The funds shown in Exhibit A are necessary to effectively accomplish the mission, goals, objectives, and strategies of the Texas Department of Transportation's (department) strategic planning and budget structure previously approved by the Office of the Governor, Budget Division and the Legislative Budget Board. The Texas Transportation Commission (commission) supports the mission, goals, objectives, strategies and funding requirements contained in Exhibit A.

IT IS THEREFORE ORDERED by the commission that the executive director is authorized to submit a Legislative Appropriations Request to the Office of the Governor, Budget Division and the Legislative Budget Board in accordance with all prescribed guidelines in the amounts outlined in Exhibit A for Fiscal Year 2020 and Fiscal Year 2021.

IT IS FURTHER ORDERED that the executive director is hereby authorized to make adjustments to the requested levels as may be necessary in operations of the department.

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

ITEM 10. Aviation

a. Various Counties - Consider the award of federal non-primary entitlement grant funding, and federal and state grant funding for airport improvement projects at various locations (MO)

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

115295
AVN

The Texas Department of Transportation (department) is authorized under Title 49, United States Code, Chapter 471, and Texas Transportation Code, Chapter 21, to award federal and state funding for capital improvement projects and to assist in the development and establishment of airports in the state of Texas.

The airports listed in Exhibit A are currently in need of improvements to preserve the airports or to meet standards. The department recommends the award of federal non-primary entitlement grant funds for the improvements.

The airports listed in Exhibit B are currently in need of improvements to preserve the airports or to meet standards. The department recommends the award of federal apportionment grant funds and state grant funds for the improvements.

On August 3, 2018, a public hearing was held. No comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the executive director, or the director's designee, is authorized to enter into any

necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibits A and B.

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

b. Various Counties - Consider the approval of the Routine Airport Maintenance Program (MO)

This item was presented by Aviation Division Director Dave Fulton. 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.

115296
AVN

The Texas Department of Transportation (department) is authorized under Texas Transportation Code, Chapter 21 and Chapter 22, to assist in the development and maintenance of airports in the state.

The Routine Airport Maintenance Program (RAMP) provides financial assistance for publicly owned or operated general aviation, reliever and non-hub commercial service airports included in the Texas Airport System Plan.

Due to the success of this program, the department requests continuation of the program by providing funds for airport maintenance and small capital improvements on a 50-50 basis up to a maximum of \$50,000 in state funds for Fiscal Year 2019.

A public hearing regarding the funding of RAMP was held on August 3, 2018, and no comments were received.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the airports listed in Exhibit A be awarded grants in accordance with RAMP and that the executive director, or the director's designee, is authorized to enter into any necessary grant agreements with the appropriate local government agencies necessary to carry out the directives of this minute order.

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

c. Various Counties - Consider the approval of the Aviation Capital Improvement Program (MO) (Presentation)

This item was presented by Aviation Division Director Dave Fulton. 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.

115297
AVN

Pursuant to Transportation Code, §§21.108 and 21.109, and Title 43, Texas Administrative Code, §30.209, the Texas Department of Transportation prepares and updates a multiyear Aviation Capital Improvement Program (CIP). The CIP is a plan for general aviation airport development in Texas. It is a detailed listing of potential projects based on the anticipated funding levels of the Federal Aviation Administration Airport Improvement Program and the Texas Aviation Facilities Development Program.

In August 2018, the draft FY 2019-2021 Aviation CIP was submitted to the sponsors of airports included in the Texas airport system for review. Comments received have been evaluated and, when appropriate, have been addressed in the CIP.

The Texas Aviation Advisory Committee recommended approval of the FY 2019-2021 CIP at its August 2018 meeting.

IT IS THEREFORE ORDERED by the Texas Transportation Commission that the FY 2019-2021 Aviation Capital Improvement Program, as shown in Exhibit A, is hereby adopted and the executive director is authorized to proceed with the development of the airport facilities included in the program.

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

ITEM 11. Public Transportation

Galveston County - Consider the award of federal Section 5339 and Section 5311 grant funds to Gulf Coast Center (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.

115298
PTN

The Texas Transportation Commission (commission) desires to award a total of \$371,568 in federal program funds previously awarded to Galveston County Transit District as identified in Exhibit A to Gulf Coast Center to support public transportation needs in the rural areas of Galveston County.

On May 23, 2018, Gulf Coast Center adopted a resolution accepting responsibility as the rural transit district for Galveston County. On June 6, 2018, Galveston County Transit District adopted a resolution recognizing Gulf Coast Center as the rural transit district for Galveston County. Gulf Coast Center assumed responsibility for rural public transportation service in Galveston County effective July 1, 2018.

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 not to exceed the balance amounts as shown in Exhibit A, submit the necessary state applications to the Federal Transit Administration, and enter into the necessary contracts.

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

ITEM 12. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

a. Proposed Adoption

(1) Chapter 15 - Financing and Construction of Transportation Projects

Amendments to §15.182, Eligibility, §15.188, Application Procedure, and §15.192, Payment of Money (County Transportation Infrastructure Fund Grant Program) (MO)

This item was presented by Local Government Projects Section Director David Millikan. 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.

115299
LGP

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§15.182, 15.188, and 15.192 relating to County Transportation Infrastructure Fund Grant 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 §§15.182, 15.188, and 15.192 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. Final Adoption

(1) 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, and §§2.105-2.110 (Public Participation); Repeal of §2.12 (General Provisions), §2.104 (Public Participation), and §2.131 (Requirements for Specific Types of 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 New, and the commission approved the following minute order by a vote of 4 - 0.

1152300
ENV

The Texas Transportation Commission (commission) finds it necessary to adopt 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 amendments proposed to §2.102 are withdrawn.

The preamble and the adopted 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 adopted and are authorized for filing with the Office of the Secretary of State.

IT IS FURTHER ORDERED by the commission that the proposed amendments to §2.102 are withdrawn.

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.

(2) 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 Deputy Executive Director Marc Williams. Commissioner Ryan made a motion, which was seconded by Commissioner New, and the commission approved the following minute order by a vote of 3 - 0. Commissioner Austin momentarily stepped away from the dais at the time of this vote.

115301
CIV

The Texas Transportation Commission (commission) finds it necessary to adopt 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 adopted 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 adopted and are authorized for filing with the Office of Secretary of State.

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

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

(3) Chapter 9 - Contract and Grant Management

Amendments to §9.2, Contract Claim Procedure, §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) (Presentation)

This item was presented by Construction Division Director Gina Gallegos. 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.

115302
CST

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §§9.2, 9.12, 9.13, 9.15, and 9.17, new §§9.22-9.26, and the repeal of §§9.101-9.115, relating to Contract and Grant Management, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, repeals and new sections, 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 amendments to §§9.2, 9.12, 9.13, 9.15, and 9.17, new §§9.22 - 9.26, and the repeal of §§9.101-9.115 are adopted and are authorized for filing with the Office of Secretary of State.

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

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

(4) 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 Kristin Alexander. 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.

115303
CMP

The Texas Transportation Commission (commission) finds it necessary to adopt 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 adopted 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 adopted and are authorized for filing with the Office of Secretary of State.

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

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

ITEM 13. Design-Build Contract

Hidalgo County - I-2/I-69C Interchange Project - Consider authorizing the department to issue a request for proposals for the design, development, construction, and potential maintenance of the I-2/I-69C Interchange Project as a non-tolled project, which provides for improvements to the I-2/I-69C interchange and operational improvements to I-2 and I-69C in McAllen, Pharr, and San Juan (the I-2/I-69C Interchange Project); and consider approving stipulated amounts as payment for the work product of unsuccessful proposers (MO) (Presentation)

This item was presented by Strategic Contracts Section Director Katherine Holtz. 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.

115304
PFD

Transportation Code, Chapter 223, Subchapter F 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.

On May 24, 2018, by Minute Order 115221, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the development, design, construction, and potential maintenance of the non-tolled I-2/I-69C Interchange Project in Hidalgo County. The project provides for 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 along I-69C from Nolana Loop to I-2 in McAllen, Pharr, and San Juan, in Hidalgo County, Texas.

The department issued the RFQ on June 8, 2018. Three proposer teams responded to the RFQ. Following the department's evaluation of the qualifications

statements, the best qualified teams will be short-listed and requested to submit detailed proposals to develop, design, construct, and potentially maintain the project.

Transportation Code § 223.246 and 43 TAC § 9.153(d) provide that, if authorized by the commission, the department will issue a request for proposals (RFP) from all private entities qualified for the short list. The department intends to issue an RFP for the I-2/I-69C Interchange Project and to request detailed proposals from the short-listed teams to develop, design, construct, and potentially maintain the I-2/I-69C Interchange.

Transportation Code § 223.249(a) and 43 TAC § 9.153(f) require the department to pay an unsuccessful private entity that submits a detailed proposal that is responsive to the requirements of the RFP a stipulated amount in exchange for the work product contained in the proposal. The stipend must be a minimum of twenty-five hundredths of one percent of the contract amount, the stipulated amount must be stated in the RFP, and it may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. Payment for this work product would allow the department to use the work product for the benefit of the I-2/I-69C Interchange Project or other department projects without further payment to the unsuccessful proposer(s). Transportation Code § 223.249(b) and 43 TAC § 9.153(f) require the department to pay a partial stipend in the event that a procurement is terminated before the execution of a design-build contract.

IT IS THEREFORE ORDERED by the commission that the department is authorized to issue an RFP to develop, design, construct, and potentially maintain the I-2/I-69C Interchange Project in Hidalgo County.

IT IS FURTHER ORDERED that, after consideration of the criteria in 43 TAC § 9.153(f), the department is authorized to pay each proposer that submits a responsive, but unsuccessful, proposal for the I-2/I-69C Interchange Project an amount based upon the value of the work product provided in the proposal that can, as determined by the department, be used by the department in the performance of its functions, up to a maximum amount per proposer of 0.25% of the successful proposer's price for all work under the design-build contract.

IT IS FURTHER ORDERED that in the event the procurement is terminated prior to the execution of the design-build contract, and after consideration of the criteria in 43 TAC § 9.153(f), the department is authorized to pay each proposer a partial stipend based upon the value of the work product that can, as determined by the department, be used by the department in the performance of its functions, up to a maximum amount per proposer of \$400,000.

IT IS FURTHER ORDERED that payment for work product may only be paid to the extent that the work product submitted meets the minimum criteria and the proposer satisfies the conditions for payment identified by the department in the I-2/I-69C Interchange Project procurement documents.

ITEM 14. Toll Projects

Various Counties - Consider issuing an order prohibiting the operation of certain motor vehicles on Texas Department of Transportation toll projects (MO)

This item was presented by Toll Operations Division Director Rick Nelson. 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.

115305
TOD

Transportation Code, Chapter 372, Subchapter C, authorizes toll project entities, including the Texas Department of Transportation (department), to exercise various remedies against certain motorists with unpaid toll violations.

Transportation Code §372.106 provides that a “habitual violator” is a registered owner of a vehicle who a toll project entity determines:

- (1) was issued at least two written notices of nonpayment that contained:
 - (A) in the aggregate, 100 or more events of nonpayment within a period of one year, not including events of nonpayment for which: (i) the registered owner has provided to the toll project entity information establishing that the vehicle was subject to a lease at the time of nonpayment, as provided by applicable toll project entity law; or (ii) a defense of theft at the time of the nonpayment has been established as provided by applicable toll project entity law; and
 - (B) a warning that the failure to pay the amounts specified in the notices may result in the toll project entity’s exercise of habitual violator remedies; and
- (2) has not paid in full the total amount due for tolls and administrative fees under those notices.

The department previously determined that the individuals listed in Exhibit A are habitual violators. These determinations are now considered final in accordance with Subchapter C.

Transportation Code §372.109 provides that a final determination that a person is a habitual violator remains in effect until:

- (1) the total amount due for the person’s tolls and administrative fees is paid; or
- (2) the toll project entity, in its sole discretion, determines that the amount has been otherwise addressed.

Transportation Code §372.110 provides that a toll project entity, by order of its governing body, may prohibit the operation of a motor vehicle on a toll project of the entity if:

- (1) the registered owner of the vehicle has been finally determined to be a habitual violator; and
- (2) the toll project entity has provided notice of the prohibition order to the registered owner.

The department recommends that the Texas Transportation Commission (commission) prohibit the operation of the motor vehicles listed in Exhibit A on the Central Texas Turnpike System and certain segments of the SH 99 Grand Parkway System as described: (1) SH 130, all segments; (2) SH 45 North; (3) SH 45 Southeast; (4) Loop 1, from existing Loop 1 and FM 734 (Parmer Lane) to the Loop 1/SH 45 North interchange; (5) SH 99 Grand Parkway, from Segment D (Colonial Parkway) to Segment G at the SH 69 interchange; and (6) SH 99 Grand Parkway, from South of Highway 10 to the end of tollway SH 99.

IT IS THEREFORE ORDERED by the commission that the motor vehicles listed in Exhibit A are prohibited from operation on the toll projects described above, effective September 17, 2018.

IT IS FURTHER ORDERED that the department shall provide notice of this order to the individuals listed in Exhibit A, as required by Transportation Code §372.110.

IT IS FURTHER ORDERED that the prohibition shall remain in effect for the motor vehicles listed in Exhibit A until the respective habitual violator determinations are terminated, as provided by Transportation Code §372.109.

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

ITEM 15. Audit Plan

Consider the approval of the Internal Audit Work Plan and the Compliance Work Plan for Fiscal Year 2019 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 New, and the commission approved the following minute order by a vote of 4 - 0.

115306
AUD

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. In addition, Transportation Code, Chapter 201, Subchapter F-1 was considered in designing 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 has developed an Audit Plan for Fiscal Year (FY) 2019, which is set forth in Exhibits A and B. This Audit Plan includes a list of internal and external audits aimed at providing assurance and identification for process/program improvement statewide. This Audit Plan identifies the audits to be conducted and the resources available to the Internal Audit and Compliance Divisions for FY 2019.

The Chief Audit and Compliance Officer considers the resources for FY 2019 to be adequate to address the risks that warrant audit coverage.

The Audit Plan for FY 2019 is 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 2019, as shown in Exhibits A and B, is 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 16. 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 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 Ryan and the following minute order was approved by Chairman Bugg, Commissioner Austin, Commissioner Ryan, and Commissioner New (a vote of 4 - 0).

115307
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 - DD. 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 - 103, 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>
Angelina	US 59	BB	0176-03-116	5,5AC
Dallas	IH 635	DD	2374-01-151	93
Dallas	IH 635	I	2374-01-189	11
Dallas	IH 635	J	2374-02-115	66
Dallas	IH 635	A	2374-02-115	69
Dallas	IH 635	AA	2374-02-115	72E
Dallas	IH 635	O	2374-02-115	91,91E
Dallas	IH 635	B	2374-02-115	93E
Dallas	IH 635	E	2374-02-115	95,95E
Dallas	IH 635	L	2374-02-115	96,96E
Dallas	IH 635	K	2374-02-115	97
Dallas	IH 635	Y	2374-02-115	98,98E
Dallas	IH 635	C	2374-02-115	101
Dallas	IH 635	F	2374-02-115	103E,103TE
Dallas	IH 635	G	2374-02-115	105
Dallas	IH 635	M	2374-02-115	106E

CONTROLLED ACCESS (continued)

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Dallas	IH 635	N	2374-02-115	107E
Dallas	IH 635	H	2374-02-115	117
Harris	IH 610	D	0271-16-141	103
Montgomery	IH 69	Z	0177-05-115	1
Nacogdoches	US 59	CC	0176-01-110	37,37AC
Navarro	SH 31	P	0162-11-002	70
Navarro	SH 31	Q	0162-11-002	71
Navarro	SH 31	R	0162-11-002	73
Navarro	SH 31	S	0162-11-002	74
Navarro	SH 31	T	0162-11-002	75
Navarro	SH 31	U	0162-11-002	76
Navarro	SH 31	V	0162-11-002	77
Navarro	SH 31	W	0162-11-002	78
Navarro	SH 31	X	0162-11-002	79

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Anderson	US 175	32	0198-03-031	5
Anderson	US 175	40	0198-03-031	35
Anderson	US 175	39	0198-03-031	38
Anderson	US 175	46	0198-03-031	39
Anderson	US 175	35	0198-03-031	41
Anderson	US 175	27	0198-03-031	42
Anderson	US 175	34	0198-03-031	43
Anderson	US 175	26	0198-03-031	57
Angelina	US 69	42	0200-03-028	15
Brazoria	SH 36	68	0188-03-020	102
Brazoria	SH 36	18	0188-03-020	107
Brazoria	SH 36	52	0188-03-020	108
Brazoria	SH 36	6	0188-03-020	110
Brazoria	SH 36	48	0188-03-020	319
Brazoria	SH 36	77	0188-03-020	400
Brazoria	SH 36	63	0188-03-020	409
Brazoria	SH 36	75	0188-03-020	414
Brazoria	SH 288	74	0598-02-123	104
Camp	SL 255	41	3403-01-002	17
Collin	SH 121	23	0549-03-030	10
Collin	FM 2478	37	2351-01-022	42,42E
Collin	FM 2478	1	2351-01-022	56
Dallas	SH 352	97	0430-01-059	5
Dallas	SH 352	44	0430-01-059	7
Dallas	SH 352	99	0430-01-059	8

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Dallas	SH 352	100	0430-01-059	9
Dallas	SH 352	101	0430-01-059	12
Dallas	SH 352	102	0430-01-059	13
Dallas	SH 352	103	0430-01-059	14,14E
Dallas	SH 352	71	0430-01-059	15
Denton	FM 455	33	0816-02-081	31,31E
Denton	FM 455	25	0816-02-081	46
Denton	FM 455	28	0816-02-081	76
Denton	FM 455	31	0816-02-081	78
Denton	FM 455	29	0816-02-081	104
Denton	FM 455	30	0816-02-081	111
Fort Bend	SH 36	65	0188-02-038	143C
Fort Bend	FM 2218	92	2093-01-028	1
Fort Bend	FM 2218	84	2093-01-028	4
Fort Bend	FM 2218	88	2093-01-028	23
Fort Bend	FM 2218	89	2093-01-028	30
Fort Bend	FM 2218	62	2093-01-028	31
Fort Bend	FM 2218	85	2093-01-028	43
Fort Bend	FM 2218	93	2093-01-028	44
Fort Bend	FM 2218	43	2093-01-028	47
Fort Bend	FM 2218	91	2093-01-028	59
Fort Bend	FM 2218	12	2093-01-028	60
Fort Bend	FM 2218	49	2093-01-028	64
Fort Bend	FM 2218	64	2093-01-028	65
Fort Bend	FM 2218	17	2093-01-028	67
Fort Bend	FM 2218	47	2093-01-028	69
Fort Bend	FM 2218	56	2093-01-028	72
Fort Bend	FM 2218	94	2093-01-028	74
Fort Bend	FM 2218	16	2093-01-028	80
Fort Bend	FM 2218	57	2093-01-028	85
Fort Bend	FM 2218	22	2093-01-028	86
Fort Bend	FM 2218	90	2093-01-028	87
Fort Bend	FM 2218	67	2093-01-028	90
Fort Bend	FM 2218	61	2093-01-028	96
Fort Bend	FM 2218	21	2093-01-028	100
Gregg	FM 2206	36	2073-01-012	62
Harris	SH 146	60	0389-05-095	99
Harris	FM 2100	53	1062-04-059	310
Harris	FM 2100	82	1062-04-059	311
Harris	FM 1960	24	1685-01-105	9
Harris	FM 1960	13	1685-01-105	10
Harris	FM 1960	73	1685-03-101	266

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Hidalgo	FM 494	79	0864-01-073	8
Hidalgo	FM 494	95	0864-01-073	17
Hidalgo	FM 494	80	0864-01-073	21
Hidalgo	FM 494	69	0864-01-073	23
Hidalgo	FM 494	98	0864-01-073	39
Hunt	SH 276	38	1290-07-002	2
Liberty	US 59	70	0177-03-100	3
Liberty	US 59	58	0177-03-100	4
Liberty	US 59	59	0177-03-100	7
Liberty	US 59	78	0177-03-100	8
Liberty	US 59	76	0177-03-100	11
Liberty	US 59	55	0177-03-100	13
Liberty	US 59	83	0177-03-100	14
Liberty	US 59	81	0177-03-100	17
Liberty	US 59	96	0177-03-100	19
Liberty	US 59	72	0177-03-100	21
Lubbock	FM 179	7	0880-04-034	5
Lubbock	FM 179	9	0880-04-034	6
Lubbock	FM 179	8	0880-04-034	17
Lubbock	FM 1585	3	1502-01-035	246A
Lubbock	FM 1585	66	1502-01-035	250
Lubbock	FM 1585	2	1502-01-036	201A
Lubbock	FM 1585	5	1502-01-036	201B
Lubbock	FM 1585	11	1502-01-036	214
Montgomery	FM 1488	15	0523-08-010	7
Montgomery	FM 1488	10	0523-08-010	10
Montgomery	FM 1488	14	0523-08-010	13
Montgomery	FM 1488	45	0523-08-010	36
Montgomery	FM 1488	51	0523-08-010	41
Montgomery	FM 1488	4	0523-08-010	53
Montgomery	FM 1488	19	0523-08-010	54
Montgomery	FM 1488	50	0523-08-010	55
Montgomery	FM 1488	54	0523-09-017	102
Waller	FM 1488	86	0523-04-018	101
Waller	FM 1488	87	0523-04-018	102
Willacy	SH 186	20	0433-02-053	4

Note: Exhibits A - DD and 1 - 103 are on file with the commission chief clerk.

ITEM 17. Routine Minute Orders and Reports

This item was presented by Executive Director James Bass. 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)

115308
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 department also acquires by donation land used for highway improvement projects. Exhibit B lists property donated to the department for that purpose. The department has determined that acceptance of these donations is in the best interest and welfare of the traveling public and will provide a significant public benefit.

The commission established the Sponsorship Acknowledgement Program under 43 TAC Chapter 12, Subchapter K. The program, which is authorized by the Federal Highway Administration in FHWA Order 5610.1A, allows the department to place signs acknowledging donations made to the department to fund transportation related services. Exhibit C lists donations made to the department under the Sponsorship Acknowledgement Program.

The executive director has determined that the donations identified in the attached Exhibits 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 Exhibits A, B, and C.

Donations to the Department

1493 Round Rock, LLC - Fixed amount of funds towards the State's cost to construct two right turn deceleration lanes on IH 35 northbound frontage road between FM 3406 and RM 1431 in Round Rock.

71 Texans, LP - Design and construction of a right turn lane, acceleration lane and restriping roadway on SH 71 at McAllister Road into the donor's convenience store in Bastrop.

Atlas Sand Company, LLC - Design, construction and construction engineering inspections of highway improvements to include the addition of acceleration lanes, deceleration lanes, improvements to surface drainage and installation of small roadside warning signs at the intersection of SH 18 and LP 464 in Ward County.

Beazer Homes Texas, L.P. - Design and construction of a traffic signal at the intersection of Pollard Blvd. and SH 6 into the Bluewater Lakes development in Manvel.

BCBP Cravens East LP - Design and construction of two eastbound right turn lanes at the east and west driveways on Beltway 8 eastbound frontage road into the Beltway Crossing development in Houston.

CCAC Reserve Holdings, LLC - Design and construction of a right turn deceleration lane from southbound SH 288 into the Shadowcreek development in Pearland.

CW - Hallies Ranch, LLC - Design and construction of a two way left turn lane and acceleration lane along FM 1518 north of Abbott Road in Bexar County.

Eliot W. "Bo" Rester - Fixed amount of funds towards the State's cost to design, fabricate, and install two memorial highway designation signs on the portion of FM 4000 between FM 1735 and the eastern municipal boundary of Mount Pleasant, designated as the Titus County Vietnam Veterans Memorial Highway within Titus County.

Forestar (USA) Real Estate Group Inc. - Design and construction of a right turn deceleration lane from southbound FM 3177 onto City Top Blvd in Austin.

GCGV Asset Holding LLC - Fixed amount of funds toward the State's cost to construct a heavy haul road crossing on US 181 as part of the US 181 roadway improvement project from Sunset Road in Gregory to FM 3239 (Buddy Ganem) in San Patricio County.

HEB Grocery Company, LP - Design and construction of the following: 1) right turn deceleration lanes for the two site driveways which will tie into the IH 35 southbound frontage road; and 2) right turn deceleration lane on Loop 275 into the donor's development in Austin.

Hutto Option Mezz Holdings LLC - Design and construction of a southbound deceleration lane on FM 685 at Knowles Drive in Hutto.

JYKM Union, Inc. - Design and construction of two driveways with right turn deceleration lanes and reconstruction of one driveway into the donor's establishment on IH 35 between Hill Road and CR 304 in Salado.

Keystone Equity Partners, L.L.C. - Design and construction of right turn- deceleration lane from I-820 frontage road into donor's development.

Marmaxx Operating Corp. - Design and construction of a two way left turn lane, driveways and roadway widening along FM 1937 south of 281 in San Antonio.

McM Texas Development, LLC - Design and construction of highway improvements for the northbound left turn lane on FM 1376 approximately 1.8 miles north of US 87 BUS in Boerne.

Plains All American Pipeline, L.P. - Fixed amount of funds in material cost for the State to construct an overlay on FM 3393 from SH 79 to approximately 1.5 miles west and a performance bond in the amount of \$300,000 in Wichita Falls.

Potranco Acres, LLC - Design and construction of improvements to include the addition of left and right turn lanes and acceleration and deceleration lanes on FM 1957 in Medina County.

Pulte Homes of Texas, L.P. - Design and construction of a traffic signal at FM 3345 and Columbia Blue Drive, a right turn lane from Columbia Blue Drive on to FM 3345 and a left turn lane from WB FM 3345 into the proposed Mustang Trails development in Missouri City.

Realtex Ventures, LP - Design and construction of right turn lane on FM 1431 from 992 feet east of Arrowpoint Drive to 521 feet east of Arrowpoint Drive in Cedar Park.

Seton Family of Hospitals - Design and construction of right turn deceleration lane on US 71 from 0.1 miles east of SH 304 to 0.25 miles east of SH 304 in Bastrop.

SH71-130 Holdings, L.P. - Design and construction of an acceleration and deceleration lanes along SH 71 and FM 973 including widening payment and a traffic signal in Travis.

WildHorse Resources Management Company, LLC - Design and construction of an acceleration lane and an overlay on FM 908 along with turning radius improvements near the intersection of FM 908 and SH 21 in Burleson County.

Wong Real Estate Management, LP - Design and amount sufficient to cover the State's cost to construct and inspect a left-turn lane, right-turn lane and signal modifications at Scenic Brook/US 290 in Austin.

XS Ranch Fund VI, L.P. - Design and construction of road widening on FM 969 to incorporate a right turn deceleration lane and left turn deceleration lane in Bastrop.

Sports Clips, Inc. - Revenue generation through the Sponsor a Highway Program.

Water Damage & Roofing of Austin, Inc. - Revenue generation through the Sponsor a Highway Program.

Kaye Enterprises, Inc. (on behalf of) Stewart Family Dental - Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

Kaye Enterprises, Inc. (on behalf of) Sweeny Community Hospital - Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

Kaye Enterprises, Inc. (on behalf of) TCP Real Estate - Jennifer Auer - Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

Nations Reliable Lending, LLC - Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

V.T. Nguyen, DDS PA (dba) Ecodental - Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

TGS Cedar Port Partner, L.P - Donation of 0.0046 acres of land from 0.25 Miles North of Fisher Rd to 0.10 Miles South of Fisher Rd. The property being donated is intended to be utilized as corner clips for future signalization of Fisher Road Intersection.

TGS Cedar Port Partner, L.P - Donation of 0.0046 acres of land from 0.25 Miles North of Fisher Rd to 0.10 Miles South of Fisher Rd. The property being donated is intended to be utilized as corner clips for future signalization of Fisher Road Intersection.

Medina County - Donation of 0.026 acres of land from BEXAR C/L, 2.0 MI S OF FM 471, N to FM 471 (CULEBRA RD). The property being donated will be utilized in the expansion of State Highway 211.

Medina County - Donation of 4.738 acres of land from BEXAR C/L, 2.0 MI S OF FM 471, N to FM 471 (CULEBRA RD). The property being donated will be utilized in the expansion of State Highway 211.

Medina County - Donation of 8.532 acres of land from BEXAR C/L, 2.0 MI S OF FM 471, N to FM 471 (CULEBRA RD). The property being donated will be utilized in the expansion of State Highway 211.

Medina County - Donation of 3.673 acres of land from BEXAR C/L, 2.0 MI S OF FM 471, N to FM 471 (CULEBRA RD). The property being donated will be utilized in the expansion of State Highway 211.

Medina County - Donation of 7.508 acres of land from BEXAR C/L, 2.0 MI S OF FM 471, N to FM 471 (CULEBRA RD). The property being donated will be utilized in the expansion of State Highway 211.

Medina County - Donation of 9.275 acres of land from BEXAR C/L, 2.9 MI N OF FM 1957, N to BEXAR C/L, 4.5 MI N OF FM 1957. The property being donated will be utilized in the expansion of State Highway 211.

Medina County - Donation of 18.900 acres of land from BEXAR C/L, 2.9 MI N OF FM 1957, N to BEXAR C/L, 4.5 MI N OF FM 1957. The property being donated will be utilized in the expansion of State Highway 211.

Motel 6 Operating, L.P - Donation of 0.09 acres of land from East of Luna Road (BNSF RR) to Webb Chapel Road. The property being donated will be used for the expansion of IH 635.

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

b. Real Estate Dispositions**(1) Bexar County - FM 1560 in Helotes - Consider the removal from the system, transfer of control, jurisdiction, and maintenance, and transfer of right of way to the City of Helotes, and designation on a new location (MO)**115309
ROW

In Helotes, BEXAR COUNTY, on FARM TO MARKET ROAD 1560, the state of Texas acquired and/or used certain land for highway purposes.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended, as shown on Exhibit A, that FM 1560 be removed from the state highway system from the new location of FM 1560 at Riggs Road, eastward to SH 16. The executive director has also recommended that FM 1560 be designated on a new location from Riggs Road northeastward to SH 16.

The land (Tract 1), RCSJ 2230-01-017, described in Exhibit B, is no longer needed for a state highway purpose.

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

The City of Helotes (city) agrees to assume jurisdiction, control, and maintenance and has requested that Tract 1 be transferred to the city.

IT IS THEREFORE ORDERED by the commission that: 1) FM 1560 is removed from the state highway system from the new location of FM 1560 at Riggs Road eastward to SH 16, a distance of 0.2 mile; and 2) FM 1560 is designated on a new location from Riggs Road northeastward to SH 16, a distance of 0.1 mile.

FURTHER, IT IS ORDERED by the commission that Tract 1 is no longer needed for a state highway purpose. The commission recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument transferring the state's right, title, and interest in Tract 1 to the City of Helotes, Texas; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles, and interests, if any, in and to all of the oil, gas, sulphur, and other minerals, of every kind and character, in, on, under, and that may be produced from Tract 1.

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

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

(2) Collin County - BS 289-D in Prosper - Consider the removal from the system, transfer of control, jurisdiction, and maintenance, and quitclaim of right of way to the Town of Prosper (MO)115310
ROW

In Prosper, COLLIN COUNTY, on BUSINESS STATE HIGHWAY 289-D, 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 that BS 289-D be removed from the state highway system,

as shown on Exhibit A, and that control, jurisdiction, and maintenance be transferred to the Town of Prosper (town).

The land (Tract 1), RCSJ 0091-08-007, 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 municipality of any interest that might have accrued to the state by use of the property.

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

IT IS THEREFORE ORDERED by the commission that: 1) BS 289-D is removed from the state highway system from FM 1193 southward to US 380, a distance of 1.2 miles; and 2) control, jurisdiction, and maintenance are transferred to the Town of Prosper.

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 Town of Prosper, Texas.

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

(3) Fort Bend County - US 59 at Doris Road in Beasley - Consider the quitclaim of right of way to honor a reversionary clause (MO)

115311
ROW

In Beasley, FORT BEND COUNTY, on US HIGHWAY 59, the state of Texas acquired certain land for highway purposes by instrument described in Fort Bend County Clerk's File No. 2016083775.

A portion of the land (Tract 1), RCSJ 0089-09-085, described in Exhibit A, is no longer needed for a state highway purpose.

The instrument conveying Tract 1 to the state contained a clause to the effect that if any part of the property is no longer needed for state highway purposes, then any part of the property shall revert to grantor, its successor and assigns.

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

The Texas Mexican Railway Company a/k/a Texas Mexican Railway Company was the original grantor. Its purported successor has requested that Tract 1 be quitclaimed to honor the reversionary clause.

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

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

Railway Company a/k/a Texas Mexican Railway Company, its successor and assigns; 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-610 at North Post Oak Boulevard in Houston - Consider the sale of right of way to an abutting landowner (MO)

115312
ROW

In Houston, HARRIS COUNTY, on INTERSTATE 610, the state of Texas acquired certain land for highway purposes by instrument recorded under Harris County Clerk's File No. 20130468311, Official Public Records of Real Property, Harris County, Texas.

A portion of the land (Tract 227), RCSJ 0271-14-234, described in Exhibit A, is no longer needed for a state highway purpose.

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

The Awty International School is an abutting landowner and has requested to purchase Tract 227 for \$441,000.

The commission finds \$441,000 to be a fair and reasonable value of the state's right, title, and interest in Tract 227.

IT IS THEREFORE ORDERED by the commission that Tract 227 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 227 to The Awty International School, for \$441,000; 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.

(5) Hidalgo County - US 281 at S. 22nd Street in Hidalgo - Consider the quitclaim of right of way to honor a reversionary clause (MO)

115313
ROW

In Hidalgo, HIDALGO COUNTY, on US HIGHWAY 281, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 405, Page 423, Deed Records of Hidalgo County, Texas.

The land (Tract 2), RCSJ 0255-09-099, described in Exhibit A, is no longer needed for a state highway purpose.

The instrument conveying Tract 2 to the state contained a clause to the effect that if the state abandons the use of the premises as a park, the property shall revert to the grantor.

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

Hidalgo County Irrigation District No. 2, formerly known as Hidalgo County Water Control & Improvement District No. 2, has requested that Tract 2 be quitclaimed to honor the reversionary clause.

The commission finds that it is proper and correct that the state quitclaim its right, title, and interest in Tract 2 to comply with the reversionary clause contained in the instrument of conveyance to the state.

IT IS THEREFORE ORDERED by the commission that Tract 2 is no longer needed for a state highway purpose. The commission recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument quitclaiming the state's right, title, and interest in Tract 2 to Hidalgo County Irrigation District No. 2, formerly known as Hidalgo County Water Control & Improvement District No. 2; 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) Jefferson County - I-10 at FM 364 in Beaumont - Consider the sale of right of way to Jefferson County (MO)

115314
ROW

In Beaumont, JEFFERSON COUNTY, on INTERSTATE 10, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 1201, Page 3, Deed Records of Jefferson County, Texas.

A portion of the land (Tract 1), RCSJ 0739-02-166, 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 a governmental entity with the authority to condemn the property.

Jefferson County (county) has requested to purchase Tract 1 for \$435,000.

The commission finds \$435,000 to be a fair and reasonable value for 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 Jefferson County, Texas, for \$435,000; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles, and interests, if any, in and to all of the oil, gas, sulphur, and other minerals, of every kind and character, in, on, under, and that may be produced from the land.

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

(7) Randall County - I-27 at McCormick Road in Amarillo - Consider the sale of right of way to an abutting landowner (MO)

115315
ROW

In Amarillo, RANDALL COUNTY, on INTERSTATE 27, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 221, Page 136, Deed Records of Randall County, Texas.

A portion of the land (Tract 2), RCSJ 0168-09-176, described in Exhibit A, is no longer needed for a state highway purpose.

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

Hut One Land and Equipment, Ltd., is an abutting landowner and has requested to purchase Tract 2 for \$8,750.

The commission finds \$8,750 to be a fair and reasonable value of the state's right, title, and interest in Tract 2.

IT IS THEREFORE ORDERED by the commission that Tract 2 is no longer needed for a state highway purpose and that the value is less than \$10,000. The commission authorizes the executive director to execute a proper instrument conveying all of the state's right, title, and interest in Tract 2 to Hut One Land and Equipment, Ltd., for \$8,750; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles, and interests, if any, in and to all of the oil, gas, sulphur, and other minerals, of every kind and character, in, on, under, and that may be produced from the land.

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

(8) Travis County - SS 69 (Koenig Lane) at N. Lamar Blvd. in Austin Consider the sale of right of way to the successful bidder (MO)

115316
ROW

In Austin, TRAVIS COUNTY, on STATE SPUR 69, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 112486, Page 303, Real Property Records of Travis County, Texas.

A portion of the land (Tract 1), RCSJ 0114-01-057, 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 Trinsic Acquisition Company, LLC, submitted a bid of \$8,126,000, the only acceptable bid.

The commission finds \$8,126,000 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 Trinsic Acquisition Company, LLC, for \$8,126,000; 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.

c. Report

Compliance Division report

Note: Confidential report to commission.

d. Finance

(1) Annual review and approval of the investment policy and investment strategies applicable to all funds of the commission not otherwise required to be invested by the comptroller (MO)

115317
PFD

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

Government Code §2256.005 requires the commission to adopt a written investment policy regarding the investment of its funds and funds under its control, including a separate written investment strategy for each of the funds or group of funds.

In Minute Order 108970, dated July 25, 2002, the commission approved and adopted a written investment policy applicable to funds of the commission relating to the Central Texas Turnpike System held by Bank One, N.A., (in such capacity with its successors, currently Bank of New York Mellon), as Trustee under the Indenture of Trust dated July 15, 2002, between the commission and the trustee.

Government Code §2256.005(e) and Section 20.0 of the investment policy require the commission to review the investment policy and investment strategy on an annual basis, and to approve by order any modifications to the investment policy and investment strategy. The investment policy and investment strategies of the commission have been reviewed and revised annually by minute order since 2003, to update the investment policy and strategies and to make them applicable to all funds under the control of the commission and not otherwise required to be invested by the Comptroller of Public Accounts (comptroller) including the Texas Mobility Fund and Central Texas Turnpike System.

The investment policy and investment strategies are attached as Exhibit A.1 - A.6.

IT IS THEREFORE ORDERED by the commission that the investment policy and investment strategies applicable to all funds of the commission not otherwise required to be invested by the comptroller, attached as Exhibit A.1 - A.6, have been

reviewed and are hereby approved in accordance with Government Code §2256.005(e) and Section 20.0 of the investment policy.

Note: Exhibit A.1 - A.6 is on file with the commission chief clerk.

(2) Annual review of debt management policy and derivative management policy for financing programs of the department (MO)

115318
PFD

Pursuant to various provisions of Texas law, the Texas Transportation Commission (commission) is authorized to issue and incur obligations for transportation and other projects.

To ensure that all financings undertaken by the commission and/or the Texas Department of Transportation (department) are effected in accordance with the highest standards of industry, law, and government practice, and to confirm the intent of the commission and the department to adhere to sound financial management practices, the commission initially adopted a Debt Management Policy in Minute Order 110656 on August 24, 2006. The policy requires an annual review and, if necessary, amendment. The Debt Management Policy attached hereto as Exhibit A has been reviewed and presented to the commission for consideration.

The Debt Management Policy establishes parameters within which to administer the commission's financing programs, and such parameters focus on acceptable levels of risk, minimizing interest costs, optimizing future flexibility, and achieving and maintaining the best possible credit ratings.

Pursuant to Chapter 1371, Texas Government Code, and other applicable Texas law, the commission is authorized to execute credit agreements including interest rate swap and other similar agreements.

To establish responsibilities, objectives, and guidelines for the use of interest rate swap and other similar products in order to efficiently and prudently manage the commission's asset/liability profile for each financing program the commission initially adopted a Derivative Management Policy as a subsidiary component of the Debt Management Policy, also in Minute Order 110656 on August 24, 2006. The policy also requires annual review and, if necessary, amendment. The Derivative Management Policy attached hereto as Exhibit B has been reviewed and presented to the commission for consideration.

IT IS THEREFORE ORDERED by the commission that the Debt Management Policy attached hereto as Exhibit A and Derivative Management Policy attached hereto as Exhibit B have been reviewed and are hereby approved.

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

(3) Dallas and Denton Counties - Consider the approval of the I-35E Managed Lanes Project annual budget of revenues, operating and maintenance expenses, and capital expenditures, and acceptance of the annual inspection report (MO)

115319
PFD

Transportation Code, Chapter 228 and other applicable law, including Government Code, Chapter 1371, authorizes the Texas Transportation Commission

(commission) to issue toll revenue bonds, notes, and other obligations to finance toll projects or systems on the state highway system, and to enter into trust agreements governing matters relating to the issuance of such obligations.

In Minute Order 113350 dated November 15, 2012, the commission designated the IH-35E Managed Lanes Project (Project), from I-635 to US 380 in Dallas and Denton counties, including all managed lane connections, as a toll project on the state highway system.

Pursuant to Minute Order 113398 dated December 13, 2012, the Texas Department of Transportation (department) executed a development agreement on May 17, 2013 with AGL Constructors in connection with the construction of the Project.

Pursuant to Minute Order 114424 dated November 19, 2015 and the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA), the commission entered into a TIFIA Loan Agreement, dated November 3, 2016, with the United States Department of Transportation, for a loan in the amount of up to \$285,000,000 to pay a portion of the eligible project costs of the Project (Loan Agreement), and executed a Trust Agreement dated November 1, 2016 securing IH-35E Managed Lanes Project Toll Revenue Obligations (Trust Agreement) and a First Supplemental Agreement dated November 1, 2016 securing the Loan Agreement and the Texas Transportation Commission Toll Revenue Converting Tier Note (IH-35E Managed Lanes Project), Series 2016.

Section 504 of the Trust Agreement states that the commission will cause the general engineering consultant to make an inspection of the Project on or before the 90th day prior to the end of each fiscal year and to submit to the commission a report setting forth (a) their findings whether the Project has been maintained in good repair, working order and condition and (b) their advice and recommendations as to the proper maintenance, repair, and operation of the Project during the ensuing fiscal year and an estimate of the amount of money necessary for such purposes.

The commission has engaged Jacobs Engineering Group Inc. (Jacobs) to serve as the general engineering consultant in accordance with the Trust Agreement. The IH-35E Managed Lanes Project Annual Inspection Report, attached as Exhibit A, has been prepared by Jacobs in accordance with Section 504 of the Trust Agreement.

Pursuant to Section 505 of the Trust Agreement, the commission has covenanted that on or before the business day preceding the first day of each fiscal year, it will adopt an annual budget of revenues, operating and maintenance expenses, and capital expenditures for the Project and deliver copies of the budget to the trustee and the general engineering consultant.

The department has completed the annual budget which is attached as Exhibit B. In accordance with Section 505 of the Trust Agreement, the annual budget was provided to the general engineering consultant for review and comment prior to adoption by the commission.

IT IS THEREFORE ORDERED by the commission that the general engineering consultant's IH-35E Managed Lanes Project Annual Inspection Report attached as Exhibit A is accepted.

IT IS FURTHER ORDERED that the commission adopts the annual budget for the IH-35E Managed Lanes Project for fiscal year 2019 attached hereto as Exhibit B.

IT IS FURTHER ORDERED that the executive director is hereby authorized to make necessary adjustments to spending levels in accordance with the Trust Agreement as may be necessary in the operation of the Project.

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

(4) Travis and Williamson Counties - Consider the approval of the Central Texas Turnpike System (CTTS) annual operating, maintenance, and capital budgets (MO)

115320
PFD

Transportation Code Section 228.051 provides that the Texas Transportation Commission (commission) by order may designate one or more lanes of a segment of the state highway system as a toll project or system.

By Minute Order 108873, dated April 25, 2002, SH 130 was designated as a toll project and a controlled access state highway from I-35 north of Georgetown to the intersection of US 183 and SH 130 at SH 45 Southeast (SH 130) as part of the Central Texas Turnpike System (system).

By Minute Order 108896, dated May 30, 2002, SH 45 N was designated as a toll project and a controlled access state highway from west of US 183 to SH 130/SH 45 North interchange (SH 45 N) as part of the system.

By Minute Order 108896, dated May 30, 2002, Loop 1 was designated as a toll project and a controlled access state highway from the existing Loop 1 and FM 734 (Parmer Lane) to the Loop 1/SH 45 North interchange (Loop 1) as part of the system.

By Minute Order 109729 dated July 29, 2004 SH 45 Southeast was designated as a toll project and a controlled access state highway from I-35 at FM 1327 South of Austin to the SH 130/US 183 interchange (SH 45 SE) and by Minute Order 113243 dated August 30, 2012 SH 45 SE was designated as part of the system.

The commission has outstanding approximately \$2.4 billion in aggregate principal amount of system bonds issued to finance or refinance a portion of the costs of the system, composed of the SH 130, SH 45 N, Loop 1 and SH 45 SE project elements, described above, pursuant to an Indenture of Trust (indenture) and eight supplemental indentures. Any terms not otherwise defined in this order have the meaning given in the indenture.

Pursuant to Section 702 of the indenture, the commission has covenanted that on or before August 31 in each year, it will adopt annual operating, maintenance and capital budgets for the system for the ensuing fiscal year. The annual budgets have been completed and are attached as Exhibit A. In accordance with the indenture the annual budgets were provided to the general engineering consultant for review and comment prior to adoption by the commission.

IT IS THEREFORE ORDERED that the commission adopts the annual budgets for the Central Texas Turnpike System for fiscal year 2019 attached hereto as Exhibit A.

IT IS FURTHER ORDERED that the executive director is hereby authorized to make necessary adjustments to spending levels in accordance with the indenture as may be necessary in the operation of the system.

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

e. Designation of Access Control

(1) Denton County - SH 114 westbound frontage road approximately 0.6 miles east of FM 156 - Consider the designation of one location on the frontage road at which access will be permitted to the abutting property (MO)

115321
DES

In DENTON COUNTY, on STATE HIGHWAY (SH) 114, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded under Instrument No. 2012-54772 of the Official Records of Denton County, Texas, with denial of access to the abutting remainder property as described in the instrument.

Speedway Distribution Center Owner's Association, the current property owner of the abutting property, has requested that access to and from the westbound frontage road of SH 114 be permitted at one 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 westbound frontage road of SH 114.

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) Tarrant County - I-35W and US 287, north of the I-35W/US 287 interchange and south of the North Tarrant Parkway - Consider the designation of seven locations on the frontage roads at which access will be permitted to the abutting property (MO)

115322
DES

In TARRANT COUNTY, on INTERSTATE 35W and US HIGHWAY 287, designated controlled-access highways, the State of Texas acquired certain land for highway purposes that includes a tract of land described as "Parcel 1" in Deed to the State of Texas, executed November 15, 2004, as recorded in Instrument Number D205080406, of the Official Records of Tarrant County, Texas, and a tract of land described as "Parcel 5" in Deed to the State of Texas, executed August 25, 2004, as recorded in Instrument Number D204292513, with denial of access to the abutting remainder property as described in the instrument.

NTP35, LP, the current property owner of the abutting property, has requested that access to and from the southbound frontage road of I-35W be permitted at four new access points, and that access to and from the northbound frontage road of US 287 be permitted at three 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 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 points will not compromise the mobility, safety, or operation of the existing state highway facility, and designates the new access points described in Exhibit A as locations where ingress and egress are permitted to and from the southbound frontage road of I-35W and the northbound frontage road of US 287.

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.

f. Audit Subcommittee Charter

Consider the approval of updates to the Audit Subcommittee Charter (MO)

115323
AUD

The Audit Subcommittee (subcommittee) of the Texas Transportation Commission (commission) was created on January 28, 2009. The subcommittee was created to oversee and ensure compliance with the intent of Sarbanes-Oxley as to reliability and transparency in financial reporting, as well as to ensure the independence of the Texas Department of Transportation's internal audit program by providing oversight of the program and evaluating the implementation of audit recommendations.

The subcommittee charter was approved by the commission on March 25, 2010, in Minute Order 112196, and amended on August 25, 2016, with Minute Order 114690. The charter sets forth the purpose and composition of the subcommittee, as well as meeting requirements and principal duties and responsibilities of the subcommittee in carrying out its oversight role.

The subcommittee is required to review and assess the adequacy of the charter annually and request commission approval for proposed changes. On August 29, 2018, the subcommittee voted to amend the charter to include the Compliance Division in the scope of the charter. The amended charter is attached as Exhibit A.

IT IS THEREFORE ORDERED by the commission that the Audit Subcommittee Charter, as amended and set forth in Exhibit A, is approved.

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

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

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TRF

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

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

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

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

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

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

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

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

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

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

ITEM 18. Executive Session Pursuant to Government Code, Chapter 551Section 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 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 September 27, 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 August 30, 2018, in Austin, Texas.



Robin Carter, Commission Chief Clerk
Texas Department of Transportation