

These are the minutes of the regular meeting of the Texas Transportation Commission held on October 29, 2020, in Austin, Texas. Due to COVID-19 and the Governor’s Proclamation of March 13, 2020, declaring a state of disaster for all counties in Texas, the meeting was conducted with the commissioners at the dais and the public accessing the meeting via www.txdot.gov and a toll free telephone line. The meeting was called to order at 10:00 a.m. by Chairman Bugg.

Texas Transportation Commission:

J. Bruce Bugg, Jr.	Chairman
Laura Ryan	Commissioner
Alvin New	Commissioner
Robert C. Vaughn	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 10:16 a.m. on October 21, 2020, as required by Government Code, Chapter 551, referred to as “The Open Meetings Act.”

ITEM 1. Meeting Guidelines

Executive Director James Bass provided guidance and instruction for the meeting. The public was invited to watch and listen to the meeting through the Texas Department of Transportation website, www.txdot.gov. In addition, for those members of the public who wanted to make a comment on an agenda item or comment during the open comment period of the meeting a toll free number was provided on the agenda and the callers were assisted by operators on the call.

ITEM 2. Consider the approval of the Minutes of the September 24, 2020, regular meeting of the Texas Transportation Commission

Commissioner New made a motion, which was seconded by Commissioner Vaughn, and the commission approved the minutes of the September 24, 2020, regular meeting by a vote of 4 - 0.

ITEM 3. Contracts

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

a. Highway Improvement and Other Transportation Facilities (MO)

This item was presented by Executive Director James Bass. Commissioner Ryan made a motion, which was seconded by Commissioner Vaughn, 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 October 1 and 2, 2020, 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. Routine Maintenance (MO)

This item was presented by Executive Director James Bass. 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.

115869
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 October 1 and 2, 2020, 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 Executive Director James Bass. Commissioner New made a motion, which was seconded by Commissioner Vaughn, and the commission approved the following minute order by a vote of 4 - 0.

115870
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 October 6, 2020, 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. Discussion Item

Potential addition to the 2021 Unified Transportation Program (Presentation)

This discussion was led by Project Planning and Development Director Brian Barth. The commission asked questions and discussed the topic.

ITEM 5. Aviation

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

This item was presented by Deputy Executive Director Marc Williams. 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.

115871
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, federal apportionment grant funds, and state grant funds for the improvements.

On September 25, 2020, 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, subject to applicable federal and state requirements, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in Exhibit A.

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

ITEM 6. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

Rules Review

Consider the re-adoption of Title 43 Texas Administrative Code Chapter 2, Environmental Review of Transportation Projects, Chapter 7, Rail Facilities, Chapter 26, Regional Mobility Authorities, Chapter 28, Oversize and Overweight Vehicles and Loads, Chapter 30, Aviation, and Chapter 31, Public Transportation, in accordance with Government Code, §2001.039 (MO)

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

115872
GCD

Government Code, §2001.039 requires state agencies to review each of their rules every four years to consider whether the reason for adopting each rule continues to exist. If as the result of the review an agency determines that the reasons for initially adopting the rule continue to exist, the agency may readopt the rule in accordance with §2001.039.

During August 2020, the Texas Department of Transportation reviewed Title 43 Texas Administrative Code, Part 1, Chapter 2, Environmental Review of Transportation Projects, Chapter 7, Rail Facilities, Chapter 26, Regional Mobility Authorities, Chapter 28, Oversize and Overweight Vehicles and Loads, Chapter 30, Aviation, and Chapter 31, Public Transportation. The Notice of Intent to review was published in the *Texas Register* on July 31, 2020 (45 TexReg 5365).

No comments were received regarding this rule review.

The Texas Transportation Commission (commission) finds that the reasons for adopting these rules continue to exist.

IT IS THEREFORE ORDERED by the commission that the reviewed rules are readopted and that the executive director provide for filing with the Office of the Secretary of State, Texas Register Division, a notice readopting these rules.

ITEM 7. State Infrastructure Bank

Wharton County - City of Wharton - Consider preliminary approval of a request from the City of Wharton for a State Infrastructure Bank loan in the amount of up to \$15,000,000 to pay for the costs of right of way acquisition, engineering, and construction necessary for a non-tolled project to extend FM 1301 at SH 60 to US 59 in Wharton County, Texas (MO)

This item was presented by Executive Director James Bass. 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.

115873
PFD

The City of Wharton (City) has submitted an application for financial assistance in the form of a loan of up to \$15,000,000 from the State Infrastructure Bank (SIB) under Transportation Code, Chapter 222, Subchapter D, and Title 43 Texas Administrative Code (TAC), Chapter 6 (SIB Rules). The application satisfies all requirements of the rules, including passage by the City of a resolution authorizing submission of the application to the Texas Department of Transportation (department).

The intended use of the financial assistance conforms to the purposes of the SIB. The City intends to use the financial assistance to pay for the costs of right of way acquisition, engineering, and construction necessary for a non-tolled project to extend FM 1301 at SH 60 to US 59 in Wharton County, Texas (project).

The present and projected financial condition of the SIB is sufficient to cover the requested financial assistance for the project.

The City has proposed a pledge of ad valorem taxes and limited net revenues as security for repayment of the loan.

The SIB Rules provide for both preliminary and final approval by the Texas Transportation Commission (commission) of any SIB loan in the principal amount of more than \$10 million or in which the department does not have primary responsibility, unless the commission waives the preliminary approval requirement for that application.

The executive director or his designee implemented actions authorized and required by the SIB Rules for preliminary approval. The executive director recommends that the commission grant preliminary approval of the City's application for financial assistance from the SIB.

In accordance with the SIB Rules, the commission finds that:

1. the project is consistent with the Statewide Long-Range Transportation Plan and the metropolitan transportation plan developed by the applicable metropolitan planning organization;

- 2. the project is in a Clean Air Act non-attainment area and is consistent with the Statewide Transportation Improvement Program, with the conforming plan and Transportation Improvement Program for the MPO in which the project is located, and with the State Implementation Plan;
- 3. the project will improve the efficiency of the state’s transportation systems;
- 4. the project will expand the availability of funding for transportation projects or reduce direct state costs; and
- 5. the application shows that the City is likely to have sufficient revenues to assure repayment of the financial assistance.

IT IS THEREFORE DETERMINED AND ORDERED by the commission that the application submitted by the City for financial assistance in the form of a loan from the SIB meets the applicable requirements of the SIB Rules and, in accordance with those provisions, the commission grants preliminary approval of the City’s application for a SIB loan in an amount not to exceed \$15,000,000 to pay the City’s costs of right of way acquisition, engineering and construction necessary for the non-tolled project.

IT IS FURTHER ORDERED by the commission that the executive director or his designee is directed and authorized to commence negotiations and other actions with the City authorized and required by its rules.

ITEM 8. Municipal Utility Relocation Reimbursement

DeWitt County - Consider the approval of a request from the City of Nordheim (City) to make the relocation of the city’s utility facilities required by the SH 72 highway improvement project an expense of the state under Transportation Code, §203.092(a-4) (MO)

This item was presented by Executive Director James Bass. 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.

115874
ROW

The Texas Department of Transportation (department) has a state highway project in DeWitt County, on State Highway 72, that requires the relocation of utility facilities. The City of Nordheim owns certain of these utility facilities.

Transportation Code, §203.092(a-4) authorizes the Texas Transportation Commission (commission) to determine that certain publicly-owned utilities are eligible for utility facility relocation at the expense of the state. The City of Nordheim has requested that the commission determine that the relocation of their utility facilities be at the expense of the state. The department estimates the amount of expense will be \$1.39 million.

The commission finds and determines that the City of Nordheim meets the eligibility standards contained in that statute and that the department’s expenditures under Transportation Code, §203.092(a-4) and Texas Administrative Code, Chapter 12, Subchapter B, Rule 21.25, including the request by the City of Nordheim, will not exceed the fiscal year limitation contained in the Transportation Code §203.092(e).

IT IS THEREFORE ORDERED by the commission that the relocation of the City of Nordheim’s utility facility required by the improvement of the state highway system is an expense of the state to be paid by the department.

ITEM 9. 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 Executive Director James Bass. Commissioner Vaughn 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 New and the following minute order was approved by Chairman Bugg, Commissioner Ryan, Commissioner New, and Commissioner Vaughn (a vote of 4 - 0).

115875
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 1-54 in accordance with Transportation Code, Sections 203.002 and 203.003.

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

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

IT IS FURTHER ORDERED that the executive director is hereby authorized to proceed to condemnation on the parcels and directed to transmit or cause to be transmitted this request of the commission to the Office of the Attorney General to file or cause to be filed against all owners, lienholders, and any owners of any other interests in the parcels, proceedings

in condemnation to acquire in the name of and on behalf of the state, fee simple title to each parcel or such lesser estates or property interests as are more fully described in each of the attached Exhibits, save and excepting oil, gas, and sulfur, as provided by law, as follows:

CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Brazos	FM 2818	E	2399-01-079	7
Denton	IH 35	D	0195-02-079	49
Denton	IH 35E	A	0196-01-100	20,20E
Ellis	IH 45	II	0092-03-054	4E
Ellis	IH 45	C	0092-03-054	5
Galveston	IH 45	L	0500-04-139	520
Galveston	IH 45	K	0500-04-139	527
Liberty	SH 99	GG	3510-09-004	1216
Madison	US 190	HH	0117-10-002	538
Tarrant	IH 820	AA	0008-13-242	473A
Tarrant	IH 820	BB	0008-13-242	473B
Tarrant	IH 820	CC	0008-13-242	500A
Tarrant	IH 820	FF	0008-13-242	511
Tarrant	IH 820	S	0008-13-242	534
Tarrant	IH 820	T	0008-13-242	535
Tarrant	IH 820	U	0008-13-242	536
Tarrant	IH 820	DD	0008-13-242	594A
Tarrant	IH 820	V	0008-13-242	779,779 OAS
Tarrant	IH 820	EE	0008-13-242	780
Tarrant	IH 820	Q	0008-13-242	781
Tarrant	IH 820	R	0008-13-242	782
Tarrant	IH 820	Z	0008-13-242	786
Tarrant	IH 820	W	0008-13-242	787
Tarrant	IH 820	X	0008-13-242	789
Tarrant	IH 820	Y	0008-13-242	790
Tarrant	IH 35W	G	0081-12-049	218
Tarrant	IH 35W	H	0081-12-049	219A
Tarrant	IH 35W	P	0081-12-049	234,234E
Tarrant	IH 35W	I	0081-12-049	235,235E
Tarrant	IH 35W	J	0081-12-049	240
Tarrant	IH 35W	O	0081-12-049	248E
Tarrant	IH 35W	N	0081-12-049	251A,251AE
Tarrant	IH 35W	M	0081-12-049	268,268E
Tarrant	IH 35W	B	0081-12-049	278
Tarrant	IH 35W	F	0081-12-049	309
Walker	IH 45	JJ	0675-07-104	35

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Brazoria	SH 36	25	0188-05-031	108
Brazoria	SH 36	49	0188-05-031	406E
Brazos	FM 2818	14	2399-01-079	5
Brazos	FM 2818	15	2399-01-079	6

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Brazos	FM 2818	16	2399-01-079	8
Collin	FM 2514	11	2679-03-017	19
Coryell	SH 236	28	0513-01-019	1
Coryell	SH 236	29	0513-01-019	2,2E,2TE
Coryell	SH 236	30	0513-01-019	3TE
Denton	FM 455	17	0816-03-023	1
Denton	FM 455	18	0816-03-023	2
Denton	FM 455	19	0816-03-023	3
Denton	FM 455	20	0816-03-024	1
Denton	FM 455	21	0816-03-024	2
Denton	FM 455	22	0816-03-024	3
Harris	US 90U	31	0028-01-093	213
Harris	US 90U	35	0028-01-093	215
Harris	US 90U	38	0028-01-093	218
Harris	FM 1960	43	1685-01-104	26
Hidalgo	FM 676	24	1064-01-038	35
Hidalgo	FM 676	10	1064-01-038	66
Hidalgo	FM 676	27	1064-01-038	92
Hidalgo	FM 676	26	1064-01-038	133
Hidalgo	FM 676	13	1064-01-038	137
Montague	US 82	42	0044-04-062	71
Montague	US 82	51	0044-04-062	90B
Montague	US 82	52	0044-04-062	90C
Montague	US 82	45	0044-04-062	112
Montague	US 82	44	0044-04-062	114
Montague	US 82	40	0044-04-063	31
Montague	US 82	46	0044-04-063	39
Montague	US 82	47	0044-04-063	41,41E
Montague	US 82	41	0044-04-063	43
Montague	US 82	48	0044-04-063	46
Montgomery	SH 105	34	0338-04-072	9
Montgomery	SH 105	23	0338-04-072	10
Montgomery	SH 105	36	0338-04-072	27
Montgomery	SH 105	53	0338-04-072	35
Montgomery	SH 105	50	0338-04-072	44
Montgomery	SH 105	32	0338-04-073	239
Montgomery	SH 105	37	0338-04-073	277
Montgomery	SH 105	54	0338-04-073	290
Montgomery	SH 105	33	0338-04-073	315
Rockwall	FM 548	5	2588-02-009	91
Rockwall	FM 548	1	2588-02-009	92
Rockwall	FM 548	3	2588-02-009	96
Rockwall	FM 548	6	2588-02-009	97
Rockwall	FM 548	2	2588-02-009	98
Rockwall	FM 548	7	2588-02-009	99
Rockwall	FM 548	4	2588-02-009	100
Rockwall	FM 548	9	2588-02-009	101

NON-CONTROLLED ACCESS

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Rockwall	FM 548	8	2588-02-009	102
Smith	FM 2493	12	0191-03-087	3
Smith	FM 16	39	0522-04-035	72

Note: Exhibits A - JJ and 1 - 54 are on file with the commission chief clerk.

ITEM 10. Routine Minute Orders and Reports

This item was presented by Executive Director James Bass. Two persons commented during this item, but it is believed they intended to comment during the Open Comment period: private citizen Neil Ehardt and private citizen Susan Graham, both with the Stop TxDOT I-45 organization. Commissioner New 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)

115876
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 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 B 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 and B.

Donations to the Department

<u>Donor</u>	<u>District</u>	<u>County</u>	<u>Donation Description</u>
Amazon.com Services LLC	HOU	Fort Bend	Design and construction of an additional left turn lane and signal modifications to the existing traffic signal from westbound FM1093 into the donor's development in Richmond.
Apple Inc.	AUS	Travis Williamson	Design and construction of intersection improvements for signal modifications, one median break, two eastbound left turn lanes, and three westbound right turn lanes on Parmer Land and Dallas Drive in Austin.
A-S 151 NWC Fort Bend Pkwy-Hwy 6, L.P.	HOU	Fort Bend	Design and construction of two deceleration lanes and one acceleration lane from westbound SH 6 into the donor's development in Missouri City.
Centex Las Estancias 2, L.P.	AUS	Hays	Design and funds to cover the State's cost to construct a left turn and deceleration lane for the Las Estancias 2 subdivision on SH 21 in Hays County.
Clayton Properties Group, Inc. dba Brohn Homes	AUS	Hays	Design and construction of left turn and deceleration lanes on SH 21 at Haywood Manor and Yarrow Way in San Marcos.
Dlugosch III, LLC	CRP	Karnes	Design and a fixed amount of funds towards the state's cost of construction of a dedicated left turn lane, right turn lane and signal improvements in Karnes County.
First GL Conroe, LLC	HOU	Montgomery	Design and construction of a protected left turn lane from westbound SH 242 into the donor's development in Conroe.

Donations to the Department

<u>Donor</u>	<u>District</u>	<u>County</u>	<u>Donation Description</u>
Forestar (USA) Real Estate Group, Inc.	SAT	Bexar	Design and construction for widening a section of Loop 1604 approximately 2,000 LF north of FM 143 to accommodate a left turn deceleration lane into the Applewood Ranch development in San Antonio.
HM Parkside Development, Inc.	AUS	Williamson	Design and construction of a left turn and right turn deceleration lanes on RM 2243 at the Greenview Drive intersection in Georgetown.
JBM Interests LLC	WFS	Cooke	Design and construction of two right turn deceleration lanes on Hwy 82 west bound into a new Bailey Ranch Estates subdivision in Lindsay.
Libertas Tyler, LLC	TYL	Smith	Design and construction of the fourth leg of an existing three-legged intersection into the donor's development on South Southeast Loop 323 in Tyler.
Mackenzie Creek, Ltd.	HOU	Montgomery	Design and construction of a traffic signal on Loop 336 at Barton Woods Blvd. in Conroe.
Miralomas Development Corporation	SAT	Kendall	Design and construction of roadway widening to accommodate left and right turn lanes on SH 46 starting 430 feet north of Monarca and continuing north for 1200 feet in Kendall County.
North Texas Archeological Society	ENV	Denton	In-kind contribution of approximately 288 volunteer hours provided by donor's members as participants in archaeological screening and artifact analysis for sites within the FM 455 project area (CSJ: 0816-02-072) in Sanger.
QuikTrip Corporation	SAT	Medina	Design and construction of an existing signal by upgrading the radar detection and relocating one of the existing signal poles to accommodate a proposed driveway on SH 173 in Devine.
Rankin 45 Industrial, LLC	HOU	Harris	Design and construction of a traffic and pedestrian signal poles and signal heads from westbound and eastbound Rankin Road at the intersection of the North Freeway northbound frontage road in Houston.

Donations to the Department

<u>Donor</u>	<u>District</u>	<u>County</u>	<u>Donation Description</u>
San Manuel Properties, LLC	SAT	Bexar	Design and construction of the eastbound frontage road of Loop 1604 from SH 16 to the proposed driveway access point to the tract at the southeast corner of Loop 1604 and SH 16 in Bexar.
Smiley Face Ranch, LLC	AUS	Bastrop	Funds towards the State's cost to design and construct a center turn lane on SH 304 from 0.5 miles south of La Reata Trail to 1.0 miles south of La Reata Trail in Bastrop County.
Sun NG Whitewater RV LLC	SAT	Comal	Design and construction of an extension to an existing two-way left turn lane, a right turn lane, shoulder improvements and relocation of existing roadside flashing beacon on FM 306 in Comal County.
TG East Wind Project, LLC	CHS	Knox Foard	Funds sufficient to cover the State's cost to repair roadway damages due to increased wind farm construction traffic cause by TG East Wind Project, LLC Knox and Foard Counties.
TRG Avery Ranch LLC	AUS	Williamson	Funds towards the State's costs to design and construct a right turn deceleration lane on US 183A northbound frontage road, north of Avery Ranch Road in Cedar Park.
Willis Hillside RV Resort LLC	HOU	Montgomery	Design and construction of a left turn lane and road widening from west bound 1097 East into the Willis Hillside RV Resort, LLC development in Willis.
Total Men's Primary Care	DAL	Collin	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.
The Inspection House	DAL	Dallas	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.
Link Staffing	FTW	Tarrant	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.
AMCAP Mortgage, LTD.	HOU	Brazoria	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

Donations to the Department

<u>Donor</u>	<u>District</u>	<u>County</u>	<u>Donation Description</u>
Mambo Management LP (dba) Mambo Seafood	HOU	Fort Bend	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.
AMCAP Mortgage, LTD.	HOU	Harris	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.
Gallery Model Homes, Inc. DBA Gallery Furniture	HOU	Harris	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.
Nations Reliable Lending, LLC	HOU	Harris	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.
Nationwide Specialty Finance, Inc (dba) Drive Away	HOU	Harris	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.
Silvestri Investments, Inc.	HOU	Harris	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

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

b. Real Estate Dispositions

(1) Cherokee County - SH 21 - Consider the sale of right of way to an abutting landowner (MO)

115877
ROW

In Cherokee County, on SH 21, the State of Texas acquired certain land for highway purposes by an instrument recorded in Volume 140, at Page 252, Deed Records of Cherokee County, Texas.

A portion of the land, which portion is described in Exhibit A, (the tract), 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 (the commission) may recommend the sale of any interest in right of way no longer needed for a state highway purpose to abutting and adjoining landowners.

Sunny T. Connelly is an abutting landowner and has requested to purchase the tract for \$5,500.

The commission finds \$5,500 to be a fair and reasonable value of the state's right, title, and interest in the tract.

IT IS THEREFORE ORDERED by the commission that the tract is no longer needed for a state highway purpose. The commission authorizes the executive director of the department to execute a proper instrument conveying all of the state's right, title, and interest in the tract to Sunny T. Connelly for \$5,500; SAVE AND EXCEPT, however, there is to be excepted and reserved therefrom 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) Collin County - FM 546 - Consider the removal from the system, transfer of jurisdiction, control, and maintenance, and transfer of right of way to the City of McKinney, Texas (MO)

115878
ROW

In the City of McKinney, Collin County, on FM 546, the State of Texas acquired certain land for highway purposes.

A portion of the land, which portion is described as the right of way of FM 546 lying east of the line described in Exhibit A to and including the land described in Exhibit B, (the tract), 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 (the commission) may recommend the transfer of highway right of way to a governmental entity that is assuming or has assumed jurisdiction, control, and maintenance of the right of way for public road purposes. If, in the future, the tract is no longer used for public road purposes, the tract shall immediately and automatically revert to the State of Texas.

The City of McKinney, Texas (the city) is assuming or has assumed jurisdiction, control, and maintenance and has requested that the tract be transferred to the city.

IT IS THEREFORE ORDERED by the commission that the tract, described as the right of way of FM 546 lying east of the line described in Exhibit A to and including the land described in Exhibit B, is removed from the state highway system.

IT IS FURTHER ORDERED by the commission that the tract 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 the tract to the City of McKinney, Texas; SAVE AND EXCEPT, however, there is to be excepted and reserved therefrom 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.

IT IS FURTHER ORDERED that, if the tract ceases to be used for public road purposes, it shall immediately and automatically revert to the state.

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

(3) Collin County - SH 78 - Consider the sale of right of way to an abutting landowner (MO)

115879
ROW

In the City of Wylie, Collin County, on SH 78, the State of Texas acquired certain land for highway purposes by an instrument recorded in Volume 5140, at Page 2534, Official Public Records of Real Property of Collin County, Texas.

A portion of the land, which portion is described in Exhibit A, (the tract), 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 (the commission) may recommend the sale of any interest in right of way no longer needed for a state highway purpose to abutting and adjoining landowners.

Wylie Industrial Court Development, Ltd. is an abutting landowner and has requested to purchase the tract for \$70,640.

The commission finds \$70,640 to be a fair and reasonable value of the state's right, title, and interest in the tract.

IT IS THEREFORE ORDERED by the commission that the tract 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 the tract to Wylie Industrial Court Development, Ltd. for \$70,640; SAVE AND EXCEPT, however, there is to be excepted and reserved therefrom 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) Collin County - SH 78 - Consider the sale of right of way to an abutting landowner (MO)

115880
ROW

In the City of Wylie, Collin County, on SH 78, the State of Texas acquired certain land for highway purposes by an instrument recorded in Volume 5140, at Page 2534, Official Public Records of Real Property of Collin County, Texas.

A portion of the land, which portion is described in Exhibit A, (the tract), 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 (the commission) may recommend the sale of any interest in right of way no longer needed for a state highway purpose to abutting and adjoining landowners.

Wylie Economic Development Corporation is an abutting landowner and has requested to purchase the tract for \$77,000.

The commission finds \$77,000 to be a fair and reasonable value of the state’s right, title, and interest in the tract.

IT IS THEREFORE ORDERED by the commission that the tract 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 the tract to Wylie Economic Development Corporation for \$77,000; SAVE AND EXCEPT, however, there is to be excepted and reserved therefrom 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) Denton County - SH 114 - Consider the sale of right of way to an abutting landowner (MO)

115881
ROW

In the City of Roanoke, Denton County, on SH 114, the State of Texas acquired certain land for highway purposes by an instrument recorded in document 93-R0016539, Deed Records of Denton County, Texas.

A portion of the land, which portion is described in Exhibit A, (the tract), 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 (the commission) may recommend the sale of any interest in right of way no longer needed for a state highway purpose to abutting and adjoining landowners.

WWC Services, Inc. is an abutting landowner and has requested to purchase the tract for \$197,325.

The commission finds \$197,325 to be a fair and reasonable value of the state’s right, title, and interest in the tract.

IT IS THEREFORE ORDERED by the commission that the tract 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 the tract to WWC Services, Inc. for \$197,325; SAVE AND EXCEPT, however, there is to be excepted and reserved therefrom 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) Hidalgo County - I-2 - Consider the sale of right of way to the City of Weslaco, Texas (MO)

115882
ROW

In the City of Weslaco, Hidalgo County, on I-2, the State of Texas acquired certain land for highway purposes by an instrument recorded in Volume 1041, at Page 200, Deed Records of Hidalgo County, Texas.

A portion of the land, which portion is described in Exhibit A, (the tract) 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 (the commission) may recommend the sale of any interest in right of way no longer needed for a state highway purpose to a governmental entity with the authority to condemn the property.

The City of Weslaco, Texas, is a governmental entity with the authority to condemn the property and has requested to purchase the tract for \$670,000.

The commission finds \$670,000 to be a fair and reasonable value of the state's right, title, and interest in the tract.

IT IS THEREFORE ORDERED by the commission that the tract 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 the tract to the City of Weslaco, Texas for \$670,000; SAVE AND EXCEPT, however, there is to be excepted and reserved therefrom 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. Reports

(1) Compliance Division report

Note: Confidential report to commission.

(2) Letting Allocation Status Report

Quarterly status report on the FY 2020 letting allocation, the actual allocation utilized through the current month, and proposed remaining highway maintenance and construction contract letting for the fiscal year (Report)

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

(3) State Highway Fund 6 Report
Quarterly report on FY 2020 State Highway Fund 6 cash status (Report)

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

(4) Grimes and Montgomery Counties - Report of the toll rate escalation percentage and escalated toll rates for the SH 249 System, comprised of Segment 1 of the SH 249 Project extending SH 249 from FM 1774 in Pinehurst to FM 1774 in Todd Mission (Report)

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

(5) El Paso County - Report of the toll rate escalation percentage and escalated toll rates for the Border West Expressway Project (formerly known as the Loop 375 Border Highway West Extension Project) (Report)

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

(6) Travis and Williamson Counties - Report of the toll rate escalation percentage and escalated toll rates for the Central Texas Turnpike System, consisting of the SH 130 (Segments 1-4), SH 45N, Loop 1 (from FM 734 to SH 45N), and SH 45SE project elements (Report)

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

(7) Various Counties - Report of the toll rate escalation percentage and escalated toll rates for portions of SH 99 (Grand Parkway) consisting of the tolled portion of Segment D in Harris County, Segments E, F-1, F-2, G, H, I-1, and I-2B, and for the existing tolling points on the portion of Segment I-2 from I-10 to Fisher Road (Segment I-2A) (Report)

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

d. Economically Disadvantaged Counties Program (EDCP) 2021
Various Counties - Consider the certification of eligible counties for the 2021 Economically Disadvantaged Counties Program and establish local match adjustments for each county and certain cities (MO)

115883
TPP

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

Transportation Code, §222.053(a-1), provides that, notwithstanding Transportation Code §222.053(a), a county is considered to be an “economically disadvantaged county” if it meets the criteria as laid out in subsection (a) within the past six years and has been included in no less than five federally declared disasters within the same time period. Transportation Code, §222.053(a-2), provides that, for a county described by subsection (a-1), the adjustment to the local matching funds requirement shall be equivalent to the highest adjustment rate set in the last year the county was considered to meet the criteria.

Transportation Code, §222.053(c), directs the Texas Transportation Commission (commission), when evaluating a proposal for a highway project in a political subdivision that consists of all or a portion of an economically disadvantaged county, to adjust the minimum

local matching funds requirement after evaluating the political subdivision's effort and ability to meet the requirement.

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

Title 43 TAC §15.55(b)(2) provides that, for a county described by Transportation Code, §222.053(a), in determining the adjustment to the local matching funds requirement, and the local government's efforts and ability to meet the requirement, the commission will consider a local government's: (A) population level; (B) bonded indebtedness; (C) tax base; (D) tax rate; (E) extent of in-kind resources available; and (F) economic development sales tax. Title 43 TAC §15.55(b)(3) provides that, for a county described by Transportation Code, §222.053(a-1), the adjustment will be equivalent to the highest adjustment rate set in the last year the county was considered to meet the criteria set out in Transportation Code, §222.053(a).

The comptroller has provided the data needed to determine the counties eligible for the Economically Disadvantaged Counties Program for FY 2021. The commission has considered the counties' efforts and ability to provide a local match using the criteria set forth in 43 TAC §15.55(b)(2). In addition, the Texas Department of Transportation has reviewed disaster declarations issued by the Federal Emergency Management Agency through the month of August 2020 in order to comply with the requirements of Transportation Code, §222.053(a-1). Exhibit A lists the eligible counties and the respective recommended local match adjustments. Exhibit B establishes additional local match adjustments for cities within these counties participating in the program.

IT IS THEREFORE ORDERED by the commission that the list of counties eligible for the FY 2021 Economically Disadvantaged Counties Program is certified and the local match adjustment for each county is established, as shown in Exhibit A, as well as additional adjustments for cities participating in the program, as shown in Exhibit B.

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

e. Subaccounts

(1) State Highway 121

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)

115884
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) State Highway 161

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)

115885
TPP

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

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

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

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

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

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

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

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

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

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

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

f. Rail Clearance Deviations

Consider a request for approval of Rail Clearance Deviations (MO)

115886
RRD

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

The Texas Department of Transportation (department) received an application from Capital Metro Transportation Authority (CMTA) requesting a clearance deviation at the new MetroRail Downtown Station located in Austin, Texas. The department has investigated the location to determine whether good cause could be shown and whether the deviation could be operated in a reasonable and safe manner.

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

- (1) federal and state requirements on the facility such as the Americans with Disabilities Act (ADA);
- (2) the safety of passengers entering and exiting rail vehicles;
- (3) the safety of railroad employees near railroad tracks; and
- (4) limitations of existing equipment and structures near railroad tracks.

In determining whether the requested clearance deviations are reasonable and safe, the department reviewed the facility plans and site and determined the facility will include sufficient:

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

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

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

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

g. Land Acquisitions for Facilities

Lamar County - Consider the grant of authority to the department to acquire real property for facilities (MO)

115887
SSD

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 Chapter 203 authorizes the commission to acquire an interest in real property that the commission determines is necessary or convenient to construct or operate a facility used in connection with the construction, maintenance or operation of a state highway or toll project, or to accomplish any other purpose related to the location, construction, improvement, maintenance, beautification, preservation or operation of a state highway.

The Texas Department of Transportation (department) proposes to acquire the properties listed on the attached Exhibit A for the construction of new facilities and expansion of existing facility sites. Funds for the purchase of these properties were appropriated by the 86th Legislature, General Appropriations Act for the 2020-21 Biennium.

The commission finds that the acquisition of the properties listed in Exhibit A is necessary for the overall efficiency of the construction, maintenance and operation of the state highway system.

IT IS THEREFORE ORDERED by the commission that the purchase prices for the individual properties listed on Exhibit A may be expended to pay for such properties, together with such additional funds as may be required to pay any necessary and customary incidental expenses of performing due diligence and acquiring fee simple title to the properties.

IT IS FURTHER ORDERED by the commission that the executive director, or his designee, is authorized to negotiate and execute earnest money contracts or purchase agreements containing such terms as determined necessary to purchase the properties. The executive director, or his designee, may terminate such contracts or agreements in the event that the department determines that one or more of the properties is unsuitable for its intended purpose.

IT IS FURTHER ORDERED by the commission that the executive director, or his designee, is authorized to close the acquisition of the properties and execute any related closing documents, to expend funds for the applicable purchase prices, surveys, due diligence, title

insurance, and any other necessary ancillary expenses, and to take other actions necessary to acquire fee simple title to the properties, consistent with the provisions of this minute order.

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

h. Speed Zones

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

115888
TRF

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

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

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

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

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

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

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

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

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

ITEM 11. Executive Session Pursuant to Government Code, Chapter 551

Section 551.071 - Consultation with and advice from legal counsel regarding any item on this agenda, pending or contemplated litigation, or other legal matters.

The commission did not meet in executive session.

OPEN COMMENT PERIOD - At the conclusion of all other agenda items, the commission will allow an open comment period, not to exceed one hour, to receive public comment on any other matter that is under the jurisdiction of the department. No action will be taken. Each

speaker will be allowed a maximum of three minutes. Speakers must be signed up prior to the beginning of the open comment period.

The commission received comments from private citizens Ashley Johnson and Ben Peters with Stop TxDOT I-45 organization, and from private citizen Harrison Humphreys with Air-Align Houston organization. As noted previously, commenters spoke during the Routine Minute Orders and Reports portion of the meeting and may have intended to comment during the Open Comment Period. The citizens all commented regarding their opposition to the North Houston Highway Improvement Project.

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 11:32 a.m.

APPROVED by the Texas Transportation Commission on November 12, 2020:

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 October 29, 2020, in Austin, Texas.

Robin Carter, Commission Chief Clerk
Texas Department of Transportation

