

**TEXAS TRANSPORTATION COMMISSION**

VARIOUS Counties

**MINUTE ORDER**

Page 1 of 2

VARIOUS Districts

The Texas Transportation Commission (commission), in recognition of public comments expressing concerns with the proposed development of toll projects and the Trans-Texas Corridor (TTC), desires to place special emphasis on the process and procedures to be used by the Texas Department of Transportation (department) in the development, construction, and operation of such projects. In an effort to explain more clearly the directives given to the department, the commission has determined it to be necessary to establish basic guidelines for the development, construction, and operation of such projects, particularly under comprehensive development agreements (CDAs).

As provided by Texas law, (1) all state highway facilities will be completely owned by the State of Texas at all times, (2) the department may, at its discretion, purchase or “buy-back” the interest of a private participant in a CDA at any time, and all CDAs providing for a lease of state owned facilities that are part of the TTC will include such language, (3) the commission or the department must approve the methodology for the setting of toll rates on the TTC and increasing the amount of the tolls, as well as any proposed changes in an approved methodology for the setting of a toll, and will do so publicly, (4) only added capacity to existing infrastructure will be tolled to ensure there is no reduction in the number of non-tolled lanes that exist today, and (5) no contract entered into by the department will include any limitations or prohibitions on improvements needed to respond to existing or future infrastructure needs.

In recognition of the Texas Legislature’s commitment to protecting the property rights of Texans, efforts will be made to utilize the alignment of existing roadways or facilities for toll projects and TTC projects, as well as to preserve original private property integrity whenever possible. The department has existing policies in its Right of Way Manual requiring project planners and designers to determine the best project location and design with consideration given to, among other things, potential disturbances to individual property owners and impact on area development and right of way costs.

**IT IS THEREFORE ORDERED** by the commission that, in accordance with applicable law, the department will not enter into an agreement with a private entity in which the department transfers title to facilities on or to be part of the TTC that are constructed or operated under the agreement, and all such facilities shall remain public property.

**IT IS FURTHER ORDERED** that all CDAs providing for the financing, development, design, construction, or operation of a facility on or to be part of the TTC that are entered into by the department shall include provisions providing for the purchase by the department, under terms and conditions agreed to by the parties, of the interest of a private participant in the CDA and related property.

**IT IS FURTHER ORDERED** that all CDAs providing for the financing, development, design, construction, or operation of a facility on or to be part of the TTC that are entered into by the department shall not include a provision that prohibits the construction, reconstruction, expansion, rehabilitation, operation, or maintenance of a highway or other transportation project by the department or another governmental entity, or by a private entity under a contract with the department or another governmental entity.

**TEXAS TRANSPORTATION COMMISSION**

VARIOUS Counties

**MINUTE ORDER**

Page 2 of 2

VARIOUS Districts

IT IS FURTHER ORDERED that, during the environmental review of a facility on or to be part of the TTC, the department shall consider, as part of its analysis of possible project locations, the use of an alignment on existing facilities that satisfies the need and purpose of the facility, providing for the improvement of those existing facilities.

IT IS FURTHER ORDERED that, subject to the requirements of applicable environmental or other laws, and in accordance with department policies, the department shall, to the extent practicable, plan and design facilities that are on or to be part of the TTC in a manner that does not result in the severance of a landowner’s property into two or more separate tracts and preserves the original shape of private property. When multiple tracts are involved, the department shall strive to minimize and balance the negative impacts.

IT IS FURTHER ORDERED that the department shall ensure that existing nontolled segments of the state highway system are not converted unilaterally by the department into toll projects unless, through reconstruction of the facility or construction of an adjacent facility, there is no reduction in the number of nontolled lanes that existed prior to the conversion.

IT IS FURTHER ORDERED that the department shall include in any contract for a toll project on the state highway system a schedule of the initial toll rates charged for the use of the toll project that is approved publicly by the commission and provisions prescribing the approved methodology for changing the toll rates, and the department shall ensure that it works to coordinate these activities with local metropolitan planning organizations.

Submitted and reviewed by:

Recommended by:

\_\_\_\_\_  
Deputy Executive Director

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Minute Number      Date Passed