

These are the minutes of the regular meeting of the Texas Transportation Commission held on July 11, 2023, in Austin, Texas. The meeting was called to order at 10:01 a.m. by Chairman Bugg with the following commissioners present:

**Texas Transportation Commission:**

J. Bruce Bugg, Jr.	Chairman
W. Alvin New	Commissioner
Robert C. Vaughn	Commissioner
Alex Meade	Commissioner
Steven D. Alvis	Commissioner

**Administrative Staff:**

Marc Williams, Executive Director  
 Jeff Graham, General Counsel  
 Amanda Brown, 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 3:28 p.m. on June 30, 2023, 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.

**ITEM 2. Opening Comments from Commissioners and Executive Director**

The commissioners made opening remarks.

**ITEM 3. Consider the approval of the Minutes of the June 29, 2023, regular meeting of the Texas Transportation Commission**

Commissioner Vaughn made a motion, which was seconded by Commissioner Alvis, and the commission approved the minutes of the June 29, 2023, regular meeting by a vote of 5 - 0.

**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. Commissioner Alvis made a motion, which was seconded by Commissioner Meade, and the commission approved the following minute order by a vote of 5 - 0.

116508  
 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 June 27 and 28, 2023, as well as DALLAS DISTRICT, COLLIN COUNTY, Job Number 3021, Project Number STP 2023(857) HESG, which was publicly read on June 1, 2023, 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.

On August 30, 2022, the Texas Transportation Commission (commission) approved the 2023 Unified Transportation Program (UTP), which included language that provides that the commission may approve additional funding to projects up to 25% in categories 2, 4, and 12. The additional funding is subject to the availability of funds for that category and commission approval at the time of award of the contract for the highway construction project. Increases to funding may not impact the total formula allocation to the district or Metropolitan Planning Organization (MPO).

The 2023 UTP includes projects that are funded with categories 2, 4 and 12, and those projects that received bids in excess of the 2023 UTP funding are shown on exhibit B.

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.

The department also recommends that the commission respectively consider to increase funding, reject or defer, as indicated, for those highway construction contracts identified on attached exhibit B 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.

IT IS FURTHER ORDERED by the commission that the category funding to projects described in exhibit B, be and are hereby respectively approved for increase or rejected or deferred as awarded as indicated therein.

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

#### **b. Routine Maintenance (MO)**

This item was presented by Construction Division Director Duane Milligan. Commissioner New made a motion, which was seconded by Commissioner Meade, and the commission approved the following minute order by a vote of 5 - 0.

116509  
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 June 27 and 28, 2023, 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 5. Public Transportation**

**a. Various Counties - Consider the award of additional federal funding to medium urban, small urban, and non-urban areas of the state for previously awarded projects that have requested additional funding in the department's 2023 Transportation Alternatives Set-Aside 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 5 - 0.

116510  
PTN

The Texas Transportation Commission (commission) desires to award federal funds and transportation development credits (TDCs) to support a variety of bicycle and pedestrian infrastructure projects across the state. A total of \$10,913,451 in federal funds and up to 1,562,279 TDCs are awarded in this minute order.

The Transportation Alternatives Set-Aside (TA) Program is authorized under Section 11109 of Infrastructure Investment and Jobs (IIJA) 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 2022 - 2023 federal appropriations. Awards totaling \$10,913,451 of federal TA funds is shown in exhibit A.

This award distributes TA funds available for projects in any area of the state.

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 December 2, 2022. TA project applications were received by the department on or before June 5, 2023. 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.

Projects awarded through this minute order were originally competitively selected in previous Texas Department of Transportation (department) TA Calls for Projects. Due to unexpected increases in material and labor costs since developing the original application as well as updated design requirements, seven applications for previously selected projects were submitted through the department's 2023 TA Call for Projects requesting additional funds. Award of additional TA funds is authorized by 43 T.A.C. §11.411(e) and ensures the projects will remain on schedule with adequate funding to be constructed as originally intended. The projects were evaluated for eligibility, technical standards, and specific selection criteria as set forth in the previous call for projects.

In making this award, the commission has also considered whether the projects are eligible for TDCs to be used as the local match, as authorized by 43 T.A.C. §5.109. The commission has considered the potential to expand the availability of funding for bicycle and pedestrian infrastructure projects and finds that the award of TDCs for eligible program expenditures meets the established program goals set forth in 43 TAC §§5.102 and 5.109 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. Projects eligible for TDCs are designated in exhibit A.

IT IS THEREFORE ORDERED by the commission that the projects listed in exhibit A are hereby selected and designated for funding under the TA Program, 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 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 designated as eligible for TDCs. For projects eligible for TDCs, the amount of TA funds awarded represents 100 percent federal funds, and the local entity is awarded up to 20% of that amount in TDCs to be used as local match. Any required local match must be 100 percent in cash.

IT IS FURTHER ORDERED that the commission may select additional eligible projects for funding from among those project applications submitted in the 2023 TA Call for Projects.

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

**b. Various Counties - Consider the award of state and federal funds to multiple entities for a variety of program-eligible purposes (MO)**

This item was presented by Public Transportation Division Director Eric Gleason. Commissioner Alvis made a motion, which was seconded by Commissioner Meade, and the commission approved the following minute order by a vote of 5 - 0.

116511  
PTN

The Texas Transportation Commission (commission) desires to award a total of \$95,109,238 in state and Federal Transit Administration (FTA) program funds to support a variety of public transportation needs in rural and urbanized areas of the state.

Of the amounts appropriated to the Texas Department of Transportation (department) by the General Appropriations Act of the 88th Texas Legislature, Regular Session, \$73,752,134 was appropriated for urban and rural public transportation systems for the 2024-2025 biennium. Title 43, Texas Administrative Code (TAC), §31.11 establishes a formula by which state public transportation funds shall be distributed to the large urban, small urban and rural areas of the state. An award of \$36,876,067 of fiscal year (FY) 2024 state funds to rural transit districts and transit districts serving the urbanized areas is listed in exhibit A and has been determined in accordance with §31.11.

Title 43, TAC, §31.22 describes the process for implementing the Statewide and Nonmetropolitan Transportation Planning Program (49 U.S.C. §5304). An award up to \$920,000 of federal §5304 funds is shown in exhibit B and has been determined in accordance with §31.22.

Title 43, TAC, §31.31 establishes a formula by which public transportation funds shall be distributed under the FTA Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program (49 U.S.C. §5310). An award of \$13,425,493 of federal §5310 funds is shown in exhibit C and has been determined in accordance with §31.31.

Title 43, TAC, §31.36(f)(4) establishes a formula by which public transportation funds shall be distributed under the FTA Formula Grants for Rural Areas Program (49 U.S.C. §5311). An award of \$43,687,678 of federal §5311 funds is shown in exhibit D and has been determined in accordance with §31.36(f)(4).

The department received an award of FTA FY 2020 competitive funding through the Bus and Bus Facilities Program (49 U.S.C. §5339(b)). Funds will be awarded to Rolling Plains Management Corporation in the amount of \$200,000 to complete construction of an operations and administration center.

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

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

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is directed to proceed with the awards as described, and for the projects shown in exhibits A-D, submit the necessary state application to the FTA, and enter into the necessary contracts.

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

#### **ITEM 6. State Infrastructure Bank**

**Taylor County - City of Lawn - Consider final approval of a request from the city of Lawn for a State Infrastructure Bank loan in the amount of up to \$150,000 to pay for the costs of utility relocation necessary for a non-tolled on-system project to make bridge repairs on FM 604 in Taylor County, Texas (MO) (Presentation)**

This item was presented by Project Finance, and Enterprise Operations Division Director Patrick Marotta. Commissioner New made a motion, which was seconded by Commissioner Meade, and the commission approved the following minute order by a vote of 5 - 0.

116512  
PFD

The city of Lawn (city) has submitted an application for financial assistance in the form of a loan of up to \$150,000 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 of utility relocation for a non-tolled state highway improvement project to make bridge repairs on FM 604 in Taylor County, Texas (project).

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

The city has proposed a pledge of ad-valorem taxes and surplus utility 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, as contained in the terms 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, contingent on the execution of a utility agreement between the city and the department prior to entering into a financial assistance agreement for the SIB loan.

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 attached hereto as exhibit A in an amount not to exceed \$150,000 to pay the city's costs of utility relocation necessary for the non-tolled project.

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

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

**ITEM .7 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 Deputy Director Greg Faber. Commissioner Alvis 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 Meade and the following minute order was approved by Chairman Bugg, Commissioner New, Commissioner Vaughn, Commissioner Meade, and Commissioner Alvis (a vote of 5 - 0).

116513  
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-Y. 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 1-82 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:

**NON-CONTROLLED ACCESS**

<b>COUNTY</b>	<b>HIGHWAY</b>	<b>EXHIBIT</b>	<b>ROW CSJ NO.</b>	<b>PARCEL</b>
Cameron	US 281	3	0220-04-057	29
Cameron	US 281	4	0220-04-057	32
Cameron	US 281	5	0220-04-057	33
Cameron	US 281	6	0220-04-057	37
Cameron	US 281	7	0220-04-057	38
Clay	US 82	1	0044-03-053	20
Collin	FM 1461	75	1973-01-018	34
Collin	FM 1461	76	1973-01-018	38
Collin	FM 1461	77	1973-01-018	39
Collin	FM 1461	78	1973-01-018	41
Collin	FM 1461	79	1973-01-018	42
Collin	FM 1461	74	1973-01-018	43
Collin	FM 1461	80	1973-01-018	44
Collin	FM 1461	81	1973-01-018	45
Denton	FM 2931	28	2979-01-012	P00055688.001-.002
Denton	FM 2931	29	2979-01-012	P00055701.001
Denton	FM 2931	30	2979-01-012	P00055702.001
Denton	FM 2931	31	2979-01-012	P00055704.001
Denton	FM 2931	32	2979-01-012	P00055705.001
Denton	FM 2931	33	2979-01-012	P00055707.001
Denton	FM 2931	34	2979-01-012	P00055708.001
Denton	FM 2931	35	2979-01-012	P00055709.001
Denton	FM 2931	36	2979-01-012	P00055712.001
Denton	FM 2931	37	2979-01-012	P00055713.001-.002
Denton	FM 2931	38	2979-01-012	P00055714.001
Denton	FM 2931	72	2979-01-012	P00055715.001-.003
Denton	FM 2931	73	2979-01-012	P00055728.001
Denton	FM 2931	39	2979-01-012	P00055745.001
Denton	FM 2931	40	2979-01-012	P00055751.001
Galveston	FM 646	41	3049-01-032	231
Galveston	FM 646	42	3049-01-032	247
Gregg	SL 485	82	3290-02-011	P00068150
Hidalgo	FM 2220	21	2094-01-070	57
Hidalgo	FM 2220	22	2094-01-070	84
Hidalgo	FM 2220	23	2094-01-070	93
Hidalgo	FM 2220	24	2094-01-070	95
Hidalgo	FM 2220	25	2094-01-070	102
Hidalgo	FM 2221	26	2094-01-070	104
Hidalgo	FM 2220	27	2094-01-070	105
Houston	US 287	8	0340-01-047	P00069820
Houston	US 287	9	0340-01-047	P00069821
Johnson	FM 3391	43	3372-01-015	1
Johnson	FM 3391	44	3372-01-015	2



**NON-CONTROLLED ACCESS (continued)**

<b>COUNTY</b>	<b>HIGHWAY</b>	<b>EXHIBIT</b>	<b>ROW CSJ NO.</b>	<b>PARCEL</b>
Johnson	FM 3391	45	3372-01-015	4
Johnson	FM 3391	46	3372-01-015	5
Johnson	FM 3391	47	3372-01-015	6
Johnson	FM 3391	48	3372-01-015	7
Johnson	FM 3391	49	3372-01-015	8
Johnson	FM 3391	50	3372-01-015	9
Johnson	FM 3391	51	3372-01-015	11
Johnson	FM 3391	52	3372-01-015	12
Johnson	FM 3391	53	3372-01-015	13
Johnson	FM 3391	61	3372-01-015	14
Johnson	FM 3391	54	3372-01-015	17
Johnson	FM 3391	55	3372-01-015	18
Johnson	FM 3391	56	3372-01-015	19
Johnson	FM 3391	57	3372-01-015	22
Johnson	FM 3391	58	3372-01-015	23
Johnson	FM 3391	59	3372-01-015	24
Johnson	FM 3391	60	3372-01-015	25
Johnson	FM 3391	62	3372-01-015	26
Johnson	FM 3391	63	3372-01-015	27
Johnson	FM 3391	64	3372-01-015	28
Johnson	FM 3391	65	3372-01-015	29
Johnson	FM 3391	66	3372-01-015	30
Johnson	FM 3391	67	3372-01-015	31
Johnson	FM 3391	68	3372-01-015	32
Johnson	FM 3391	69	3372-01-015	33
Johnson	FM 3391	70	3372-01-015	34
Johnson	FM 3391	71	3372-01-015	35
Smith	FM 756	10	0492-04-040	P00063766.001
Smith	FM 756	11	0492-04-040	P00063767.001
Smith	FM 758	12	0492-04-040	P00063768.001
Smith	FM 756	13	0492-04-040	P00063769.001
Smith	FM 756	14	0492-04-040	P00063770.001
Smith	FM 757	15	0492-04-040	P00063793.001
Smith	FM 759	16	0492-04-040	P00063838.001
Smith	FM 756	17	0492-04-044	P00063834.001
Smith	FM 756	18	0492-04-044	P00063845.001
Smith	FM 756	19	0492-04-044	P00063852.001
Tyler	US 69	2	0200-08-058	49
Willacy	FM 490	20	1430-04-032	4

**CONTROLLED ACCESS**

<b>COUNTY</b>	<b>HIGHWAY</b>	<b>EXHIBIT</b>	<b>ROW CSJ NO.</b>	<b>PARCEL</b>
Denton	IH 35W	Y	0081-13-067	P00055434
El Paso	Spur 320	X	0665-02-003	15
Harris	IH 45	A	0500-08-002	610
Harris	IH 45	B	0500-08-002	611
Harris	IH 45	C	0500-08-002	614
Harris	IH 45	D	0500-08-002	615
Harris	IH 45	E	0500-08-002	619

**CONTROLLED ACCESS (continued)**

<b>COUNTY</b>	<b>HIGHWAY</b>	<b>EXHIBIT</b>	<b>ROW CSJ NO.</b>	<b>PARCEL</b>
Harris	IH 45	F	0500-08-002	621
Harris	IH 45	G	0500-08-002	622
Harris	IH 45	H	0500-08-002	623
Harris	IH 45	I	0500-08-002	625
Harris	IH 45	J	0500-08-002	626
Harris	IH 45	K	0500-08-002	627
Harris	IH 45	L	0500-08-002	630
Harris	IH 45	M	0500-08-002	636
Harris	IH 45	N	0500-08-002	637
Harris	IH 45	O	0500-08-002	638
Harris	IH 45	P	0500-08-002	639
Harris	IH 45	Q	0500-08-002	640
Harris	IH 45	R	0500-08-002	641
Harris	IH 45	S	0500-08-002	642
Harris	IH 45	T	0500-08-002	643
Harris	IH 45	U	0500-08-002	644
Harris	IH 45	V	0500-08-002	645
Harris	IH 45	W	0500-08-002	646OAS

Note: Exhibits A - Y and 1 - 82 are on file with the commission chief clerk.

**ITEM 8. Routine Minute Orders and Reports**

This item was presented by Executive Director Marc Williams. Commissioner Meade made a motion, which was seconded by Commissioner Vaughn, and the commission approved the following minute orders by a vote of 5 - 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)

116514  
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>DD</u></b>	<b><u>COUNTY</u></b>	<b><u>DONATION DESCRIPTION</u></b>
Bastrop Realty, LLC	AUS	Bastrop	Design and construction of a left turn deceleration lane one mile west of FM 20 and 1.5 miles east of SH 21 on SH 71 in Bastrop.
Eric Lopez	ODA	Midland	Nordic Track C2500 Treadmill for this Odessa District fitness space in Midland.
Fikes Wholesale, Inc.	PAR	Hopkins	Design and construction of traffic signals on SH 19 at the Cefco truck stop development in Sulphur Springs.
Heritage at Cottonwood Creek, LLC	AUS	Hays	Design and construction of roadway improvements to SH 123 that will serve The Heritage at Cottonwood Creek in San Marcos.
HME West LLC	HOU	Montgomery	Design and construction of a southbound left turn lane, northbound right turn lane, connection of High Meadow West Drive to FM 1486, entrance road culverts, extension of existing 30" culvert, regrading and re-vegetation of the roadside ditches, striping and signage to provide access into the High Meadow West Section 1 residential development in Montgomery County.

**DONATIONS TO THE DEPARTMENT (continued)**

<b><u>DONOR</u></b>	<b><u>DD</u></b>	<b><u>COUNTY</u></b>	<b><u>DONATION DESCRIPTION</u></b>
Lennar Homes of Texas Land and Construction, Ltd.	HOU	Harris	Design and construction of two left turn lanes from westbound FM 529 into the Anniston development in Katy.
Lower Troy Development, Inc.	WAC	Bell	Design and construction of a right turn and left turn lanes off NE H.K. Dodgen Loop into Rusk Drive in Temple.
LRF2 AUS Meister Lane LLC	AUS	Travis	Design and construction of South Kenney Fort Boulevard extension from SH 45 to New Meister Lane in Pflugerville.
NT Real Estate, LLC	SAT	Medina	Design and construction of pavement widening and striping for the proposed right turn lane and double left turn lane on FM 471 and the proposed right turn lane on I-35 for the commercial truck stop development in Medina County.
Pulte Homes of Texas, L.P.	HOU	Montgomery	Design and construction of highway widening to construct a left turn lane from westbound FM 1097 into the Montgomery Bend development in Montgomery.
QT South, LLC	SAT	Kendall	Design and construction of pavement widening for a right turn deceleration lane, median openings with turnarounds, and pavement markings on US 87 in Comfort.
SA Schrader, LP	SAT	Guadalupe	Design and construction of a median on SH 46 located approximately 1,300 linear feet north of Cordova Road in Seguin.
T&S Watkins 2 LLC	HOU	Galveston	Design and construction of a right turn lane from northbound I-45 into the West Walker Street extension development in League City.

**DONATIONS TO THE DEPARTMENT (continued)**

<b><u>DONOR</u></b>	<b><u>DD</u></b>	<b><u>COUNTY</u></b>	<b><u>DONATION DESCRIPTION</u></b>
Tunnel Wash Management III, LLC	WAC	Bell	Design and construction to provide a fully actuated traffic signal at the intersection of Sun Valley Boulevard (FM 2063) where the existing Wal-Mart Driveway and the proposed Today's Car Wash Driveway are in Hewitt.
WB W Klein Land LLC	SAT	Guadalupe	Design, construction of the installation of steel span wire traffic signal and the installation of radar detection at the intersection of W. Klein Road and FM 1044 in Guadalupe County with the ETJ of New Braunfels.

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

**b. Real Estate Dispositions****Travis County - FM 969 - Consider an easement release to the underlying fee owner (MO)**

116515  
ROW

Near the city of Austin, Travis County, on FM 969, the State of Texas acquired an easement interest in certain land by a Final Judgment recorded in Document No. 2012059793 of the Official Public Records of Travis 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.

QT South, LLC, a Texas limited liability company, is the owner of the fee interest in the property and has requested to purchase the easement interest for \$34,720.00.

The commission finds \$34,720.00 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 Texas Department of Transportation to execute a proper instrument conveying all of the state's right, title, and interest in the easement interest to QT South, LLC, a Texas limited liability company, for \$34,720.00.

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

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

Note: Confidential report to commission.

**(2) Letting Allocation Status Report**

Quarterly status report on the FY2023-24 letting allocation, the actual allocation utilized through the quarter, and proposed remaining highway maintenance and construction contract letting for the fiscal year (Report)

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

**(3) Quarterly Cash Report**

State Highway Fund 6 Report Quarterly report on FY 2023 State Highway Fund 6 cash status (Report)

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

**d. Rail Clearance Deviations****(1) Harris County - Consider the approval of rail clearance deviations (MO)**

116516  
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 permit a railroad or other entity to deviate from a provision of the statute.

The Texas Department of Transportation (department) received an application from Bayport Polymers LLC requesting three clearance deviations for their facility located at 12212 Port Road, Pasadena, Texas 77507 in Harris County, Texas. The clearance deviation specifics are detailed in exhibit A. The department investigated the location to determine whether good cause is evident and whether the deviations could be operated in a reasonable and safe manner.

In determining whether the new structures 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
- (3) limited clearances.

The department reviewed facility plans, visited the site, and determined the requested clearance deviations are reasonable, safe, and include sufficient:

- (1) warning signs at limited clearance locations; and
- (2) safety rules, operational requirements, and training to address employee safety.

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

IT IS THEREFORE ORDERED by the commission that the railroad clearance deviations as described in exhibit A are approved.

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

**(2) Travis County - Consider the approval of rail clearance deviations (MO)**

116517  
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. Transportation Code §191.005 establishes that the Texas Transportation

Commission (commission), for good cause shown, may permit a railroad or other entity to deviate from a provision of the statute.

The Texas Department of Transportation (department) received an application from Capital Metropolitan Transportation Authority (CMTA) requesting four clearance deviations for their new McKalla Station, located at 10612 ½ Delta Drive, Austin Texas 78758 in Travis County, Texas; clearance deviations specifics detailed in exhibit A. The department investigated the location to determine whether good cause is evident and whether the deviations could be operated in a reasonable and safe manner.

In determining whether the new structures demonstrated good cause for the requested clearance deviations, the department considered:

- (4) federal and state requirements;
- (5) the safety of employees working near railroad tracks; and
- (6) limited clearances.

The department reviewed facility plans, visited the site, and determined the requested clearance deviations are reasonable, safe, and include sufficient:

- (3) warning signs at limited clearance locations; and
- (4) safety rules, operational requirements, and training to address employee safety.

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

IT IS THEREFORE ORDERED by the commission that the railroad clearance deviations as described in exhibit A are approved.

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

**e. Designation of Access Control**

**Van Zandt County - I-20, in the City of Canton - Consider the designation of two locations along I-20 at which access will be permitted to the abutting property (MO)**

116518  
DES

In VAN ZANDT COUNTY, on Interstate 20 (I-20), a designated controlled-access highway, the State of Texas acquired certain land for highway purposes pursuant to the instrument recorded in the Judgement to the State of Texas from H.M. Sides, et ux., recorded on 01/10/1962 in Volume 530, Page 194 Deed Records, Van Zandt County, Texas (D.R.V.Z.C.T.), with denial of access to the abutting remainder property as described in the instruments.

Betty Dearing Wilkerson, et.al, the current owner of the abutting property, has requested designated access to and from the westbound exit ramp and future westbound frontage road of I-20 for proposed access at two locations along the property line 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 westbound exit ramp and future westbound frontage road of I-20.

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)**

116519  
TRF

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

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

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

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

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

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

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

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

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

**ITEM 9. 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 Austin Chamber of Commerce State & Federal Relations Vice President Travis Krogman who spoke about the I-35 Capital Expansion project. The commission received no further comments.

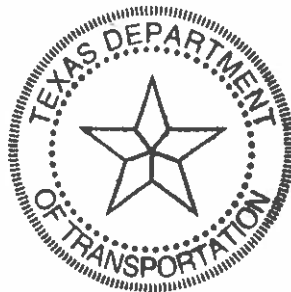
Commissioner Meade motioned adjournment and Commissioner Alvis seconded the motion. The commission voted 5 - 0 to adjourn. The regular meeting of the Texas Transportation Commission was adjourned at 10:44 a.m.

APPROVED by the Texas Transportation Commission on August 16, 2023:

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 July 11, 2023, in Austin, Texas.



Amanda Brown, Commission Chief Clerk  
Texas Department of Transportation