

These are the minutes of the regular meeting of the Texas Transportation Commission held on November 30, 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 9:27 a.m. on November 22, 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, Executive Director Williams, and Deputy Executive Director Brandy Hendrickson made opening remarks.

**ITEM 2. Consider the approval of the Minutes of the October 28, 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 October 28, 2021, 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 (Presentation)**

**a. Highway Improvement and Other Transportation Facilities (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.

116149  
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 November 3 and 4, 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. Highway Improvement and Other Transportation Facilities (MO)**

This item was presented by Construction Division Director Duane Milligan. 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.

116150  
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 May 6, 2021, as shown on Exhibit A.

Pursuant to Title 43, Texas Administrative Code Section 9.17(h), the Commission may rescind the award of any contract prior to contract execution upon a determination that it is in the best interest of the state.

The department recommends that the Texas Transportation Commission (commission) respectively rescind the award to the lowest bidder for contracts awarded on May 27, 2021, by Minute Order 116019 as indicated, those highway and transportation enhancement building construction contracts identified on attached Exhibit A to this order.

The Commission finds that it is in the best interest of the State to rescind the award of the referenced contracts.

IT IS THEREFORE ORDERED by the commission that the award of the contracts described in Exhibit A, be and are hereby respectively canceled as indicated therein.

IT IS FURTHER ORDERED that all bids on the contracts described in Exhibit A be rejected and that the projects be advertised for bids at the earliest possible date.

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

**c. Routine Maintenance (MO)**

This item was presented by Construction Division Director Duane Milligan. 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.

116151  
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 November 3 and 4, 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.

**ITEM 4. Discussion Item 117<sup>th</sup> Congress (2021-2022) Infrastructure Investment and Jobs Act (Presentation)**

This discussion we led by Brandye Hendrickson, Deputy Executive Director. The commission asked questions and discussed the topic.

**ITEM 5. Promulgation of Administrative Rules Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:**

**Final Rule Adoptions**

**a. Chapter 1 Management - Amendments to §1.84 and §1.88 and Repeal of §1.90 (Advisory Committees) (MO)**

This item was presented by Brandye Hendrickson, Deputy Executive Director. 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.

116152  
GCD

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §§1.84 and 1.88, and the repeal of §1.90, relating to Advisory Committees 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 §§1.84 and 1.88, and the repeal of §1.90 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.

**b. Chapter 15 Financing and Construction of Transportation Projects - New §§15.140-15.147, State Scenic Byways Program (MO)**

This item was presented by Brandye Hendrickson, Deputy Executive Director. The commission heard remarks from Jason Wills, Chairman, Board of Directors for Scenic Texas. 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.

116153  
TPP

The Texas Transportation Commission (commission) finds it necessary to adopt new §§15.140 – 15.147 relating to State Scenic Byways Program to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that new §§15.140 – 15.147 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.

**ITEM 6. Urban Air Mobility Advisory Committee**

**Consider the appointment of members to the Urban Air Mobility Advisory Committee (MO)**

This item was presented by Director of Strategy and Innovation Darran Anderson. 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.

116154  
STR

Transportation Code §21.004(a) provides that the Texas Transportation Commission (commission) shall appoint an advisory committee (committee) to assess current state law and any potential changes to state law that are needed to facilitate the development of urban air mobility operations and infrastructure in this state.

Transportation Code §21.004(b) provides that the commission shall appoint to the committee members to represent diverse geographic regions of the state, state and local law enforcement, the urban air mobility industry, transportation experts, commercial airport representatives, vertical takeoff and landing operators, local governments, and the general public.

Transportation Code §21.004(c) provides that the committee shall hold public hearings in locations across the state or via electronic means, and receive comments through an Internet website, by mail, and by other methods, if appropriate.

Transportation Code §21.004(d) provides that not later than September 1, 2022, the advisory committee shall report to the commission and to the members of the legislature the committee's findings and recommendations on any changes to state law that are needed to facilitate the development of urban air mobility operations and infrastructure.

Transportation Code §21.004(e) provides that the advisory committee is abolished, and this section of the Transportation Code expires on January 1, 2023.

The commission has determined that the individuals listed below fulfill the statutory requirements to serve as members of the committee and shall serve on the committee until the committee's abolishment, subject to regular meeting attendance, active participation, and ongoing contributions to the committee's efforts. In the event a committee member does not comply with these requirements, the commission may remove and replace the member at any time during the term of service.

**New Appointments with Terms Expiring on January 1, 2023:**

Ahsan Choudhuri, University of Texas at El Paso

Amanda Nelson, Bristow Group Inc.

Ben Ivers, The Boeing Company

Bill Goodwin, Joby Aviation

Brent Klavon, ANRA Technologies

Brent Skorup, Mercatus Center at George Mason University

Cameron Walker, Permian Basin MPO

Chad Sparks, Bell Flight

Chris Ash, Hillwood

David Fields, AICP, City of Houston

Fred Underwood, Trinity Company

Gus Khankarli, PE, PMP, CLTD, City of Dallas

Jason JonMichael, City of Austin

Jason L. Day, Texas Department of Public Safety

Jeff Bilyeu, AAE, Texas Gulf Coast Regional Airport (Brazoria County)  
 Jeff DeCoux, Autonomy Institute  
 Jim Perschbach, Port San Antonio  
 John Ackerman, Texas Commercial Airport Association  
 Josh Crawford, PE, Garver  
 Ken Peterman, Paragon VTOL Aerospace  
 Kevin Rister, ExxonMobil  
 Kevin Russell, City of Bryan  
 Kimberly Williams, Houston METRO  
 Maruthi R. Akella, University of Texas at Austin  
 Michael Hill, Cumulus Technologies, Inc.  
 Michael Sanders, Lone Star UAS Center of Excellence and Innovation  
 Nathan Trail, Hyundai Motor Group, UAM Division  
 Nick Devereux, Wing  
 Nirav Ved, Capital Area Metropolitan Planning Organization

IT IS THEREFORE ORDERED by the commission that the individuals identified above are appointed to serve as members of the Urban Air Mobility Advisory Committee for the term specified.

**ITEM 7. State Infrastructure Bank (Presentation)**

**a. Gregg County - City of White Oak - Consider final approval of a request from the City of White Oak for a State Infrastructure Bank loan in the amount of up to \$2,950,000 to pay for the costs of utility relocation and 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 widen SH 42 in Gregg County, Texas (MO) (Map)**

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

116155  
PFD

The City of White Oak (City) has submitted an application for financial assistance in the form of a loan of up to \$2,950,000 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 costs associated with utility relocation and the City's contribution to the department for right-of-way acquisition necessary for a non-tolled state highway improvement project to widen SH 42 in Gregg 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 utility 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 \$2,950,000 to pay the City's costs associated with utility relocation and 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.

**b. Ellis County - Rockett Special Utility District – Consider final approval of a request from the Rockett Special Utility District for a State Infrastructure Bank loan in the amount of up to \$9,050,000 to pay for the costs of utility relocation necessary for a non-tolled state highway improvement project to widen FM 664 from I-35E to I-45 in Ellis County, Texas (MO) (Map)**

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

116156  
PFD

Rockett Special Utility District (SUD) has submitted an application for financial assistance in the form of a loan of up to \$9,050,000 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 SUD 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 SUD intends to use the financial assistance to pay the SUD's cost of utility relocation for a non-tolled state highway improvement project to widen FM 664 from I-35E to I-45 in Ellis County, Texas (project).

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

The SUD has proposed a pledge of subordinate lien net 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 SUD'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;
5. the application shows that the SUD 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 SUD 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 SUD's application for a SIB loan under the terms in



the Term Sheet attached hereto as Exhibit A in an amount not to exceed \$9,050,000 to pay the SUD's costs of utility relocation 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 SUD 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 8. Design Build Contract**

**Tarrant County - Consider approving the selection of the proposer who submitted the best value, best and final offer proposal and the conditional award of a design-build contract and a corresponding capital maintenance contract to the selected proposer, for the design, construction, and maintenance of the Southeast Connector Project, consisting of non-tolled improvements along I-20 from Forest Hill Drive to Park Springs Boulevard, I-820 from I-20 to Brentwood Stair Road, and US 287 from Bishop Street to Sublett Road, in Tarrant County. (MO) (Presentation)**

This item was presented by Project Finance, Debt & Strategic Contracts Division Portfolio Project Branch Manager Greg Snider. 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.

116157  
ALD

Transportation Code, Chapter 223, Subchapter F prescribes the process by which the Texas Department of Transportation (department) may enter into a design-build contract with a private entity that provides for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project.

On October 31, 2019, by Minute Order 115607, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) to design, construct, and maintain the Southeast Connector Project. The Project included non-tolled improvements to I-20 from Forest Hill Drive to Park Springs Boulevard, to I-820 from I-20 to Brentwood Stair Road, and to US 287 from Bishop Street to Sublett Road, in Tarrant County, Texas. The department issued the RFQ on January 17, 2020. Following the department's evaluation of the qualifications statements, the best qualified teams were short-listed and requested to submit detailed proposals to design, construct, and maintain the Project.

Transportation Code § 223.246 and 43 TAC § 9.153(d) provide that, if authorized by the commission, the department will issue a request for proposals (RFP) from all private entities qualified for the short list. On May 28, 2020, by Minute Order 115748, the commission authorized and directed the department to issue an RFP requesting detailed proposals from the short-listed teams to design, construct, and maintain the Project, and authorized a payment for work product for each proposer that submitted a responsive, but unsuccessful, proposal of up to a maximum amount per proposer of 0.25% of the successful proposer's price for all work under the design-build contract (DBC).

On November 20, 2020, the department issued the final RFP. On May 6, 2021, proposals were received from North Tarrant Infrastructure Southeast, South-Point Constructors and Tarrant Mobility Partners. All of the proposals were significantly over the amount of public funds available for the Project. It was determined that it was in the best interest of the state to issue revised RFP documents requesting a revised proposal and a Best and Final Offer (BAFO) from each proposer. Revised RFP documents were issued on September 21, 2021 and

revised proposals and BAFOs were received from North Tarrant Infrastructure Southeast, South-Point Constructors and Tarrant Mobility Partners on October 7, 2021. A preliminary review of the technical proposals commenced on September 24, 2021 and a preliminary review of financial proposals commenced on September 27, 2021. From October 8, 2021 until November 9, 2021, the department evaluated the revised technical, financial, and price proposals from the proposers.

The proposals were evaluated in the following categories: (1) pass/fail and responsiveness; (2) technical score; and (3) price score. The proposals were first evaluated on the basis of certain pass/fail criteria set forth in the RFP and reviewed for responsiveness to the submittal requirements in the RFP. The technical proposals were then evaluated and scored in accordance with the requirements of the RFP, which included consideration of performance evaluations prepared by the department in accordance with 43 TAC §9.152 and §27.3, and other performance evaluations as deemed relevant by the department. The price proposals were then evaluated and scored, also in accordance with the requirements of the RFP. The technical score points assigned to the technical proposals were then added to the price score points to determine the total number of points received by each proposal. The responsive proposal with the highest score was determined to provide the apparent best value.

The evaluation and scoring of each proposal under the technical score and price score categories resulted in the proposals being ranked as follows: South-Point Constructors, North Tarrant Infrastructure Southeast, Tarrant Mobility Partners. The proposal submitted by South-Point Constructors was accordingly determined to provide the apparent best value.

IT IS THEREFORE ORDERED by the commission that the determination that the proposal submitted by South-Point Constructors provides the apparent best value to the department is approved, and the department is authorized and directed to commence and complete negotiations with South-Point Constructors necessary to finalize the DBC and the corresponding capital maintenance contract (CMC) to design, construct and maintain the project in Tarrant County, and to modify the DBC and CMC as necessary as a result of such negotiations.

IT IS FURTHER ORDERED that the DBC and the corresponding CMC are awarded to South-Point Constructors subject to, and effective upon the occurrence of, all of the following: (1) the successful conclusion of negotiations, including satisfaction of conditions to final award specifically identified by the department in its letter notice of conditional award to the proposer; (2) the issuance of a Notice of Intent to Award by the department; (3) applicable Federal Highway Administration approvals as identified by the department; and (4) the mutual execution and delivery of the DBC and CMC by the executive director of the department and the design-build contractor.

IT IS FURTHER ORDERED that if the executive director determines that the negotiations with South-Point Constructors cannot be successfully completed, and that therefore the proposal submitted by South-Point Constructors will not provide the apparent best value, the department is authorized to commence and complete discussions and negotiations with North Tarrant Infrastructure Southeast, the next highest-ranked proposer, with award to the next highest-ranked proposer subject to the terms and conditions in the immediately preceding paragraphs of this order.

#### **ITEM 9. Municipal Utility Relocation Reimbursement**

**Cherokee County** - Consider the approval of a request from City of Cuneo to make the relocation of City of Cuneo's utility facilities required by the US 175 highway improvement project an expense of the state under Transportation Code 203.092(a-4) (MO)

This item was presented by Right of Way Division Director Kyle Madsen. 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.

116158  
ROW

The Texas Department of Transportation (department) has a state highway project in Cherokee County, on Highway US 175, that requires the relocation of utility facilities. City of Cuney 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. City of Cuney 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 \$609,945.30.

The commission finds and determines that City of Cuney 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 21, Subchapter B, Rule 21.25, including the request by City of Cuney, 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 City of Cuney'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 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).

116159  
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-PPP. 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 1-158 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>
Guadalupe	IH 10	A	0025-03-099	7
Guadalupe	IH 10	B	0025-03-099	8
Guadalupe	IH 10	C	0025-03-099	9
Guadalupe	IH 10	D	0025-03-099	10
Guadalupe	IH 10	Y	0025-03-099	11
Guadalupe	IH 10	LL	0025-03-099	12
Guadalupe	IH 10	E	0025-03-099	13
Guadalupe	IH 10	Z	0025-03-099	15
Kaufman	IH 20	KKK	0095-14-032	35
Kaufman	IH 20	PPP	0095-14-032	36
Kaufman	IH 20	UU	0095-14-032	37
Kaufman	IH 20	GG	0095-14-032	38
Kaufman	IH 20	HH	0095-14-032	39,39E
Kaufman	IH 20	VV	0095-14-032	45
Kaufman	IH 20	HHH	0095-14-032	46
Kaufman	IH 20	WW	0095-14-032	47
Kaufman	IH 20	J	0095-14-032	48
Kaufman	IH 20	M	0095-14-032	49
Kaufman	IH 20	N	0095-14-032	50
Kaufman	IH 20	T	0095-14-032	51
Kaufman	IH 20	XX	0095-14-032	53

**CONTROLLED ACCESS (continued)**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Kaufman	IH 20	II	0095-14-032	58,58E
Kaufman	IH 20	JJJ	0095-14-032	59
Kaufman	IH 20	YY	0095-14-032	60,60E
Kaufman	IH 20	JJ	0095-14-032	61
Kaufman	IH 20	KK	0095-14-032	63
Kaufman	IH 20	G	0095-14-032	64
Kaufman	IH 20	III	0095-14-032	65
Kaufman	IH 20	S	0095-14-032	66,66E
Kaufman	IH 20	OO	0095-14-032	69
Kaufman	IH 20	U	0095-14-032	71
Kaufman	IH 20	AA	0095-14-032	72
Kaufman	IH 20	LLL	0095-14-032	76
Kaufman	IH 20	BB	0095-14-032	77
Kaufman	IH 20	MM	0095-14-032	80,80E
Kaufman	IH 20	NN	0095-14-032	83
Kaufman	IH 20	RR	0095-14-032	84
Kaufman	IH 20	FF	0095-14-032	85
Kaufman	IH 20	ZZ	0095-14-032	86
Kaufman	IH 20	SS	0095-14-032	87
Kaufman	IH 20	MMM	0095-14-032	89
Kaufman	IH 20	NNN	0095-14-032	90
Kaufman	IH 20	PP	0095-14-032	91
Kaufman	IH 20	OOO	0095-14-032	95
Kaufman	IH 20	AAA	0095-14-032	96
Kaufman	IH 20	BBB	0095-14-032	100
Kaufman	IH 20	QQ	0095-14-032	101
Kaufman	IH 20	CC	0095-14-032	102
Kaufman	IH 20	CCC	0095-14-032	103
Kaufman	IH 20	DD	0095-14-032	105
Kaufman	IH 20	EE	0095-14-032	106
Kaufman	IH 20	K	0095-14-032	107
Kaufman	IH 20	DDD	0095-14-032	108E
Kaufman	IH 20	L	0095-14-032	109E
Kaufman	IH 20	O	0095-14-032	110E
Kaufman	IH 20	TT	0095-14-032	111
Kaufman	IH 20	EEE	0095-14-032	112
Kaufman	IH 20	F	0095-14-032	113E
Kaufman	IH 20	P	0095-14-032	114
Kaufman	IH 20	FFF	0095-14-032	115
Kaufman	IH 20	Q	0095-14-032	116
Kaufman	IH 20	GGG	0095-14-032	117
Kaufman	IH 20	H	0095-14-032	118,118E
Kaufman	IH 20	R	0095-14-032	119,119E
Kaufman	IH 20	V	0095-14-032	120
Kaufman	IH 20	W	0095-14-032	121
Kaufman	IH 20	I	0095-14-032	122,122E
Kaufman	IH 20	X	0095-14-032	124

**NON-CONTROLLED ACCESS**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
Collin	US 380	12	0135-03-055	1
Collin	US 380	61	0135-03-055	2,3
Collin	US 380	13	0135-03-055	4
Collin	US 380	14	0135-03-055	5
Collin	US 380	57	0135-03-055	6,7
Collin	US 380	60	0135-03-055	8
Collin	US 380	67	0135-03-055	10
Collin	US 380	101	0135-03-055	11
Collin	US 380	69	0135-03-055	12
Collin	US 380	102	0135-03-055	13
Collin	US 380	70	0135-03-055	14
Collin	US 380	98	0135-03-055	15
Collin	US 380	107	0135-03-055	16
Collin	US 380	109	0135-03-055	17
Collin	US 380	104	0135-03-055	18
Collin	US 380	105	0135-03-055	19
Collin	US 380	113	0135-03-055	20
Collin	US 380	119	0135-03-055	21
Collin	US 380	149	0135-03-055	22
Collin	US 380	150	0135-03-055	23
Collin	US 380	152	0135-03-055	24
Collin	US 380	155	0135-03-055	25
Collin	US 380	156	0135-03-055	26
Collin	US 380	106	0135-03-055	27
Collin	US 380	103	0135-03-055	28
Collin	US 380	100	0135-03-055	29
Collin	US 380	99	0135-03-055	31
Collin	US 380	91	0135-03-055	32
Collin	US 380	90	0135-03-055	35
Collin	US 380	89	0135-03-055	38,39
Collin	US 380	88	0135-03-055	40
Collin	US 380	87	0135-03-055	41
Collin	US 380	86	0135-03-055	42
Collin	US 380	85	0135-03-055	43
Collin	US 380	68	0135-03-055	44
Collin	US 380	66	0135-03-055	45
Collin	US 380	65	0135-03-055	46
Collin	US 380	110	0135-03-055	50
Collin	US 380	111	0135-03-055	51
Collin	US 380	112	0135-03-055	52
Collin	US 380	114	0135-03-055	53
Collin	US 380	115	0135-03-055	54
Collin	US 380	116	0135-03-055	56
Collin	US 380	117	0135-03-055	57
Collin	US 380	118	0135-03-055	58

**NON-CONTROLLED ACCESS (continued)**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
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Collin	US 380	120	0135-03-055	59
Collin	US 380	123	0135-03-055	60
Collin	US 380	122	0135-03-055	61
Collin	US 380	124	0135-03-055	62
Collin	US 380	125	0135-03-055	63
Collin	US 380	126	0135-03-055	64
Collin	US 380	127	0135-03-055	66
Collin	US 380	128	0135-03-055	68
Collin	US 380	129	0135-03-055	71
Collin	US 380	130	0135-03-055	73
Collin	US 380	131	0135-03-055	74
Collin	US 380	132	0135-03-055	75
Collin	US 380	133	0135-03-055	76
Collin	US 380	135	0135-03-055	77
Collin	US 380	136	0135-03-055	80
Collin	US 380	137	0135-03-055	83
Collin	US 380	138	0135-03-055	84
Collin	US 380	140	0135-03-055	85
Collin	US 380	139	0135-03-055	86
Collin	US 380	141	0135-03-055	89
Collin	US 380	142	0135-03-055	91
Collin	US 380	143	0135-03-055	93
Collin	US 380	144	0135-03-055	94
Collin	US 380	146	0135-03-055	95
Collin	US 380	147	0135-03-055	97
Collin	US 380	19	0135-03-055	98
Collin	US 380	20	0135-03-055	99
Collin	US 380	16	0135-03-055	100
Collin	US 380	39	0135-03-055	101
Collin	US 380	21	0135-03-055	102
Collin	US 380	40	0135-03-055	103
Collin	US 380	41	0135-03-055	104
Collin	US 380	18	0135-03-055	105
Collin	US 380	17	0135-03-055	106
Collin	US 380	42	0135-03-055	107
Collin	US 380	43	0135-03-055	108
Collin	US 380	23	0135-03-055	109
Collin	US 380	22	0135-03-055	110
Collin	US 380	44	0135-03-055	111
Collin	US 380	24	0135-03-055	112
Collin	US 380	25	0135-03-055	113
Collin	US 380	45	0135-03-055	114
Collin	US 380	46	0135-03-055	115
Collin	US 380	59	0135-03-055	116
Collin	US 380	58	0135-03-055	117
Collin	US 380	47	0135-03-055	118
Collin	US 380	48	0135-03-055	119,119 OAS

**NON-CONTROLLED ACCESS (continued)**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
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Collin	US 380	49	0135-03-055	120
Collin	US 380	50	0135-03-055	121
Collin	US 380	51	0135-03-055	122
Collin	US 380	26	0135-03-055	123
Collin	US 380	62	0135-03-055	124
Collin	US 380	28	0135-03-055	125
Collin	US 380	71	0135-03-055	126
Collin	US 380	27	0135-03-055	127
Collin	US 380	29	0135-03-055	128
Collin	US 380	55	0135-03-055	129,130
Collin	US 380	52	0135-03-055	131,131 OAS
Collin	US 380	38	0135-03-055	132,145
Collin	US 380	53	0135-03-055	133
Collin	US 380	34	0135-03-055	134
Collin	US 380	54	0135-03-055	135
Collin	US 380	36	0135-03-055	136
Collin	US 380	37	0135-03-055	137
Collin	US 380	31	0135-03-055	138
Collin	US 380	56	0135-03-055	139
Collin	US 380	30	0135-03-055	140
Collin	US 380	32	0135-03-055	144
Collin	US 380	33	0135-03-055	155
Collin	US 380	35	0135-03-055	156
Collin	US 380	72	0135-04-037	1
Collin	US 380	73	0135-04-037	2
Collin	US 380	74	0135-04-037	3
Collin	US 380	75	0135-04-037	4
Collin	US 380	76	0135-04-037	5
Collin	US 380	77	0135-04-037	6
Collin	US 380	78	0135-04-037	8
Collin	US 380	79	0135-04-037	9
Collin	US 380	80	0135-04-037	13
Collin	US 380	151	0135-04-037	16
Collin	US 380	81	0135-04-037	19
Collin	US 380	82	0135-04-037	20
Collin	US 380	83	0135-04-037	21
Collin	US 380	84	0135-04-037	22
Collin	FM 545	11	1012-02-040	6
Denton	FM 2153	1	2248-01-010	1
Denton	FM 2153	2	2248-01-010	2
Denton	FM 2153	3	2248-01-010	3
Denton	FM 2153	4	2248-01-010	4
DeWitt	SH 72	95	0270-02-048	1
DeWitt	SH 72	96	0270-02-049	1
DeWitt	SH 72	121	0270-02-049	2
DeWitt	SH 72	145	0270-02-049	3
Eastland	SH 6	64	0257-04-032	P00055587

**NON-CONTROLLED ACCESS (continued)**

<u>COUNTY</u>	<u>HIGHWAY</u>	<u>EXHIBIT</u>	<u>ROW CSJ NO.</u>	<u>PARCEL</u>
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Eastland	SH 6	63	0257-04-032	P00055940
Fayette	US 77	7	0211-06-064	1
Fayette	US 77	8	0211-06-064	2
Fayette	US 77	9	0211-06-064	3
Fayette	US 77	10	0211-06-064	4
Fayette	BS 71	153	0265-14-017	1
Fayette	BS 71	154	0265-14-017	2
Galveston	FM 646	97	3049-01-032	232
Galveston	FM 646	15	3049-01-032	241
Harris	BU 90U	158	0028-01-093	201
Lubbock	FM 1585	157	1502-01-039	150,150E
Madison	SH 21	148	0117-03-034	36
Madison	SH 21	134	0117-03-034	39
Montgomery	SH 105	108	0338-04-072	29
Wharton	SH 60	5	0089-10-029	1
Wharton	SH 60	92	0089-10-029	2
Wharton	SH 60	6	0089-10-029	3
Wharton	SH 60	93	0240-02-034	1
Wharton	SH 60	94	0240-02-034	2

Note: Exhibits A - PPP and 1 - 158 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 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)

116160  
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 executive director has determined that the donations identified in the attached Exhibit A complies 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 Exhibit A.

**Donations to the Department**

<b><u>Donor</u></b>	<b><u>Dist</u></b>	<b><u>County</u></b>	<b><u>Donation Description</u></b>
288 Associates, LP	HOU	Brazoria	Design and construction of a right turn lane from westbound SH 288 into the donor's development in Manvel.
David H. McNabb	TRF	Hunt Rains	Funds to design, fabricate, and install two memorial highway designation signs on the portion of SH 256 within Hunt County and Rains County.
Henderson County Peace Officers Association, Inc.	TRF	Kaufman	Funds to design, fabricate, and install two memorial highway designation signs on the portion of SH 198 between the Kaufman County line and SH 31 in Henderson County.
Kim's Convenience Store #45, LLC	TYL	Anderson	Design and construction of a right turn lane into a convenience store along US 287 in Palestine.

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

**b. Real Estate Dispositions**

**(1) Angelina County - US 59 - Consider the sale of right of way to an abutting landowner (MO)**

116161  
ROW

In the City of Lufkin, Angelina County, on US 59, the State of Texas acquired certain land for highway purposes by instruments recorded in Document No. 2006-00216377 and in Document No. 2006-00216376 of the Deed Records of Angelina 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.

Roberts Representatives, Inc. is an abutting landowner and has requested to purchase the tract for \$6,000.

The commission finds \$6,000 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, 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 Roberts Representatives, Inc. for \$6,000; 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: Exhibits A is on file with the commission chief clerk.

(2) Cherokee County - FM 343 - Consider the sale of right of way to an abutting landowner (MO)

116162  
ROW

In the City of Alto, Cherokee County, on FM 343, the State of Texas acquired certain land for highway purposes by an instrument recorded in Volume 294, at Page 76, of the Deed Records of Cherokee 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 Atoy Cemetery Association is an abutting landowner and has requested to purchase the tract for \$274.

The commission finds \$274 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 Atoy Cemetery Association for \$274; 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.

(3) Comal County - FM 306 - Consider the sale of right of way to an abutting landowner (MO)

116163  
ROW

In the City of New Braunfels, Comal County, on FM 306, the State of Texas acquired certain land for highway purposes by an instrument recorded in Volume 207, at Page 516, of the Deed Records of Comal 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.

Gruene Gate, LLC, a Texas limited liability company, is an abutting landowner and has requested to purchase the tract for \$105,615.

The commission finds \$105,615 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 Gruene Gate, LLC, a Texas limited liability company, for \$105,615; 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) Grayson County - FM 120 - Consider the sale of right of way to an abutting landowner (MO)**

116164  
ROW

In the City of Denison, Grayson County, on FM 120, the State of Texas acquired certain land for highway purposes by an instrument recorded in Volume 1490, at Page 315, of the Deed Records of Grayson 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.

New Urban Development Denison, TX LLC, a foreign limited liability company, is an abutting landowner and has requested to purchase the tract for \$3,200.

The commission finds \$3,200 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 New Urban Development Denison, TX LLC, a foreign limited liability company, for \$3,200; 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) Palo Pinto County - I-20 - Consider the sale of right of way to an abutting landowner (MO)

116165  
ROW

In the City of Santo, Palo Pinto County, on I-20, the State of Texas acquired certain land for highway purposes by an instrument recorded in Volume 182, at Page 265, of the Deed Records of Palo Pinto 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.

Ricky and Stephanie Cagle are abutting landowners and have requested to purchase the tract for \$43,574.

The commission finds \$43,574 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 Ricky and Stephanie Cagle for \$43,574; 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) Smith County - SH 110 - Consider an easement release to the underlying fee owner (MO)

116166  
ROW

In the City of Whitehouse, Smith County, on SH 110, the State of Texas acquired an easement interest in certain land by an instrument recorded in Volume 906, at Page 597, of the Deed Records of Smith 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.

Retail Partners - Hwy 110, LLC is the owner of the fee interest in the property and has requested to purchase the easement interest for \$13,721.

The commission finds \$13,721 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 Retail Partners - Hwy 110, LLC for \$13,721.

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

**c. Reports****(1) Compliance Division report**

Note: Confidential report to commission.

**(2) Quarterly Investment Report - Quarterly Investment Report for all of the funds invested at the direction of the commission (Report)**

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

**(3) Grimes and Montgomery Counties - Quarterly Traffic and Operating Report for the State Highway 249 System (Report)**

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

**d. Rail Clearance Deviations****Various Counties - Consider a request for Approval of Rail clearance Deviations (MO)**

116167  
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 Conroe Logistic Center requesting a clearance deviation at the Home Depot rail served facility located at 400 North Porter Road, Conroe, Texas 77301. 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;
- (2) the safety of employees working near railroad tracks and unloading of rail cars;
- (3) limited clearances at new and existing equipment locations.

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 location; 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 Attorney General of Texas has been notified as required by §191.005(a).

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

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

**e. Designation of Access Control**

**Travis County - US 183, in the City of Austin - Consider the re-designation of one location on the northbound frontage road of US 183 at which access will be permitted to the abutting property (MO)**

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In TRAVIS COUNTY, on US 183, a designated controlled-access highway, the State of Texas acquired certain land for highway purposes pursuant to the instrument recorded in Document No. 2016160674 of the Official Public Records of Travis County, Texas, with denial of access to the abutting remainder property as described in the instruments.

Ben Fuentes, Alex R. Ledesma, Jr., and Daniel C. Castro, the current owners of the abutting property, have requested a re-designation of control of access along their property line. The current designated access to and from the northbound frontage road of US 183 will become controlled whereby access is denied and be re-designated immediately south and adjacent to its current designated access for a new permitted access point at one location along the property line, as 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 authorizes re-designation of permitted access from its original permitted access point to the new access point described in Exhibit A as a location where ingress and egress are permitted to and from the northbound frontage road of US 183.

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

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

**f. Speed Zones**

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

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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, B and C 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 citizen Matt Rutledge regarding the widening of I-35 through Austin; and comments from Michael Morris, P.E. Director of Transportation for NCTCOG thanking the commission.

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 11:11 a.m.



APPROVED by the Texas Transportation Commission on December 9, 2021:

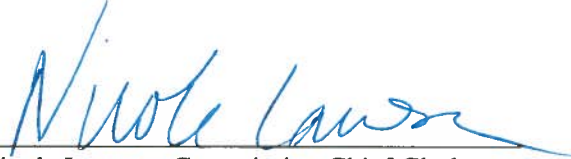


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J. Bruce Bugg, Jr., Chairman  
Texas Transportation Commission

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I hereby certify that the above and foregoing pages constitute the full, true, and correct record of all proceedings and official records of the Texas Transportation Commission at its regular meeting on November 30, 2021, in Austin, Texas.



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Nicole Lawson, Commission Chief Clerk  
Texas Department of Transportation