

These are the minutes of the regular meeting of the Texas Transportation Commission held on September 27, 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 the Office of the Secretary of State at 4:57 p.m. on September 19, 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 Becky King.

**ITEM 2. Consider the approval of the Minutes of the August 30, 2018, regular meeting of the Texas Transportation Commission**

Commissioner Ryan made a motion, which was seconded by Commissioner Austin, and the commission approved the minutes of the August 30, 2018, regular meeting by a vote of 4 - 0.

Chairman Bugg recognized Representative Joe Pickett who made remarks to the commission concerning an El Paso road project.

**ITEM 3. 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. Chief Engineer Bill Hale also answered questions from the commission. 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.

Transportation (department) solicited and received sealed competitive bid proposals for improvement of the State Highway System, which were publicly opened and read on September 6 and 7, 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 Austin made a motion, which was seconded by Commissioner Ryan, and the commission approved the following minute order by a vote of 4 - 0.

115326  
MNT

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for maintenance of the State Highway System, which were publicly opened and read on September 6 and 7, 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 Austin made a motion, which was seconded by Commissioner New, and the commission approved the following minute order by a vote of 4 - 0.

115327  
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 September 4, 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 4. Aviation**

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

This item was presented by Aviation Division Director Dave Fulton. The commission also heard comments from Jeff Kloska, Airport Manager, City of Fort Worth Aviation; Wendy Dew, Airport Concerned Citizens; Hugh Norris, Airport Concerned Citizens; Michael Babin, Deputy General Manager, City of Georgetown Airport; and John Hesser, Mayor Pro-Tem, City of Georgetown. Chairman Bugg requested Ben Guttery, Manager, Texas Airports District Office, Federal Aviation Administration, to come forward and answer questions from the commission about the Georgetown Airport project. 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.

115328  
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 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 discretionary grant funds, federal non-primary entitlement grant funds, and federal apportionment 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.

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

**ITEM 5. Public Transportation**

**Various Counties** - Consider the award of federal Section 5311 funds to South East Texas Regional Planning Commission, federal Section 5311(f) funds to Lower Rio Grande Valley Development Council, and federal Section 5311(b)(3) funds to Project Amistad (MO)

This item was presented by Public Transportation Division Director Eric Gleason. The commission also heard comments from Eric Backes, Executive Director of the Texas Transit Association. 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.

115329  
PTN

The Texas Transportation Commission (commission) desires to award a total of \$1,866,090 in federal program funds to support public transportation needs.

Beaumont – Port Arthur Metropolitan Planning Organization approved the allocation of \$1,200,000 in Congestion Mitigation and Air Quality (CMAQ) funding to the South East Texas Regional Planning Commission for the purchase of alternative fuel vehicles. Funds have been subsequently transferred to the Section 5311 Formula Grants for Rural Areas Program for implementation purposes. The commission finds that the purchase of alternative fuel vehicles is eligible for funding under the §5311 program and desires to award \$1,200,000 to South East Texas Regional Planning Commission.

On November 17, 2017, the Texas Department of Transportation (department) published a Notice of Call for Projects in the *Texas Register*. Project criteria included project planning and coordination, demonstration of project need and benefits, and project management. The commission finds that the project submitted by the Lower Rio Grande Valley Development Council (LRGVDC) is eligible for funding in the amount of \$606,590 under the federal Section 5311(f) Intercity Bus Program for transition of the Metro Connect service to LRGVDC.

The commission also desires to award \$59,500 in Section 5311(b)(3) Rural Transportation Assistance Program funds to Project Amistad for the 2019 South West Transit Association/Texas Transit Association Roadeo, Exposition, and Conference training programs. The award is provided to Project Amistad for their specific role in this event to provide assistance and logistical support.

Transportation Code, Chapter 455 assigns a broad spectrum of public transportation roles and missions to the department.

Transportation Code, Chapter 456 authorizes the commission to administer funds appropriated for public transportation.

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the awards as shown above, submit the necessary state applications to the Federal Transit Administration, and enter into the necessary contracts.

**ITEM 6. Advisory Committee Appointments**

**a. Bicycle Advisory Committee**

Consider the appointment of two new members and the re-appointment of one existing member to the Bicycle Advisory Committee for a three year term (MO)

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

115330  
PTN

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

The commission desires to make the following two committee appointments:

<u>Name</u>	<u>Location</u>	<u>Term Expiration</u>
Shawn Twing	Amarillo, TX	August 31, 2021
Frank Rotnofsky	Laredo, TX	August 31, 2021

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

**b. Border Trade Advisory Committee**

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

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

115331  
TPP

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

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

institutes or centers operated by a university in this state that conduct continuing research on transportation or trade issues; and (4) the port director of the Port of Brownsville or the port director's designee.

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

Seven (7) individuals are being re-appointed to the committee with terms to expire on August 31, 2021, six (6) individuals are new appointments to the committee with terms to expire on August 31, 2021, and one (1) individual is a new appointment to fill a vacancy on the committee with a term to expire on August 31, 2020.

The commission has determined that the individuals or positions listed below fulfill the statutory requirements to serve as members of the committee and shall serve for the term specified, subject to regular meeting attendance, active participation, and ongoing contributions to the committee's efforts.

Re-appointments with Terms Expiring on August 31, 2021:

The Honorable English Ramsey Cantu, City of Eagle Pass Port-of-Entry

The Honorable John Love, III, Permian Basin Metropolitan Planning  
Organization

Rafael Aldrete, Texas A&M Transportation Institute

John Esparza, Texas Trucking Association

Paul Cristina, BNSF

Art Dominguez, Kansas City Southern Railroad

Gerry Schwebel, International Bank of Commerce

New Appointments with Terms Expiring on August 31, 2021:

The Honorable Vincent Perez, El Paso County Port-of-Entry

Jesus Reyna, City of Donna Port-of-Entry

Roger Williams, El Paso Metropolitan Planning Organization

Lisa Loftus-Otway, University of Texas Center for Transportation Research

Juan Antonio Flores, Port San Antonio

Stan Meador, Texas-Pacifico Transportation, Ltd.

New Appointment with Term Expiring on August 31, 2020:

The Honorable Bruno Ralphy Lozano, City of Del Rio Port-of-Entry

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

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

**Chapter 2001:**

**Final Adoption**

**(1) Chapter 1 - Management****Amendments to §1.24, Filing of Petition; Procedure for Filing Petition and Other Documents, §1.25, Procedure for Service of Documents, and §1.36, Proposal for Decision; Filing of Exceptions and Replies (MO)**

This item was presented by Associate General Counsel Rich O'Connell. 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.

115332  
GCD

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §§1.24, 1.25, and 1.36 relating to Procedures in Contested Case 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 §§1.24, 1.25, and 1.36 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.

**(2) Chapter 15 - Financing and Construction of Transportation Projects****New §§15.250-15.261, Ship Channel Improvement Revolving Loan Program (MO)**

This item was presented by Project Finance, Debt & Strategic Contracts Division Director Ben Asher. 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.

115333  
PFD

The Texas Transportation Commission (commission) finds it necessary to adopt new §§15.250 - 15.261 relating to the Ship Channel Improvement Revolving Loan Program to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the new §§15.250 - 15.261 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 25 - Traffic Operations**

**Amendments to §25.977, Reporting by Investigating Officers (MO)**

This item was presented by Traffic Operations Division Director Michael Chacon. 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.

115334  
TRF

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §25.977 relating to Crash Records Information System 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 §25.977 are adopted and are authorized for filing with the Office of the 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.

**ITEM 8. Design-Build Contract**

**Travis County - Consider authorizing the department to issue a request for qualifications to develop, design, construct, and potentially maintain the Oak Hill Parkway Project, consisting of non-tolled improvements along US 290 from approximately Circle Drive to Loop 1 and non-tolled improvements along SH 71 from US 290 to Silvermine Drive, and including the reconstruction of the US 290 and SH 71 interchange, in Austin and southwest Travis County (MO) (Presentation)**

This item was presented by Project Finance, Debt & Strategic Contracts Division Director Ben Asher. Chief Engineer Bill Hale also answered questions from the commission. 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.

115335  
PFD

Subchapter F, Chapter 223, Transportation Code prescribes the process by which the Texas Department of Transportation (department) may enter into a

design-build contract with a private entity that provides for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project.

Transportation Code §§ 223.245-223.250 prescribe requirements for a design-build contract procurement. Pursuant to those provisions, the department must issue a request for qualifications that includes, among other things, the criteria that will be used to evaluate any qualification submittals, the relative weight given to the criteria, and a deadline by which qualification submittals must be received. The department is also required to publish a notice advertising the issuance of the request for qualifications in the *Texas Register* and on the department's website.

The Oak Hill Parkway Project (Project) consists of non-tolled improvements along US 290 from approximately the east end of Circle Drive to Loop 1, and non-tolled improvements along SH 71 from US 290 to Silvermine Drive, which improvements include the addition of frontage roads and grade separations at major intersections, in Travis County. As part of the Project, the US 290 and SH 71 interchange will be reconstructed with the US 290 mainlanes going underneath SH 71, and with direct connectors at the intersection. The Project will improve the existing four-lane divided roadway with signalized intersections along US 290 to a six-lane controlled access facility with grade separations and frontage roads. Additionally, the existing controlled access portion from Loop 1 to near Joe Tanner Lane will have minor widening for operational improvements near entrance and exit ramps.

The intersection of US 290 and SH 71 in Oak Hill is a gateway to southwest Travis County and serves as a key route between central Austin and the fast-growing suburban and rural communities southwest of Austin. US 290 is one of the most congested highway corridors in Texas, and due to a lack of reliable connectivity, has become an unreliable route for both transit and emergency vehicles. The Project is a crucial element to providing operational efficiency and long-term congestion management, as well as improving safety and mobility in the area, and meets the requirements for design-build delivery.

IT IS THEREFORE ORDERED by the commission that the department is authorized to issue a request for qualifications to develop, design, construct, and potentially maintain the Oak Hill Parkway Project in Travis County, and to publish in the *Texas Register* and on the department's website a notice advertising the issuance of the request for qualifications.

#### **ITEM 9. Financial Assistance for Projects**

**Transportation Infrastructure Finance and Innovation Act - Dallas and Tarrant Counties** - As contemplated in the funding for the comprehensive development agreement awarded by Minute Order 113941, dated May 29, 2014, consider authorizing negotiations with the United States Department of Transportation (USDOT) for a loan in an aggregate principal amount not to exceed \$300 million pursuant to the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA) to pay a portion of the eligible project costs of the SH 183 Managed Lanes Project (Midtown Express) to reconstruct approximately 28 miles of existing general purpose lanes and to construct managed lanes on SH 183, SH 114, and Loop 12 in Dallas and Tarrant

counties; consider authorizing the execution of a TIFIA loan agreement, a note, a master trust agreement and first supplemental agreement for the loan and ancillary documents; and authorize designated commission representatives to take all actions necessary to permit the execution and delivery of the TIFIA loan agreement, the note, trust agreement documents and ancillary documents on such terms as the commission representative designated under this minute order shall approve (MO)

This item was presented by Project Finance, Debt & Strategic Contracts Division Director Ben Asher. The commission also heard remarks from private citizen and engineer Mr. Don Dixon. 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.

115336  
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, or 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 113619, dated June 27, 2013, the commission designated the SH 183 Managed Lanes Project as a controlled access facility and as a toll project on the state highway system, improvements along SH 183 from just east of SH 121 to near I-35E/Trinity Parkway (including the proposed Diamond Interchange Phase II, a portion of which is comprised of SH 114 from Loop 12 to SH 183), Loop 12 from SH 183 to I-35E and SH 114 from International Parkway to Loop 12 in Dallas and Tarrant counties (Midtown Express).

On November 20, 2014, the Texas Department of Transportation (department) executed a Design-Build Agreement with SouthGate Mobility Partners LLC in connection with the construction of the Midtown Express and construction on such project is underway.

The department has submitted a credit program letter of interest to the USDOT, which has advanced to the credit review stage for the making of a loan under the Transportation Infrastructure Finance and Innovation Act (TIFIA Loan) for the Midtown Express, not to exceed an aggregate principal amount of \$300,000,000. The department is negotiating the terms of the TIFIA Loan and various transaction documents, substantially similar to the financing documents used in TIFIA financings for the IH-35E managed lanes project and the Grand Parkway project. The proceeds of the TIFIA Loan will be used to reimburse funds of the commission expended for costs of the Midtown Express.

The master trust agreement, together with the first supplemental agreement, prescribe the terms, provisions, and covenants related to the TIFIA Loan, the execution of a loan agreement (TIFIA Loan Agreement) and the issuance of a note or bond evidencing the TIFIA Loan in the aggregate principal amount not to exceed \$300,000,000 (TIFIA Note), which shall be delivered to the USDOT in connection with the TIFIA Loan.

The obligations will be secured by the revenues from the operation of the tolled managed lane facilities of the Midtown Express. The master trust agreement, if determined by a commission representative (as defined in the master trust agreement to include the Chief Financial Officer and the Director of the Project Finance, Debt and Strategic Contracts Division of the department) (commission representative) to be necessary for the TIFIA Loan, will provide for the use of lawfully available funds of the commission to pay operating and maintenance expenses to the extent Midtown Express revenues are insufficient or unavailable and that, upon the occurrence of a catastrophic event damaging or destroying the Midtown Express, the commission will seek a legislative appropriation to the extent necessary to repair and/or replace the damaged or destroyed facilities.

The TIFIA Loan Agreement and the TIFIA Note do not constitute debts of the state or a pledge of the full faith and credit of the state and are special, limited obligations of the commission secured by and payable solely from the trust estate as defined in the master trust agreement and the first supplemental agreement.

Government Code Section 1231.041 provides that a State agency may not issue a State security unless the issuance is approved by the Texas Bond Review Board (Board) or exempted from review by the Board under law, including by Board rule.

IT IS THEREFORE ORDERED by the commission that a commission representative is authorized and directed, on behalf of the commission, to execute and deliver the trust agreement and the first supplemental agreement and issue the TIFIA Note, and such documents are approved with such changes as a commission representative executing the same may approve, such approval to be conclusively evidenced by execution of the agreements.

IT IS FURTHER ORDERED by the commission that a commission representative is hereby authorized, appointed, and designated to act on behalf of the commission in establishing the terms of the TIFIA Loan Agreement in accordance with the parameters and provisions prescribed in the master trust agreement and the first supplemental agreement, is hereby designated the borrower authorized representative for purposes of the TIFIA Loan Agreement and is hereby authorized and directed, on behalf of the commission, to execute and deliver the TIFIA Loan Agreement and the TIFIA Note, and the TIFIA Loan Agreement is approved with such changes as the commission representative executing the same may approve, such approval to be conclusively evidenced by execution of the TIFIA Loan Agreement.

IT IS FURTHER ORDERED by the commission that any necessary ancillary documents in connection with the execution of the master trust agreement, the first supplemental agreement, the TIFIA Loan Agreement and the issuance of the TIFIA Note are hereby approved and a commission representative, on behalf of the commission, is authorized and directed to execute and deliver such documents.

IT IS FURTHER ORDERED by the commission that a commission representative, on behalf of the commission, is authorized and directed to file with the Board an application for approval or exemption, as applicable, in connection with the issuance of TIFIA Note and execution delivery of the TIFIA Loan Agreement.

IT IS FURTHER ORDERED by the commission that the chairman of the commission, each member of the commission, the executive director of the department,

general counsel, and each commission representative are each authorized and directed to perform all such acts and execute such documents, including submittals to the Texas Attorney General, the Board and other parties, as may be necessary to carry out the intent of this minute order and other minute orders of the commission relating to the financing of the Midtown Express.

**ITEM 10. Toll Rate Revisions**

**Dallas and Tarrant Counties - In continuation of the project development process authorized by Minute Order 113941, dated May 29, 2014, and in accordance with Regional Transportation Council policy, consider revised toll rates for the SH 183 Managed Lanes Project (Midtown Express) along the SH 183 corridor from just east of SH 121 to near I-35E/Trinity Parkway (including the proposed Diamond Interchange Phase II, a portion of which is comprised of SH 114 from Loop 12 to SH 183) in Dallas and Tarrant Counties (MO)**

This item was presented by Transportation Planning and Engineering Section Manager Marcy Saenz. 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.

115337  
TOD

Title 43, Texas Administrative Code, §27.82(d) provides that the Texas Transportation Commission (commission) will establish toll rates for the use of a toll project on the state highway system. In setting toll rates, the commission is required to consider: (1) the results of traffic and revenue studies and any schedule of toll rates established in a traffic and revenue report; (2) the requirements of project bond covenants, if applicable; and (3) vehicle classifications, type and location of the facility, and similar criteria that apply to a specific project.

In Minute Order 113619, dated June 27, 2013, the commission designated the SH 183 Managed Lanes Project as a controlled access facility and as a toll project on the state highway system to reconstruct approximately 28 miles of existing general purpose lanes and to construct managed lanes along SH 183 from just east of SH 121 to near I-35E/Trinity Parkway (including the proposed Diamond Interchange Phase II, a portion of which is comprised of SH 114 from Loop 12 to SH 183), Loop 12 from SH 183 to I-35E and SH 114 from International Parkway to Loop 12 (Midtown Express). The Midtown Express includes concurrent flow managed tolled lanes in each direction on SH 183 from just east of SH 121 to near I-35E/Trinity Parkway and on Loop 12 from SH 183 to I-35E. The project also includes a westbound managed lane on SH 114 from International Parkway to west of SH 161 (PGBT) and concurrent flow managed tolled lanes on SH 114 in each direction from west of SH 161 (PGBT) to SH 183. The Midtown Express is an all-electronic, open road tolling managed lane facility.

The Tolled Managed Lane Policy adopted by the Regional Transportation Council (RTC) provides that a fixed pricing schedule will be applied during the first 6 months of operation. The fixed pricing schedule will be applied until all three facilities

that comprise the Midtown Express have been operational for six months, and a dynamic pricing schedule will be applied thereafter.

Pursuant to Minute Order 115018, dated August 31, 2017, the commission established toll rates at each tolling point for the Midtown Express, in accordance with the RTC Tolloed Managed Lane Policy. The managed lanes on SH 114 are already open and the toll rates for the tolling points on SH 114 established in Minute Order 115018 have been implemented. Because of adjustments to the tolling project limits along the SH 183 managed lanes corridor, the toll rates for the County Line Road (MLG 2) tolling point are being revised. No other changes are being made to the toll rates previously approved by the commission in Minute Order 115018. The toll rates for all tolling points are set forth in Exhibit A.

IT IS THEREFORE ORDERED by the commission that the department is authorized to charge tolls on the Midtown Express along SH 183 from just east of SH 121 to near I-35E/Trinity Parkway (including the proposed Diamond Interchange Phase II, a portion of which is comprised of SH 114 from Loop 12 to SH 183) in Tarrant and Dallas Counties, Loop 12 from SH 183 to I-35E, and SH 114 from International Parkway to Loop 12 in Dallas County, based on a fixed pricing schedule, in the amounts stated in Exhibit A, as previously implemented on SH 114, and beginning in October 2018 for SH 183 and Loop 12, or at such time thereafter when all toll systems have been tested and are functioning.

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

**ITEM 11. Eminent Domain Proceedings**

**Various Counties - Consider the authorization of the filing of condemnation proceedings to acquire real property by eminent domain for non-controlled and controlled access highways (MO)**

This item was presented by Right of Way Division Director Gus Cannon. Commissioner New made a motion that the Texas Transportation Commission authorize the Texas Department of Transportation to use the power of eminent domain to acquire the properties described in the minute order set forth in the agenda for the current month for construction, reconstruction, maintenance, widening, straightening, or extending the highway facilities listed in the minute order as a part of the state highway system, and that the first record vote applies to all units of property to be condemned. The motion was seconded by Commissioner Austin and the following minute order was approved by Chairman Bugg, Commissioner Austin, Commissioner Ryan, and Commissioner New (a vote of 4 - 0).

115338  
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 - JJ. 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 - 47, 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>
Bexar	IH 35	FF	0016-07-133	14
Bexar	IH 35	GG	0016-07-133	15
Bexar	IH 35	X	0016-07-133	16
Bexar	IH 35	J	0016-07-133	23
Bexar	IH 35	S	0016-07-133	24
Bexar	IH 35	K	0016-07-133	25

**CONTROLLED ACCESS (continued)**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Brazoria	SH 288	P	0598-02-124	101
Brazoria	SH 288	O	0598-02-124	102
Brazoria	SH 288	Q	0598-02-124	103
Comal	IH 35	C	0016-05-116	39
Comal	IH 35	M	0016-05-116	40
Comal	IH 35	L	0016-05-116	41
Comal	IH 35	Y	0016-05-116	42
Comal	IH 35	Z	0016-05-116	48
Comal	IH 35	W	0016-05-116	49
Comal	IH 35	V	0016-05-116	52
Dallas	IH 635	AA	2374-01-151	114OAS
Dallas	IH 635	EE	2374-02-115	74,74E
Dallas	IH 635	B	2374-02-115	75
Dallas	IH 635	R	2374-02-115	79,79E
Dallas	IH 635	A	2374-02-115	121
Dallas	IH 635	BB	2374-02-115	124OAS
Dallas	IH 635	DD	2374-02-115	125OAS
Dallas	IH 635	CC	2374-02-115	126OAS
Grimes	SH 249	D	3635-02-003	332
Grimes	SH 249	H	3635-02-003	333
Grimes	SH 249	F	3635-02-003	334A
Guadalupe	IH 35	T	0016-06-114	26
Guadalupe	IH 35	U	0016-06-114	27
Guadalupe	IH 35	I	0016-06-114	29
Harris	US 290	HH	0050-08-090	832
Liberty	US 59	II	0177-03-100	18
Liberty	US 59	JJ	0177-03-100	20
Wharton	US 59	N	0089-08-102	18
Wharton	US 59	E	0089-08-102	43
Wharton	US 59	G	0089-08-102	44

**NON-CONTROLLED ACCESS**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Anderson	US 175	12	0198-03-031	27
Anderson	US 175	11	0198-03-031	29
Austin	FM 2429	32	2320-01-013	1
Austin	FM 2429	33	2320-01-013	2
Camp	SL 255	26	3403-01-002	6
Camp	SL 255	27	3403-01-002	18
Dallas	SH 352	1	0430-01-059	16
Dallas	SH 352	2	0430-01-059	17

**NON-CONTROLLED ACCESS (continued)**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Dallas	SH 352	3	0430-01-059	18
Dallas	SH 352	4	0430-01-059	19
Dallas	SH 352	5	0430-01-059	20
Dallas	SH 352	6	0430-01-059	21,21E
Dallas	SH 352	7	0430-01-059	22
Dallas	SH 352	8	0430-01-059	23
Dallas	SH 352	9	0430-01-059	24
Denton	FM 455	10	0816-02-081	126
Fort Bend	FM 2218	13	2093-01-028	2
Fort Bend	FM 2218	28	2093-01-028	6
Fort Bend	FM 2218	29	2093-01-028	8
Fort Bend	FM 2218	44	2093-01-028	40
Fort Bend	FM 2218	42	2093-01-028	83
Fort Bend	FM 2218	14	2093-01-028	89
Grimes	SH 249	37	3635-02-003	303
Grimes	SH 249	23	3635-02-003	310
Grimes	SH 249	19	3635-02-003	312
Grimes	SH 249	21	3635-02-003	313
Grimes	SH 249	34	3635-02-003	339
Harris	FM 1960	43	1685-03-101	246
Harris	FM 1960	40	1685-03-101	253
Harris	FM 1960	39	1685-03-101	258
Harris	FM 1960	41	1685-03-101	259
Harris	FM 1960	38	1685-03-101	263
Hidalgo	FM 494	25	0864-01-073	26
Hidalgo	FM 494	30	0864-01-073	33
Hidalgo	FM 494	31	0864-01-073	34
Kleberg	US 77	47	0102-04-101	18
Kleberg	US 77	45	0102-04-101	25
Kleberg	US 77	46	0102-04-101	26
Kleberg	US 77	24	0102-04-101	28
Lubbock	FM 1585	17	1502-01-036	210
Lubbock	FM 1585	20	1502-01-036	228A
Lubbock	FM 1585	15	1502-01-037	306
Lubbock	FM 1585	16	1502-01-037	318
Montgomery	FM 1488	18	0523-09-017	112
Upton	US 385	22	0229-04-058	21,21E
Wharton	US 59	35	0089-08-102	16
Wharton	US 59	36	0089-08-102	20

Note: Exhibits A - JJ and 1 - 47 are on file with the commission chief clerk.

## **ITEM 12. 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)**

115339  
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.

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

### **Donations to the Department**

#### **Donor and Donation Description**

Central Southwest Texas Development. L.L.C. - Design and construction of a right turn deceleration lane on US 79 westbound from 0.40 miles east of FM 1460 in Round Rock.

Central Southwest Texas Development. L.L.C. - Design and construction of: 1) a right turn deceleration lane and relocation of existing bus stop eastbound on SH 29 from 0.121 miles east of IH-35 northbound frontage road to 0.191 miles east of IH 35 northbound frontage; 2) two right turn deceleration lanes on IH 35 northbound frontage road from 0.119 miles south of SH 29 to 0.383 miles south of SH 29 in Williamson County.

Century Land Holdings II, LLC dba Century LH II, LLC - Design and construction of a right turn lane at the intersection of a new subdivision street - intersecting SH 46 in Seguin.

ExxonMobil Oil Corporation - Design and construction of a turn-around bridge on Spur 380 at Virginia Avenue in Beaumont.

Fikes Wholesale, Inc. - Design and construction of a right turn deceleration lane on US 59 in front of the donor's proposed development in Jefferson.

H-E-B, 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.

Hi-Crush Permian Sand LLC - Design, construction and construction engineering inspections of highway improvements to include the addition of acceleration lanes, deceleration lanes, and installation of small roadside warning signs along FM 874 in Winkler County.

High Roller Group, LLC - Design, construction, and construction engineering inspections of highway improvements to include the addition of acceleration lane with a merging taper, a left turn lane with a taper, a shifting taper for northbound traffic, improvements to surface drainage and installation of small roadside warning signs along SH 115 in Winkler County.

Highland Star Investments, LLC Shepherds Glen Partners, LLC, and Vogel Partners, LLC - Design and construction of a right turn lane - for a new subdivision entrance on SH 46 in New Braunfels.

Jesus Alvarado - Digital file of artwork for an educational poster that is part of educational materials that TxDOT is required to produce as a result of a Memorandum of Agreement (MOA) with the Texas Historical Commission, International Boundary and Water Commission to mitigate the adverse effects to the Chihuahueta neighborhood as part of Section 106 of the National Historic Preservation Act.

Leisure Lane LLC - Design and construction of an eastbound left turn lane on FM 519 into the Virgata Property Development in Friendswood.

LGI Homes of Texas, LLC - Fixed amount of funds toward the State's cost to construct a traffic signal at the intersection of Highway US 290 and Bois D'Arc Road in Manor.

LGI Homes of Texas, LLC - Design and construction of a left turn lane from southbound FM 1489 into the Crystal Lakes development in Waller County.

Luminary Real Estate LLC - Design and construction of a southbound right turn lane on US 183 south of San Gabriel Parkway in Leander.

Nash Rancho Hills, LLC - Design and construction of an eastbound right - turn lane on SH29 to Kauffman Loop and the extension of an existing eastbound right turn lane to Bonnet Boulevard in Williamson County.

NTP35, LP - Design and construction of up to seven commercial/retail driveways, including right turn deceleration lanes from I-35W and US 287 frontage roads in Fort Worth.

Quiktrip Corporation - Design and construction of a right turn deceleration lane and storm drainage improvements on RM 1431 west of W New Hope Drive in Cedar Park.

SHFC Del Valle Land LLC - Design and construction of a right turn deceleration lane from eastbound FM 969 to an existing driveway and the construction of approximately 650 linear feet of drainage improvements in Austin.

SOCO 35 Retail, LTD. - Design and construction of right turn deceleration lanes for the two site driveways which will tie into the IH 35 southbound frontage road and right turn deceleration lanes for two site driveways which will tie into Loop 275 in Austin.

Texas Travel Industry Association - In-kind donation for the study tour of the Lower Texas Coast region 11/4-9/2018.

West Coast Development LLC - Design and construction of a right turn lane on northbound IH-35 frontage road near south of Tokio Road to provide access to the truck stop in West.

El Paso County Water Improvement District No. 1 - Donation of 0.378 acres of land from 0.142 MI S of FM 76 to 0.242 MI S of FM 76. The property being donated will be used for the construction of State Highway 20 Improvements: culverts and sidewalks.

Dorothy Catherine Baetge, Doris Regina Fassino, Milam Travis Simons III, Nancy Lee Simons, Charles Garvice (C.G) Shoemate Jr, Jean Ann Good, Richard L. Good, Robert Milam Shoemate, Patricia L. Shoemate, Haley Gayle Shoemate, And Grace Elaine Shoemate - Donation of 0.34 acres of land on SH 111. This donation will be utilized for drainage at a maintenance facility site, permanent property number 139706, on SH 111.

Total Men's Primary Care - Revenue generation through the Sponsor a Highway Program.

Total Men's Primary Care - Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

Acme Brick Company - Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

Carl Nelson Enterprises, LLC - Litter pick-up throughout a corridor on the - State's right of way through the Sponsor a Highway Program.

Golden Tree Restaurants, LLC - Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

Wheel Technologies - Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

Link Staffing - Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

Amcap Mortgage - Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

Hunt Law Firm, PLLC - Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

Mambo Management LP (dba) Mambo Seafood - Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

Perento Technologies International, LP - Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

Texas Medclinic - Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

**b. Real Estate Dispositions**

**(1) Anderson County - SL 256 at the Texas State Railroad in Palestine - Consider the sale of right of way to abutting landowners (MO)**

115340  
ROW

In Palestine, ANDERSON COUNTY, on STATE LOOP 256, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 623, Page 35, Deed Records of Anderson County, Texas.

A portion of the land (Tract 1), RCSJ 0520-09-050, 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.

Sam Coker and Donny Coker are abutting landowners and have requested to purchase Tract 1 for \$19,690.

The commission finds \$19,690 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 Sam Coker and Donny Coker for \$19,690; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's right, title, and interest, if any, in and to all of the oil, gas, sulphur, and other minerals, of every kind and character, in, on, under, and that may be produced from the land.

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

(2) Limestone County - FM 937 southeast of Groesbeck - Consider the removal from the system and transfer of control, jurisdiction, and maintenance, designation on new location, and transfer of right of way to Limestone County (MO)

115341  
ROW

In LIMESTONE COUNTY, on FARM TO MARKET ROAD 937, the state of Texas acquired certain land for highway purposes by various instruments.

Pursuant to Texas Transportation Code, §§201.103 and 221.001, the executive director has recommended, as shown on Exhibit A, that two segments of old alignment of FM 937 be removed from the state highway system, that jurisdiction, control, and maintenance be transferred to Limestone County (county), and that the two segments of FM 937 be designated on new locations.

Portions of the land (Tracts 1 and 2), RCSJ 1191-04-023, described in Exhibit B, are no longer needed for a state highway purpose.

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

The county has agreed to assume jurisdiction, control, and maintenance and has requested that Tracts 1 and 2 be transferred to the county.

IT IS THEREFORE ORDERED by the commission that 1) two segments of old alignment of FM 937 are removed from the state highway system, a total distance of 1.81 miles; 2) jurisdiction, control, and maintenance are transferred to Limestone County; and 3) two segments of FM 937 are designated on new locations, a total distance of 1.09 miles.

FURTHER, IT IS ORDERED by the commission that Tracts 1 and 2 are no longer needed for a state highway purpose. The commission recommends, subject to approval by the attorney general, that the governor of Texas execute a proper instrument transferring Tracts 1 and 2 to Limestone County, Texas; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles, and interests, if any, in and to all of the oil, gas, sulphur, and other minerals, of every kind and character, in, on, under, and that may be produced from the real property.

FURTHER, if Tracts 1 and 2 cease to be used for public road purposes, the real property shall immediately and automatically revert to this state.

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

**(3) Tarrant County - I-820, east side, south of Clifford Street in White Settlement - Consider the sale of a drainage easement (MO)**

115342  
ROW

In White Settlement, TARRANT COUNTY, on INTERSTATE 820, the state of Texas acquired an easement interest in certain land for highway drainage purposes by instruments recorded in Volume 5727, Page 249, and Volume 5170, Page 408, Deed Records of Tarrant County, Texas.

A portion of the easement (Tract 1), RCSJ 0008-15-055, shown on Exhibit A, is no longer needed for a state highway purpose.

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

FBP Clifford, LLC, is the owner of the fee in the property and has requested to purchase Tract 1 for \$67,350.

The commission finds \$67,350 to be a fair and reasonable value for the state's right and interest in Tract 1.

IT IS THEREFORE ORDERED by the commission that Tract 1 is no longer needed for a state highway purpose. The commission recommends, subject to approval of the attorney general, that the governor of Texas execute a proper instrument releasing the state's right and interest in Tract 1 to FBP Clifford, LLC, for \$67,350.

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

**(4) Travis County - US 183, old location on Airport Boulevard at Manor Road in Austin - Consider the sale of right of way to the abutting landowner (MO)**

115343  
ROW

In Austin, TRAVIS COUNTY, on US HIGHWAY 183, the state of Texas acquired certain land for highway purposes by instrument recorded in Volume 687, Page 631, Deed Records of Travis County, Texas.

A portion of the land (Tract 1), RCSJ 0151-06-145, 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.

Austin Trust Company, Trustee of the Lucinda Reed Terry Trust under the Will of Ross D. Terry, Deceased, is the abutting landowner and has requested to purchase Tract 1 for \$310,000.

The commission finds \$310,000 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 Austin Trust Company, Trustee of the Lucinda Reed Terry Trust under the Will of Ross D. Terry, Deceased, for \$310,000; 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) Williamson County - BU 79-B, 4th Street in Taylor - Consider the removal from the system, transfer of control, jurisdiction, and maintenance, and transfer of right of way to the City of Taylor (MO)**

115344  
ROW

In Taylor, WILLIAMSON COUNTY, on BUSINESS US 79-B, 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 BU 79-B be removed from the state highway system, a distance of 1.5 miles, from SH 95 eastward to US 79, and that jurisdiction, control, and maintenance be transferred to the City of Taylor (city).

A portion of the land (Tract 1), RCSJ 0204-04-047, 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 right of way for public road purposes.

The city has agreed 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 BU 79-B is removed from the state highway system, a distance of 1.5 miles, from SH 95, eastward to US 79, and jurisdiction, control, and maintenance are transferred to the city.

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 Tract 1 to the City of Taylor, Texas; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of the state's rights, titles, and interests, if any, in and to all of the oil, gas, sulphur, and other minerals, of every kind and character, in, on, under, and that may be produced from the real property.

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

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

**c. Reports**

**(1) Compliance Division report**

Note: Confidential report to commission.

(2) Environmental Hearing Report  
Considering the acceptance of the Environmental Impact Statement - Positive,  
Negative, or Neutral Public Comments Report for the April 2018 public hearing on  
SH 68 from I-2/US 83 to I-69C/US 281 in Hidalgo County (Report)

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

**d. Finance**

**(1) Various Counties - Consider concurrence with the Regional Transportation Council of the North Central Texas Council of Governments' funding of construction and other project development costs of projects to be advanced through the use of payments received from the North Texas Tollway Authority in accordance with the SH 121 Toll Project Agreement (MO)**

115345  
 TPP

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

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

The department has created subaccounts in the state highway fund to hold the payments received from the North Texas Tollway Authority (NTTA) for the right to develop, finance, design, construct, operate, and maintain the SH 121 toll project from Business SH 121 in Denton County to US 75 in Collin County (SH 121 payments).

Pursuant to Transportation Code, §228.012, the SH 121 payments may be used to pay the costs of a transportation project, highway project, or air-quality project within a region in which any part of the SH 121 toll project is located. Money must be allocated to projects authorized by Transportation Code, §228.0055 or §228.006, as applicable. An air-quality project is a project or program of the department or another governmental entity that the Texas Transportation Commission (commission) determines will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads.

In Minute Order 110727, dated October 26, 2006, the commission approved, and authorized the department's executive director to enter into, a memorandum of understanding (MOU) with the Regional Transportation Council (RTC), the transportation policy council of the North Central Texas Council of Governments (NCTCOG), a federally designated MPO, concerning the administration, sharing, and use of surplus toll revenue and CDA concession payments in the region served by the NCTCOG. The SH 121 toll project is located in the region served by the NCTCOG.

Responsibility for allocating the SH 121 payments has been assigned to the RTC under the MOU. The MOU provides that the selection of projects to be financed using those funds shall be made by the RTC, subject to commission concurrence. The projects are to be selected through a process which considers the desires of the cities and counties in which the project is located. The RTC has developed a plan for regional sharing of surplus toll revenue and CDA concession payments, based on the location of the toll project from which these revenues are derived and the residential location of toll users in the region served by the NCTCOG.

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

The department has established a work program to account for and track projects and project costs in the NCTCOG Metropolitan Planning Area (MPA) boundary funded with the SH 121 payments. In previous minute orders, the commission concurred with certain projects identified by the RTC to be funded with those payments, and approved the placement of those projects in the work program. The RTC, through an extensive public involvement process, has identified additional project costs in the NCTCOG MPA boundary to be funded with the SH 121 payments, as shown in Exhibit A. The RTC has also identified changes to the list of previously-approved projects, which are shown in Exhibit B. A summary of funds associated with the SH 121 work program is set forth in Exhibit C, which is included for informational purposes only.

**IT IS THEREFORE ORDERED** by the commission that, pursuant to the MOU and Minute Order 112015, it concurs with the projects shown in Exhibit A that have been selected by the RTC to be funded with the SH 121 payments, and approves the placement of the projects in the work program with CONSTRUCT authority, to be developed consistent with applicable state and federal laws, regulations, and procedures. Pursuant to the finding of the RTC, the commission determines that the projects shown in Exhibit A are transportation or highway projects, or air-quality projects that will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads, and are therefore eligible to be funded with the SH 121 payments. The commission also concurs with the changes to the list of previously-approved projects as shown in Exhibit B.

**IT IS FURTHER ORDERED** that, unless otherwise approved by the commission, all direct costs associated with the projects for which federal and state funds have not been allocated shall be charged to this work program, including the costs of right of way acquisition, preliminary engineering, and construction engineering. The costs of department staff incurred in the development, procurement, and construction of on-system projects to be funded from the SH 121 payments subaccounts will not themselves be funded from the SH 121 payments subaccounts. Funds from the SH 121

payments subaccounts that were used to reimburse the costs of department staff will be returned to the subaccounts without interest at least quarterly.

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

(2) Various Counties - Consider concurrence with the Regional Transportation Council of the North Central Texas Council of Governments' funding of construction and other project development costs of projects to be advanced through the use of payments received from the North Texas Tollway Authority in accordance with the SH 161 Toll Project Agreement (MO)

115346  
TPP

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

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

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

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

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

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

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

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

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

IT IS THEREFORE ORDERED by the commission that, pursuant to the MOU and Minute Order 112015, it concurs with the projects shown in Exhibit A that have been selected by the RTC to be funded with the SH 161 payments, and approves the placement of the projects in the work program with CONSTRUCT authority, to be developed consistent with applicable state and federal laws, regulations, and procedures. Pursuant to the finding of the RTC, the commission determines that the projects shown in Exhibit A are transportation or highway projects, or air-quality projects that will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads, and are therefore eligible to be funded with the SH 161 payments. The commission also concurs with the changes to the list of previously-approved projects shown in Exhibit B.

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

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

**e. Designation of Access Control**

**Waller County - US 290, in the City of Prairie View - Consider the designation of one location on the US 290 east-bound entrance ramp at which access will be permitted to the abutting property (MO)**

115347  
DES

In WALLER COUNTY, on US HIGHWAY 290 (US 290), a designated controlled-access highway, the State of Texas acquired certain land for highway purposes by instrument recorded in Volume 449, Pages 640 thru 645, of the Deed Records of Waller County, Texas, with denial of access to the abutting remainder property as described in the instrument.

The Estate of Herbert C. Kirby and Lillian E. Kirby, the current property owner of the abutting property, has requested that access to and from the eastbound entrance ramp of US 290 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 line described in Exhibit A as a location where ingress and egress are permitted to and from the eastbound entrance ramp of US 290.

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. Speed Zones**

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

115348  
TRF

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

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

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

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

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

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

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

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

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

**ITEM 13. Executive Session Pursuant to Government Code, Chapter 551 Section 551.071 - Consultation with and advice from legal counsel regarding any item on this agenda, pending or contemplated litigation, or other legal matters.**

The commission did not meet in executive session.

**OPEN COMMENT PERIOD - At the conclusion of all other agenda items, the commission will allow an open comment period, not to exceed one hour, to receive public comment on any other matter that is under the jurisdiction of the department. No action will be taken. Each speaker will be allowed a maximum of three minutes. Speakers must be signed up prior to the beginning of the open comment period.**

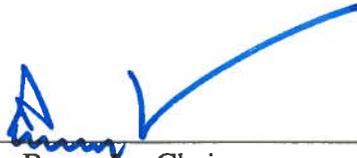
The commission received no further comments.

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 10:57 a.m.

September 27, 2018

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APPROVED by the Texas Transportation Commission on October 25, 2018:



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

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I hereby certify that the above and foregoing pages constitute the full, true, and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on September 27, 2018, in Austin, Texas.



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Robin Carter, Commission Chief Clerk  
Texas Department of Transportation