

These are the minutes of the regular meeting of the Texas Transportation Commission held on October 28, 2021, in Austin, Texas. The meeting was called to order at 10:00 a.m. by Chairman Bugg with the following commissioners present:

Texas Transportation Commission:

J. Bruce Bugg, Jr.	Chairman
Laura Ryan	Commissioner
Alvin New	Commissioner
Robert C. Vaughn	Commissioner

Administrative Staff:

Marc Williams, Executive Director
 Jeff Graham, General Counsel
 Nicole Lawson, 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 12:15 p.m. on October 20, 2021, as required by Government Code, Chapter 551, referred to as "The Open Meetings Act."

ITEM 1. Safety Briefing

Executive Director Marc Williams directed that the Greer building safety video be shown on the screens in the Ric Williamson hearing room.

The commissioners and Executive Director Williams made opening remarks.

ITEM 2. Consider the approval of the Minutes of the September 30, 2021 regular meeting of the Texas Transportation Commission

Commissioner Vaughn made a motion, which was seconded by Commissioner New, and the commission approved the minutes of the September 30, 2021, regular meeting by a vote of 4 - 0.

ITEM 3. Acknowledgement of Service

Recognize by resolution Rail Division Director Peter Espy, for five years of service to the department

This item was presented by Executive Director Marc Williams. Executive Director Williams read the resolution and thanked Director Espy for his service. The commission members spoke and thanked Director Espy. Director Espy was not present for the reading of the resolution.

ITEM 4. Contracts

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

a. Highway Improvement and Other Transportation Facilities (MO)

This item was presented by Construction Division Director Duane Milligan. The commission heard comments from John Goodrich, President of Jordan Foster Construction.

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.

116121
CST

Pursuant to Transportation Code, Chapter 223, Subchapter A, and Title 43, Texas Administrative Code, Chapter 9, Subchapter B, the Texas Department of Transportation (department) solicited and received sealed competitive bid proposals for improvement of the State Highway System, which were publicly opened and read on October 7 and 8, 2021, 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 Construction Division Director Duane Milligan. 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.

116122
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 7 and 8, 2021, 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 Facilities Planning and Management Section Director Warren Rose. 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.

116123
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 5, 2021, 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 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 Aviation Division Director Dan Harmon. Commissioner Vaughn made a motion, which was seconded by Commissioner New, and the commission approved the following minute order by a vote of 4 - 0.

116124
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 29, 2021, 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. Public Transportation

a. Various Counties - Consider the award of state and residual Federal Transit Administration (FTA) funds to various transportation providers and the award of FTA funds for the 2022 Texas Transit Association Rodeo and Exposition (MO)

This item was presented by Public Transportation Division Director Eric Gleason. 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.

116125
PTN

The Texas Transportation Commission (commission) desires to award a total of \$1,096,628 in state and Federal Transit Administration (FTA) program funds to support a variety of public transportation needs in urbanized and non-urbanized areas of the state.

The Texas Department of Transportation (department) submitted a project application and was awarded federal funds through the FTA's Fiscal Year 2019 competitive funding opportunity for the Bus and Bus Facilities Program (49 U.S.C. §5339(b)). Additional funds necessary for the project included funds flexed from the Surface Transportation Block Grant Program to the Formula Grants for Rural Areas Program (49 U.S.C. §5311) and state funds. The commission awarded the funds in February 2020 with Minute Order 115685. The award shown in Exhibit A distributes residual §5339(b) funds and matching state funds in the amount of \$737,799 to specific subrecipients for fleet and facility projects that align with the original grant scope.

The United States Congress passed the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA) on December 27, 2020, and the American Rescue Plan Act of 2021 (ARP) on March 11, 2021, both of which authorized funding under the FTA Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities program (49 U.S.C. §5310) to prevent, prepare for, and respond to the Coronavirus (COVID-19). The commission awarded the funds in April 2021 with Minute Order 116002. The award shown in Exhibit B distributes residual §5310 funds in the amount of \$217,043, \$108,521 of which is authorized under CRRSAA and \$108,522 of which is authorized under ARP. The award has been determined in accordance with the Title 43, Texas Administrative Code (TAC) §31.31, which establishes a process by which public transportation funds shall be distributed under the FTA Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities program.

ARP also authorized funding under the FTA Formula Grants for Rural Areas program (49 U.S.C. §5311) to prevent, prepare for, and respond to the Coronavirus (COVID-19). The commission awarded the funds in June 2021 with Minute Order 116036. The award shown in Exhibit C distributes residual §5311 funds in the amount of \$51,806 and has been determined in accordance with Title 43, TAC, §31.36(g)(2), which establishes a formula by which public transportation funds shall be distributed under the FTA Formula Grants for Rural Areas program.

Title 43, TAC, §31.37 establishes a process by which eligible proposals will be selected to receive funds for training and technical assistance needs under the FTA Rural Transportation Assistance Program (49 U.S.C. §5311(b)(3)). An award of up to \$90,000 in §5311(b)(3) funds is provided to Texas Transit Association to provide assistance and technical support for the Texas Transit Association Rodeo, Exposition, and Conference.

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 allocations as described and in Exhibits A-C, submit the necessary state application to the FTA, and enter into the necessary contracts.

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

b. Various Counties - Consider the award of federal funding to small urban and non-urban areas of the state for projects submitted in the department's 2021 Transportation Alternatives Set-Aside (TA) call for projects and the 2019 TA/Safe Routes to Schools (SRTS) call for projects (MO)

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

116126
PTN

The Texas Transportation Commission (commission) desires to award federal funds and transportation development credits (TDC) to support a variety of bicycle and pedestrian infrastructure projects in small urban and nonurban areas of the state. A total of \$55,326,713 in federal funds and up to 6,685,201 TDC are awarded in this minute order.

The Transportation Alternatives Set-Aside (TA) Program is authorized under Section 1190 of Fixing America's Surface Transportation (FAST) Act and codified at 23 U.S.C. §133(h). The commission adopted administrative rules that establish the guidelines under which the TA Program is administered by the Texas Department of Transportation (department), located at Title 43, Texas Administrative Code (TAC), §§11.400 - 11.418. TA funds available for this action are associated with fiscal year 2021 - 2022 federal appropriations, anticipated future distributions of TA funds, and project underruns. An award of \$54,708,907 of federal TA funds is shown in Exhibits A and B.

The Safe Routes to Schools (SRTS) Program was authorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and is contained in 23 U.S.C. §402. The commission adopted administrative rules that establish the guidelines under which the SRTS Program is administered by the department located at Title 43, Texas Administrative Code (TAC), §§25.500 - 25.505. Residual SRTS infrastructure funds are associated with past federal appropriations under SAFETEA-LU. An award of \$617,806 in federal SRTS funds is shown in Exhibit A.

This award distributes funds available for projects in nonurban areas, with a population of 5,000 or less, and in small urban areas, with a population of 5,001 to 200,000, located outside Transportation Management Areas. Exhibit A is a list of nonurban projects recommended for funding. Exhibit B is a list of small urban projects recommended for funding.

The commission recognizes that federal legislation requires the state to have a competitive process to allow eligible entities to submit projects for funding. Pursuant to program rules, a Notice of Call for Projects for TA funds was published in the *Texas Register* on January 15, 2021. TA project applications were received by the department on or before June 14, 2021. Projects were evaluated for eligibility, technical standards, and specific selection criteria as set forth in the 2021 TA Program Guide. In accordance with 43 TAC §11.411, the commission will select TA projects for funding based on recommendations from the director of the division responsible for administering the TA Program, the potential benefit of the projects to the state, and their value as enhancements to the surface transportation system.

In making this award, the commission has considered the potential to expand the availability of funding for bicycle and pedestrian infrastructure projects and finds that the award of TDC for eligible program expenditures meets the established program goals set forth in 43 TAC §5.102 to maximize the use of available federal funds, particularly in situations in which federal funds otherwise would be unused because of the inability of local governments to provide the non-federal share.

IT IS THEREFORE ORDERED by the commission that the projects listed in Exhibit A and Exhibit B are hereby selected and designated for funding under the TA and SRTS Programs, pending availability of funds, and that the executive director or the director's designee is authorized to proceed with the award and execution of local agreements, as required by the program rules.

IT IS FURTHER ORDERED that for the TA funds applied to the projects listed in Exhibit A and Exhibit B and subsequently verified as eligible for development, the total amount in federal funds must be locally matched by a minimum of 20 percent, unless the project is determined eligible for TDCs. For projects eligible for TDCs, the amount of TA funds awarded represents 100 percent federal funds and no local match is required. Any required local match must be 100 percent in cash.

IT IS FURTHER ORDERED that for residual SRTS funds applied to the project identified in Exhibit A and subsequently verified as eligible for development, the amount of SRTS funds awarded represents 100 percent federal funds and no local match is required.

IT IS FURTHER ORDERED that should additional funding become available, the commission may select additional eligible projects for funding from among those project nominations submitted in the 2021 TA Call for Projects.

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

ITEM 7. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:

a. Rule Proposal - Chapter 16 - Planning and Development of Transportation Projects - Amendments to §16.2 (Definitions and Acronyms), §16.101 (Transportation Improvement Program), §16.105 (Unified Transportation Program), §16.106 (Major Transportation Projects), §16.154 (Transportation Allocation Funding Formulas), and new §16.161 (Ten-Year Programming Flexibility for Certain Categories) (MO)

This item was presented by Jessica Butler Division Director Transportation Planning and Programming. 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.

116127
TPP

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§16.2, 16.101, 16.105, 16.106, and 16.154, and new §16.161 relating to Planning and Development of Transportation Projects to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §§16.2, 16.101, 16.105, 16.106, and 16.154, and new §16.161 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

b. Final Rule Adoption

(1) Chapter 9 - Contract and Grant Management - Amendment to §9.8 relating to Enhanced Contract and Performance Monitoring (MO)

This item was presented by Ken Stewart Division Director Contract Services. Commissioner Vaughn made a motion, which was seconded by Commissioner New, and the commission approved the following minute order by a vote of 4 - 0.

116128
CSD

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §9.8 relating to Enhanced Contract and Performance Monitoring to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §9.8 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 9 - Contract and Grant Management Amendments to §§9.31-9.35 and §§9.38-9.41 and the repeal of §§9.36 and 9.37, relating to Contracting for Architectural, Engineering, and Surveying Services (MO)

This item was presented by Martin Rodin Division Director Professional Engineering Procurement Services. 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.

116129
PEPS

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §§9.31-9.35 and §§9.38-9.41 and the repeal of §§9.36 and 9.37, relating to Contracting for Architectural, Engineering, and Surveying Services to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §§9.31-9.35 and §§9.38-9.41 and the repeal of §§9.36 and 9.37 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, B, and C are on file with the commission chief clerk.

ITEM 8. State Infrastructure Bank

Webb County - City of Laredo - Consider final approval of a request from the City of Laredo for a State Infrastructure Bank loan in the amount of up to \$4,325,000 for a contribution to the department to pay for the costs of right-of-way acquisition necessary for a non-tolled state highway improvement project to reconstruct US 59 in Webb County, Texas (MO)

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

116130
PFD

The City of Laredo (City) has submitted an application for financial assistance in the form of a loan of up to \$4,325,000 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 the City's contribution to the department for right-of-way acquisition for a non-tolled state highway improvement project to reconstruct US 59 in Webb 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 subordinate lien international toll bridge system revenues as security for repayment of the loan.

In accordance with the SIB Rules, the executive director has negotiated all the terms of an agreement as necessary to protect the public's safety and to prudently provide for the protection of public funds while furthering the purposes of the SIB, contained in the Term Sheet attached hereto as Exhibit A.

The SIB Rules allow for final approval by the Texas Transportation Commission (commission) of any SIB loan in the principal amount of \$10 million or less without first going through the preliminary approval process described in the SIB Rules if the financial assistance is to be used for a project for which the department has primary responsibility.

The executive director or his designee implemented actions authorized and required by the SIB Rules for final approval. The executive director affirms that the necessary social, economic, and environmental impact studies have been completed and approved by the department. The executive director recommends that the commission grant final 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 not in a Clean Air Act non-attainment area;
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;
5. the application shows that the City is likely to have sufficient revenues to assure repayment of the financial assistance;
6. providing financial assistance will protect the public's safety and prudently provide for the protection of public funds, while furthering the purposes of the SIB; and

7. the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate for adverse environmental impacts.

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 final approval of the City’s application for a SIB loan under the terms in the Term Sheet attached hereto as Exhibit A in an amount not to exceed \$4,325,000 to pay the City’s contribution to the department for the non-tolled project.

IT IS FURTHER ORDERED by the commission that the executive director or his designee is directed and authorized to enter into a financial assistance agreement with the City which complies with the SIB Rules and which contains the terms in the Term Sheet attached hereto as Exhibit A.

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

ITEM 9. Financial Assistance for Port Access Improvement Projects

Various Counties - Consider approval of participation by the state in the form of grants for the payment of a portion of the costs of constructing port access public roadway projects to various local governments (MO)

This item was presented by Travis Milner, Maritime Planning and Strategy Section Director. 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.

116131
MRD

In 2021, the Texas Legislature required that, from any available source of revenue and/or balances in the Texas Mobility Fund, an amount not to exceed \$20,000,000 in each fiscal year of the 2022-2023 biennium shall be allocated to provide funding for public roadway projects selected by the Port Authority Advisory Committee and approved by the Texas Transportation Commission (commission) to improve connectivity to Texas ports, under the General Appropriations Act (SB 1, 87th Texas Legislature 2021), Rider 37, page VII-28.

Certain local governments as set forth in Exhibit A have submitted requests to the Texas Department of Transportation (department) for state participation in the form of a grant of funds to pay a portion of the costs of construction of a public transportation project selected by the Port Authority Advisory Committee.

The Port Authority Advisory Committee has approved the projects listed in Exhibit A as proposed by each of the local governments listed. Accordingly, the department recommends that the commission approve each project listed in Exhibit A and authorize the department to participate in each project in the form of a grant to each local government listed in Exhibit A up to the amount listed for each project from any available source of revenue and/or money from the Texas Mobility Fund other than the proceeds of obligations issued under Transportation Code, Chapter 201, Subchapter M (enabling act), to be used for construction of each project described in Exhibit A.

Article III, Section 49-k of the Texas constitution (constitutional provision) created the Texas Mobility Fund (fund) in the state treasury and provides that the fund shall be administered by the commission as a revolving fund to provide a method of financing the construction, reconstruction, acquisition, and expansion of state highways and to provide participation by the state in the payment of a portion of the costs of constructing and providing publicly-owned toll roads and other public transportation projects, in accordance with the procedures, standards and limitations established by law.

The Texas Legislature implemented the authority granted by this constitutional provision in the enabling act. Transportation Code §201.943 provides that the commission, by order, may issue obligations, including Texas Mobility Fund General Obligation Bonds, secured by and payable from a pledge of and lien on all or part of the money in the fund.

NOW, THEREFORE, IT IS DETERMINED AND ORDERED by the commission that each project listed in Exhibit A meets the eligibility requirements for state participation under the constitutional provision, and the commission approves each project and approves state participation in the form of a grant to each local government listed in Exhibit A up to the amount listed for each project from any available source of revenue and/or money in the fund other than the proceeds of obligations issued under the enabling act, to be used for construction of each of the projects listed in Exhibit A, and authorizes and directs the executive director of the department to take all actions necessary to effect the purposes of this minute order.

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

ITEM 10. 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 Kyle Madsen. 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 Ryan and the following minute order was approved by Chairman Bugg, Commissioner Ryan, Commissioner New, and Commissioner Vaughn (a vote of 4 - 0).

116132
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-O. 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 1-34 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:

Eminent Domain

Non-Controlled Access

<u>County</u>	<u>Highway</u>	<u>Exhibit</u>	<u>ROW CSJ No.</u>	<u>Parcel</u>
Brazoria	SH 36	6	0188-06-052	1
Brazoria	FM 518	32	3416-01-014	116
Calhoun	SH 238	1	0144-04-048	1
Fort Bend	FM 723	7	0188-09-047	247
Fort Bend	FM 723	8	0188-09-047	249
Fort Bend	FM 723	9	0188-09-047	252
Fort Bend	FM 723	33	0188-09-047	254
Fort Bend	FM 723	10	0188-09-047	255
Fort Bend	FM 723	11	0188-09-047	257
Fort Bend	FM 723	12	0188-09-047	258
Harris	BU 90U	34	0028-01-093	222
Tarrant	US 287	2	0172-06-098	727
Tarrant	US 287	5	0172-09-040	P00060261
Tarrant	US 287	3	0172-09-040	P00060262
Tarrant	US 287	4	0172-09-040	P00060263
Travis	RM 620	14	0683-02-081	13
Travis	RM 620	13	0683-02-081	14
Travis	RM 620	17	0683-02-081	18
Travis	RM 620	15	0683-02-081	24
Travis	RM 620	16	0683-02-081	36
Travis	RM 620	18	0683-02-081	112
Travis	RM 620	26	0683-02-083	50
Travis	RM 620	27	0683-02-083	60
Travis	RM 620	29	0683-02-083	69
Travis	RM 620	28	0683-02-083	75
Travis	RM 620	23	0683-02-083	78
Travis	RM 620	25	0683-02-083	80

NON-CONTROLLED ACCESS (continued)

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Travis	RM 620	30	0683-02-083	88
Travis	RM 620	20	0683-02-083	92
Travis	RM 620	31	0683-02-083	94
Travis	RM 620	24	0683-02-083	136
Travis	RM 620	19	0683-02-083	153
Travis	RM 620	22	0683-02-083	154
Travis	RM 620	21	0683-02-083	155

**Eminent Domain
Controlled Access**

<u>County</u>	<u>Highway</u>	<u>Exhibit</u>	<u>ROW CSJ No.</u>	<u>Parcel</u>
Denton	IH 35E	H	0196-01-099	1
Denton	IH 35E	I	0196-01-099	3
Denton	IH 35E	J	0196-01-099	5
Denton	IH 35E	L	0196-01-100	108
Denton	IH 35E	K	0196-01-100	110
Denton	IH 35E	M	0196-02-115	119
El Paso	US 62	O	0374-02-103	12
Guadalupe	IH 10	C	0025-03-099	6
Tarrant	IH 820	A	0008-13-242	607,607E
Tarrant	IH 820	B	0008-13-242	776
Tarrant	US 287	D	0172-06-098	737AC
Tarrant	US 287	E	0172-06-098	738AC
Tarrant	US 287	F	0172-06-098	763AC
Tarrant	US 287	G	0172-09-039	130AC,130E
Tarrant	IH 20	N	2374-05-087	76AC,76E

Note: Exhibits A - O and 1 - 34 are on file with the commission chief clerk.

ITEM 11. Routine Minute Orders and Reports

This item was presented by Executive Director Marc Williams. Commissioner New made a motion, which was seconded by Commissioner Vaughn, 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)

116133
CSD

Transportation Code, §201.206, authorizes the Texas Department of Transportation (department) to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open

meeting, not later than the 90th day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30th day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department’s acceptance of donations. Section 1.503 authorizes the executive director to approve acceptance of donations to the department and requires that donations valued at \$500 or more must be acknowledged by order of the commission not later than the 90th day after the date the donation is accepted by the department. It further prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the executive director may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if the executive director determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

Transportation Code, §223.049 authorizes the department to contract with an owner of land adjacent to a highway that is part of the state highway system to construct an improvement on the highway right of way that is directly related to improving access to or from the owner's land. Exhibit A lists donations resulting from a contract executed by the department under Transportation Code, §223.049 and other donations accepted under Transportation Code, §201.206.

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

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

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

IT IS THEREFORE ORDERED by the commission that it acknowledges the acceptance of the donations identified in the attached Exhibits A, B, and C.

Donations to the Department

<u>Donor</u>	<u>Dist</u>	<u>County</u>	<u>Donation Description</u>
366 TX 29, Ltd.	AUS	Williamson	Design and construction of left turn and right turn deceleration lanes and installation of traffic signals on SH 29 at Butler Farms Boulevard (Butler Farms Development) in Liberty Hill.

Donations to the Department (continued)

<u>Donor</u>	<u>District</u>	<u>County</u>	<u>Donation Description</u>
A-S 64 CR 119-HWY 79, L.P.	AUS	Williamson	Design and construction of a westbound right turn lane into Alliance Blvd., eastbound hooded left into Alliance Blvd, and westbound to eastbound turnaround lane along US 79 in Hutto.
Conroe (1484) DTP, LLC	HOU	Montgomery	Design and construction of a center turn lane (road widening and striping) from northbound FM 1484 into the donor's development in Conroe.
CRMTX18, LLC	AUS	Hays	Design and construction of a traffic signal modification at the intersection of SH 21 at FM 2720 in Uhland.
D.R. Horton – Texas, Ltd.	HOU	Harris	Design and construction of a right turn lane on FM 359 from 1,200 feet south of Winner Foster Road into the donor's development in Richmond.
Hillsboro Amigos Investments, LLC	WAC	Hill	Design and construction of a deceleration lane on US 77 in Hillsboro.
James O. Holley	TRF	Galveston	Funds to design, fabricate, and install two memorial highway designation signs on the portion of SH 3 in Dickinson.
Legacy Housing Corporation	AUS	Bastrop	Design and construction of deceleration lanes on FM 812 from 0.5 miles east of FM 2430 to 0.8 miles east of FM 2430 and on FM 2430 from FM 812 to 0.35 miles north of FM 812 in Del Valle.
LGI Homes- Texas, LLC	HOU	Montgomery	Design and construction of a left turn and a right turn lane from north and southbound FM 1484 into the donor's development in Montgomery County.
LT Cypress Green 634, LLC	HOU	Montgomery	Design and construction of a left and right turn lane from east and westbound FM 2920 into the donor's development in Harris County.
Massey Oaks Development LP	HOU	Brazoria	Design and construction of a right turn lane from northbound FM 1128 into the donor's development in Pearland.

Donations to the Department (continued)

<u>Donor</u>	<u>District</u>	<u>County</u>	<u>Donation Description</u>
Millennium Interests, Ltd.	AUS	Caldwell	Design and construction of a left turn lane on FM 1854 in Lockhart.
MissTex Investments, LLC	WAC	Bell	Design and construction of widening Highway 2484 at the intersection of Highway 2484 and Highway 1670 in Bell County.
NNP-Telfair, LLC	HOU	Fort Bend	Design and construction of a right turn lane from northbound US 59 frontage road into the donor's development in Sugar Land.
NP-GR Houston Industrial Land, LLC	HOU	Harris	Design and construction of a right turn deceleration lane into a proposed site driveway with an associated acceleration lane out of the same proposed site driveway along US HWY 90 A near Purple Sage Road in Harris County.
Pulte Homes of Texas, L.P.	SAT	Bexar	Design and construction for installation of left and right turn lanes, driveway, and ditch grading on FM 143 located approximately 0.321 miles West of LP 1604 to LP 1604 in San Antonio.
Pulte Homes of Texas, L.P.	SAT	Comal	Design and construction for installation left and right turn lanes on FM 1101 located approximately 0.95 miles north of FM 306 to 0.23 miles South of Kroesche Lane in New Braunfels.
City of Brownwood	BWD	Brown	Donation of 0.1585 acres of land from FM 2524 to Lipscomb Street. The property being donated will be utilize in the rehabilitation of an existing roadway to widen a four-lane undivided to a four-lane divided with a flush median on the current US 377 project.
City of Brownwood	BWD	Brown	Donation of 0.2495 acres of land from FM 2524 to Lipscomb Street. The property being donated will be utilize in the rehabilitation of an existing roadway to widen a four-lane undivided to a four-lane divided with a flush median on the current US 377 project.

Donations to the Department (continued)

<u>Donor</u>	<u>District</u>	<u>County</u>	<u>Donation Description</u>
Labenski Branch, LP	AUS	Hays	Donation of 0.561 acres of land on RM 967 at .012 miles north of Haley's Way Drive. The property being donated will be utilized to facilitate construction of a roundabout roadway on RM 967 in Hays County to provide safe travel to the proposed housing development to be located on RM 967 at 0.12 miles north of Haley's Way Drive.
Milestone Community Builders, LLC	AUS	Hays	Donation of 0.032 acres of land on RM 967 at 0.12 miles north of Haley's Way Drive. The property being donated will be utilized to facilitate construction of a roundabout roadway on RM 967 in Hays County to provide safe travel to the proposed housing development to be located on RM 967 at 0.12 miles north of Haley's Way Drive.
The City of Tomball Harris County, Texas, A Texas home-rule Municipality	HOU	Harris	Donation of 0.0442 acres of land from .34 miles south of Brown Road to Spring Creek. The property being donated will be utilized in the construction, operation, and maintenance of SH 249 toll facility.
The City of Tomball Harris County, Texas, A Texas home-rule Municipality	HOU	Harris	Donation of 0.0058 acres of land from .34 miles south of Brown Road to Spring Creek. The property being donated will be utilized in the construction, operation, and maintenance of SH 249 toll facility.
RJS Hospitality Services, Inc dba Chick-fil-A Bastrop	AUS	Bastrop	Revenue generation through the Sponsor a Highway Program. This is a new contract on an existing sign location.
AM Petroleum, Inc. - DBA JD's Market	AUS	Travis	Revenue generation through the Sponsor a Highway Program. This is a contract renewal on two existing sign location.
Benton Enterprises, Inc. dba Mcdonald's	AUS	Travis	Revenue generation through the Sponsor a Highway Program. This is a new contract on an existing sign location.
Elephant Insurance Services, LLC	DAL	Dallas	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

Donations to the Department (continued)

<u>Donor</u>	<u>District</u>	<u>County</u>	<u>Donation Description</u>
Total Men's Primary Care	DAL	Dallas	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.
Elephant Insurance Services, LLC	DAL	Denton	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.
PTS Enterprises Inc	DAL	Kaufman	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.
Elephant Insurance Services, LLC	FTW	Tarrant	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.
The Really Useful Information Company LLC DBA TRUiC.com	FTW	Tarrant	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.
Dysol Inc. dba Socomore	FTW	Wise	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.
Stewart Title Company of Montgomery County, Inc.	HOU	Montgomery	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.
Thomas OilField Services, LLC	ODA	Midland	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.
Total Men's Primary Care	SAT	Bexar	Litter pick-up throughout a corridor on the State's right of way through the Sponsor a Highway Program.

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

b. Real Estate Dispositions

(1) Bee County - SH 72 - Consider an easement release to the underlying fee owner (MO)

116134
ROW

Near the City of Pawnee, Bee County, on SH 72, the State of Texas acquired an easement interest in certain land by an instrument recorded in Volume 118, at Page 181, of the Deed Records of Bee County, Texas.

All of the easement, which easement encumbers the real property described in Exhibit A (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 (commission) may release an easement interest no longer needed for a state highway purpose to the owner of the fee in the property.

Thomas M. Currer is the owner of the fee interest in the property and has requested to purchase the easement interest for \$4,500.

The commission finds \$4,500 to be a fair and reasonable value of the state’s right, title, and interest in the easement interest.

IT IS THEREFORE ORDERED by the commission that the easement interest encumbering the tract, described in Exhibit A, 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 easement interest to Thomas M. Currer for \$4,500.

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

(2) Collin County - SH 155 - Consider an easement release to the underlying fee owner (MO)

116135
ROW

In the City of McKinney, Collin County, on SH 155, the State of Texas acquired an easement interest in certain land by instruments recorded in Volume 276, at Page 379, Volume 276, at Page 383, and in Volume 276, at Page 388, of the Deed Records of Collin County, Texas.

A portion of the easement, which portion encumbers the real property described in Exhibit A (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 (commission) may release an easement interest no longer needed for a state highway purpose to the owner of the fee in the property.

Naseem Investment Company, Ltd. is the owner of the fee interest in the property and has requested to purchase the easement interest for \$181,000.

The commission finds \$181,000 to be a fair and reasonable value of the state’s right, title, and interest in the easement interest.

IT IS THEREFORE ORDERED by the commission that the easement interest encumbering the tract, described in Exhibit A, 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 easement interest to Naseem Investment Company, Ltd. for \$181,000.

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

(3) Ector County - Loop 338 - Consider the conveyance of a tract to the City of Odessa, Texas (City of Odessa) (MO)

116136
ROW

In the City of Odessa, Ector County, on Loop 338, the State of Texas acquired certain land for highway purposes by an instrument recorded in Document No. 2020-24491 of the Official Public Records of Ector County, Texas.

A portion of the land, which portion is as shown on Exhibit A (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 (commission) may waive payment for real property transferred to a governmental entity if the estimated cost of future maintenance on the property exceeds the fair value of the property.

The City of Odessa, Texas has requested the transfer of the tract to the City of Odessa, Texas.

The appraised value of the tract is \$10,000. The estimated cost of future maintenance on the tract is \$12,820.

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 transferring the state’s right, title, and interest in the tract to the City of Odessa, Texas and that payment be waived; 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) El Paso County - Loop 375 Border Highway West - Consider the sale of real property to the former owner from which the tract was acquired (MO)

116137
ROW

In the City of El Paso, El Paso County, near Loop 375 Border Highway West, the State of Texas (state) acquired certain land for highway purposes by an Agreed Judgment recorded, as Document No. 20170032544, in the Official Records of El Paso County, Texas.

All of the land, described in attached Exhibit A (the tract), has become unnecessary for the public use for which the tract was acquired, or a substantially similar public use, before the 10th anniversary of the date of acquisition.

In accordance with V.T.C.A., Property Code, Chapter 21, Subchapter E, the Texas Transportation Commission (commission) shall offer to sell, to the entity from which the tract was acquired, the tract which has become unnecessary for the public use for which the tract was acquired, or a substantially similar public use, before the 10th anniversary of the date of acquisition.

Rosa’s Restaurant, LLC, a Texas limited liability company, is the business entity from which the real property interest in the tract was acquired by the state, and it has accepted the offer to repurchase the tract for \$216,933.

The commission finds \$216,933 to be the price paid to Rosa’s Restaurant, LLC, a Texas limited liability company, at the time the state acquired the tract through eminent domain.

IT IS THEREFORE ORDERED by the commission that the tract is unnecessary for the public use for which the tract was acquired, or a substantially similar public use. 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 Rosa’s Restaurant, LLC, a Texas limited liability company, for \$216,933.

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

(5) El Paso County - Spur 601 - Consider the sale of right of way to the City of El Paso, Texas, a Texas municipal corporation, on behalf of the El Paso Water Utilities Public Service Board (the City of El Paso) (MO)

116138
ROW

In the City of El Paso, El Paso County, on Spur 601, the State of Texas acquired certain land for highway purposes by an instrument recorded in Document Nos. 20100062211 and 20100062212, of the Official Public Records of El Paso County, Texas.

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

The City of El Paso, Texas, a Texas municipal corporation, on behalf of the El Paso Water Utilities Public Service Board, is a governmental entity with the authority to condemn the property and has requested to purchase the tract for \$40,000.

The commission finds \$40,000 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 El Paso, Texas, a Texas municipal corporation, on behalf of the El Paso Water Utilities Public Service Board, for \$40,000; 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.

(6) Llano County - RM 2147 - Consider an easement release to the underlying fee owner (MO)

116139
ROW

In the City of Horseshoe Bay, Llano County, on RM 2147, the State of Texas acquired an easement interest in certain land by an instrument recorded in Volume 136, at Page 146, of the Deed Records of Llano County, Texas.

A portion of the easement, which portion encumbers the real property described in Exhibit A (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 (commission) may release an easement interest no longer needed for a state highway purpose to the owner of the fee in the property.

RJH Properties, LLC is the owner of the fee interest in the property and has requested to purchase the easement interest for \$21,599.

The commission finds \$21,599 to be a fair and reasonable value of the state’s right, title, and interest in the easement interest.

IT IS THEREFORE ORDERED by the commission that the easement interest encumbering the tract, described in Exhibit A, 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 easement interest to RJH Properties, LLC for \$21,599.

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

(7) Polk County - US 190 - Consider the sale of right of way to an abutting landowner (MO)

116140
ROW

In the City of Livingston, Polk County, on US 190, the State of Texas acquired certain land for highway purposes by an instrument recorded in Volume 132, at Page 225, of the Deed Records of Polk County, Texas.

A portion of the land, which portion is described in Exhibit A (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 (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.

The Estate of Jack Parker and the Estate of Joan Parker are abutting landowners and have requested to purchase the tract for \$7,664.

The commission finds \$7,664 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, described in Exhibit A, 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 the Estate of Jack Parker and the Estate of Joan Parker for \$7,664; 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) CTTS Annual Toll Rate Escalation Report

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

Note: The Report will remain on file with the commission chief clerk for two years.

(3) Grand Parkway (SH 99) Annual Toll Rate Escalation Report

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)

Note: The Report will remain on file with the commission chief clerk for two years.

(4) SH 249 Annual Toll Rate Escalation Report
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 will remain on file with the commission chief clerk for two years.

(5) Border West Expressway Annual Toll Rate Escalation Report
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)

Note: The Report will remain on file with the commission chief clerk for two years.

(6) Letting Allocation Status Report Quarterly status report on the FY2021 letting allocation, the actual allocation utilized through the current month, and proposed remaining highway maintenance and construction contract letting for the fiscal year

Note: The Report will remain on file with the commission chief clerk for two years.

(7) State Highway Fund 6 Report Quarterly report on FY 2021 State Highway Fund 6 cash status

Note: The Report will remain on file with the commission chief clerk for two years.

d. Highway Designation

Bexar County - In the City of Converse, consider designating a segment of FM 1516 on a new location on the state highway system (MO)

116141
TPP

The San Antonio District, Bexar County and the City of Converse have requested the designation of a segment of FM 1516 on a new location on the state highway system from FM 1976 southward to the former location of FM 1516 (Gibbs Sprawl Road), a distance of approximately 0.1 mile.

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

The Texas Transportation Commission (commission) finds that this action will facilitate the flow of traffic, promote public safety, and maintain continuity of the state highway system and is necessary for the proper development and operation of the system.

IT IS THEREFORE ORDERED by the commission that a segment of FM 1516 is designated on a new location on the state highway system from FM 1976 southward to the former location of FM 1516 (Gibbs Sprawl Road), a distance of approximately 0.1 mile, as shown on Exhibit A.

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

e. Economically Disadvantaged Counties Program (EDCP) 2022

Various Counties - Consider the certification of eligible counties for the 2022 Economically Disadvantaged Counties Program and establish local match adjustments for each county and certain cities (MO)

116142
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 2022. 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 department has reviewed disaster declarations issued by the Federal Emergency Management Agency through the month of August 2021 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 2022 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: Exhibit A, and B are on file with the commission chief clerk.

f. Designation of Access Control

(1) Dallas County - I-20, in the city of Dallas - Consider the designation of two locations on the eastbound frontage road of I-20 at which access will be permitted to the abutting property. (MO)

116143
DES

In DALLAS COUNTY, on Interstate 20 (I-20), a designated controlled-access highway, the State of Texas acquired certain land for highway purposes pursuant to the judgment recorded in Volume 68124, Page 1821 of the Deed Records of Dallas County, Texas, with denial of access to the abutting remainder property as described in the judgment.

HSM I-20 Industrial, LP, the current owner of the abutting property, has requested designated access to and from the I-20 eastbound frontage road for proposed access at two locations along the property line at new access points described in Exhibit A.

Transportation Code, §201.103, empowers the Texas Transportation Commission (commission) to plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads.

Transportation Code, §203.002 authorizes the commission to layout, construct, maintain, and operate a modern state highway system, with an emphasis on the construction of controlled-access highways.

Transportation Code, §203.031 authorizes the commission to designate locations on a controlled-access highway at which access to or from the highway is permitted and determine the type and extent of access permitted at each location.

NOW, THEREFORE, the commission finds that the new access points will not compromise the mobility, safety or operation of the existing state highway facility, and designates the new access points described in Exhibit A as locations where ingress and egress are permitted to and from the I-20 eastbound frontage road.

IT IS FURTHER ORDERED by the commission that the executive director or his designee is hereby authorized to execute any necessary documents containing terms consistent with the provisions of this order.

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

(2) Harris County - US 90 / Uvalde Road, just northeast of the city of Houston - Consider the designation of one location on the northwest quadrant of US 90 and Beltway 8 along the east side of Uvalde Road at which access will be permitted to the abutting property (MO)

116144
DES

In HARRIS COUNTY, on U.S. 90, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes pursuant to the deeds recorded in Clerks File Nos. E316389, E331549, and E336654 of the Official Public Records of Harris County, Texas, with denial of access to the abutting remainder property as described in the instruments.

BI/CSIM ColdPort Owner, LLC, the current owner of the abutting property, has requested designated access to and from the east side of Uvalde Road (a roadway adjacent to the certain land for US 90) for proposed access at one location along the property line at a new access point described in Exhibit A.

Transportation Code, §201.103, empowers the Texas Transportation Commission (commission) to plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads.

Transportation Code, §203.002 authorizes the commission to layout, construct, maintain, and operate a modern state highway system, with an emphasis on the construction of controlled-access highways.

Transportation Code, §203.031 authorizes the commission to designate locations on a controlled-access highway at which access to or from the highway is permitted and determine the type and extent of access permitted at each location.

NOW, THEREFORE, the commission finds that the new access point will not compromise the mobility, safety or operation of the existing state highway facility, and designates the new access point described in Exhibit A as a location where ingress and egress are permitted to and from the east side of Uvalde Road (a roadway adjacent to the certain land for US 90).

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.

(3) Harris County - US 290, just west of the community of Cypress - Consider the designation of one location on the westbound frontage road of US 290 at which access will be permitted to the abutting property (MO)

116145
DES

In HARRIS COUNTY, on U.S. 290, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes pursuant to the Agreed Judgment recorded under County Clerk’s File No. 138-20-0129 in Harris County, Texas, with denial of access to the abutting remainder property as described in the judgment.

SVR Interests Cypress, LLC and Janmark Fairfield, LLC, the current owners of the abutting property, have requested designated access to and from the US 290 westbound frontage road for proposed access at one location along the property line at a new access point described in Exhibit A.

Transportation Code, §201.103, empowers the Texas Transportation Commission (commission) to plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads.

Transportation Code, §203.002 authorizes the commission to layout, construct, maintain, and operate a modern state highway system, with an emphasis on the construction of controlled-access highways.

Transportation Code, §203.031 authorizes the commission to designate locations on a controlled-access highway at which access to or from the highway is permitted and determine the type and extent of access permitted at each location.

NOW, THEREFORE, the commission finds that the new access point will not compromise the mobility, safety or operation of the existing state highway facility, and designates the new access point described in Exhibit A as a location where ingress and egress are permitted to and from the US 290 westbound frontage road.

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.

(4) Harris County - US 290, just west of the community of Cypress - Consider the designation of one location on the westbound frontage road of US 290 at which access will be permitted to the abutting property (MO)

116146
DES

In HARRIS COUNTY, on U.S. 290, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes pursuant to the Agreed Judgment recorded under County Clerk’s File No. 138-20-0129 in Harris County, Texas, with denial of access to the abutting remainder property as described in the judgment.

TMJ Enterprises, LLC, the current owner of the abutting property, has requested designated access to and from the US 290 westbound frontage road for proposed access at one location along the property line at a new access point described in Exhibit A.

Transportation Code, §201.103, empowers the Texas Transportation Commission (commission) to plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads.

Transportation Code, §203.002 authorizes the commission to layout, construct, maintain, and operate a modern state highway system, with an emphasis on the construction of controlled-access highways.

Transportation Code, §203.031 authorizes the commission to designate locations on a controlled-access highway at which access to or from the highway is permitted and determine the type and extent of access permitted at each location.

NOW, THEREFORE, the commission finds that the new access point will not compromise the mobility, safety or operation of the existing state highway facility, and designates the new access point described in Exhibit A as a location where ingress and egress are permitted to and from the US 290 westbound frontage road.

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.

g. Land Acquisitions for Facilities

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

116147
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 FUTURE 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)

116148
TRF

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

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

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

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

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

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

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

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

IT IS FURTHER ORDERED that a provision of any prior order by the commission which is in conflict with a provision of this order is superseded to the extent of that conflict, and

that the portions of minute orders establishing speed zones shown on the attached Exhibits C and D are canceled.

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

ITEM 12. 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 Schuyler Wight and Wayne Tinkler regarding a sink hole on FM 1053, south of Imperial in Pecos County.

The commission received no further comments.

Commissioner Ryan motioned adjournment and Commissioner Vaughn seconded the motion. The commission voted 4 - 0 to adjourn. The regular meeting of the Texas Transportation Commission was adjourned at 11:24 a.m.

APPROVED by the Texas Transportation Commission on November 30, 2021:

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 28, 2021, in Austin, Texas.



Nicole Lawson, Commission Chief Clerk
Texas Department of Transportation