

These are the minutes of the regular meeting of the Texas Transportation Commission held on November 16, 2023, 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
Robert C. Vaughn	Commissioner
Alex Meade	Commissioner
Steven D. Alvis	Commissioner

Commissioner Alvin New did not attend the meeting.

**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 1:53 p.m. on November 8, 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 October 26, 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 October 26, 2023, regular meeting by a vote of 4 - 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 Meade made a motion, which was seconded by Commissioner Alvis, and the commission approved the following minute order by a vote of 4 - 0.

116595  
 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 1 and 2, 2023, as

well as DALLAS DISTRICT, KAUFMAN COUNTY, Job Number 3011, Project Number F 2024(168), which was publicly read on October 5, 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.

The department recommends that the Texas Transportation Commission (commission) respectively consider the award to the lowest bidder, reject, or defer, as indicated, those highway and transportation enhancement building construction contracts identified on attached exhibit A to this order.

IT IS THEREFORE ORDERED by the commission that the contracts described in exhibit A, be and are hereby respectively awarded to the lowest bidder or rejected or deferred as indicated therein.

If a contractual requirement of award is not satisfied within the prescribed time limit, including any extension of time allowed by the executive director or the director's designee, by reason of the action or inaction of the successful low bidder on any contract, including, but not limited to, disadvantaged business/historically underutilized business participation, the contract is automatically in default and the executive director is authorized and directed to retain and deposit the related contract proposal guaranty to the credit of the State Highway Fund and to readvertise that project for competitive bids at the earliest practical subsequent date.

If a condition of award is not satisfied, including, but not limited to, reason of nonconcurrence of the Federal Highway Administration, the failure of a third party to fund or concur, or failure to meet other conditions in the contract or an exhibit to this order, the respective award is voided, and the department will return the bid guaranty.

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

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

This item was presented by Construction Division Director Duane Milligan. Commissioner Alvis made a motion, which was seconded by Commissioner Vaughn, and the commission approved the following minute order by a vote of 4 - 0.

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 1 and 2, 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.

116596  
MNT

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

**a. Rules Review**

Consider the re-adoption of Title 43 Texas Administrative Code Chapter 3, Public Information; Chapter 4, Employment Practices; Chapter 6, State Infrastructure Bank; Chapter 9, Contract and Grant Management; Chapter 12, Public Donation and Participation Program; Chapter 13, Materials Quality; Chapter 22, Use of State Property; Chapter 23, Travel Information; Chapter 25, Traffic Operations; and Chapter 29, Maintenance, in accordance with Government Code, §2001.039 (MO)

This item was presented by General Counsel Jeff Graham. Commissioner Vaughn made a motion, which was seconded by Commissioner Meade, and the commission approved the following minute order by a vote of 4 - 0.

116597  
GCD

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

During August and September 2023, the Texas Department of Transportation reviewed Title 43 Texas Administrative Code, Chapter 3, Public Information, Chapter 4, Employment Practices, Chapter 6, State Infrastructure Bank, Chapter 9, Contract and Grant Management, Chapter 12, Public Donation and Participation Program, Chapter 13, Materials Quality, Chapter 22, Use of State Property, Chapter 23, Travel Information, Chapter 25, Traffic Operations, and Chapter 29, Maintenance. The Notice of Intent to review was published in the *Texas Register* on September 1, 2023 (48 TexReg 4868).

No comments were received regarding this rule review.

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

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

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

**b. Rule Proposal**  
**Chapter 4 - Employment Practices (MO)**

This item was presented by Human Resources Division Director David McMillan. Commissioner Alvis made a motion, which was seconded by Commissioner Meade, and the commission approved the following minute order by a vote of 4 - 0.

116598  
HRD

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §§4.10 and 4.15, relating to job application procedures, to be codified under Title 43, Texas Administrative Code, Part 1.

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

IT IS THEREFORE ORDERED by the commission that the amendments to §§4.10 and 4.15, are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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

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

**ITEM 6. Advisory Committee Appointment**  
**Advanced Air Mobility Committee - Consider the appointment of members to the Advanced Air Mobility Committee (MO)**

This item was presented by Aviation Division Director Dan Harmon. Commissioner Meade made a motion, which was seconded by Commissioner Alvis, and the commission approved the following minute order by a vote of 4 - 0.

116599  
AVN

Transportation Code §21.0045(b) 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 implementation of advanced air mobility technology in this state.

Transportation Code §21.0045(c) provides that the commission shall appoint to the committee members to represent diverse geographic regions of the state, state and local law enforcement, the advanced air mobility industry, transportation experts, commercial airport representatives, vertical takeoff and landing operators, local governments, and the general public.

Transportation Code §21.0045(d) 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 §21.0045(e) provides that not later than November 1, 2024, 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 advanced air mobility technology in this state.

Transportation Code §21.0045(f) provides that the advisory committee is abolished, and this section of the Transportation Code expires on January 1, 2025.

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, 2025:

Dan Dalton, Wisk

Ben Ivers, Boeing

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

**ITEM 7. Aviation**

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

This item was presented by Aviation Division Director Dan Harmon. Commissioner Vaughn made a motion, which was seconded by Commissioner Alvis, and the commission approved the following minute order by a vote of 4 - 0.

116600  
AVN

The Texas Department of Transportation (department) is authorized under Title 49, United States Code, Chapter 471 and Texas Transportation Code, Chapter 21, to award federal and state funding for capital improvement projects and to assist in the development and establishment of airports in the state of Texas.

Further, Texas Constitution, Article 3, §49-k(c) authorizes money in the Texas Mobility Fund (TMF) to be used to provide participation by the state in the payment of a portion of the costs of constructing and providing public transportation projects in accordance with the procedures, standards, and limitations established by law. Texas Transportation Code §201.943 provides that money in the TMF may be used in the payment of a portion of the costs for providing public transportation projects that are determined by the Texas Transportation Commission (commission) to be in the best interests of the state in its major goal of improving the mobility of the residents of the state.

The airports listed in exhibit A are currently in need of improvements to preserve the airports or to meet standards. The department recommends the award of federal non-primary entitlement grant funds, federal apportionment grant funds, and state grant funds for the improvements.

On October 20, 2023, a public hearing was held. No comments were received.

Pursuant to Transportation Code §§201.943 and 201.946, the commission finds that the public transportation projects in exhibit A to be in the best interests of the state in its major goal of improving the mobility of the residents of the state and are eligible for TMF funds.

IT IS THEREFORE ORDERED by the commission that the executive director, or the director's designee, subject to applicable federal and state requirements, is authorized to enter into any necessary agreements to fund, through the Aviation Facilities Grant Program, the projects described in exhibit A.

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

**ITEM 8. Public Transportation**

**Various Counties - Consider the award of Federal Section 5339 Discretionary and State Funds to rural transit districts to assist in the purchase of electric vehicle (EV) fleets, charging equipment, and software (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 4 - 0.

116601  
PTN

The Texas Transportation Commission (commission) desires to award a total of \$6,050,000 in state and Federal Transit Administration (FTA) program funds to assist in the purchase of electric vehicle (EV) fleet, charging equipment and software.

The Texas Department of Transportation (department) submitted a project application for federal funds through the FTA Fiscal Year 2021 competitive funding opportunity for the Bus and Bus Facilities Program (49 U.S.C. §5339(b)). An amount of \$4,840,000 was awarded for an EV Pilot Program. Additional funds necessary for the project include \$1,210,000 of state funds. The distribution of the award is shown in exhibit A.

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 in exhibit A, submit the necessary state application to the FTA, and enter into the necessary contracts.

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

**ITEM 9. Approval of Connection of Sam Houston Tollway to SH 225**

**Harris County - Consider approval of the request by Harris County to connect the Sam Houston Tollway to non-tolled SH 225 in Harris County by means of three additional direct connectors to be constructed by Harris County at the interchange of the Sam Houston Tollway and non-tolled SH 225; consider the granting of permission to Harris County to use state highway right-of-way as necessary to construct, operate, and maintain the three additional direct connectors; consider granting authority to the Executive Director to take all actions necessary to carry out the purposes of this minute order (MO)**

This item was presented by Transportation Planning and Programming Division Director Humberto Gonzalez Jr. Commissioner Alvis made a motion, which was seconded by Commissioner Meade, and the commission approved the following minute order by a vote of 4 - 0.

116602  
TPP

In Minute Order 116428, dated February 23, 2023, the Texas Transportation Commission (commission) authorized Harris County (county) to use state highway right of way as necessary to develop, construct, operate, and maintain five direct connectors at the interchange of the non-tolled SH 225 and the Sam Houston Tollway, pursuant to an agreement between the Texas Department of Transportation (department) and the county.

Pursuant to Minute Order 116428, the agreement between the department and the county includes terms related to the design of the three remaining direct connectors at the

interchange. The department and the county wish to provide for the construction, operation, and maintenance of those three direct connectors (DCs).

Pursuant to Chapter 373, Subchapter C of the Texas Transportation Code (code), the department shall allow a local toll project entity, including the county, to use state highway right of way and to access the state highway system as necessary to construct and operate a toll project. Transportation Code §373.103 provides that a local toll project entity, such as the county, and the department shall enter into an agreement for any toll project for which the entity intends to use state highway right of way necessary to protect the interests of the commission and the department in the use of state highway right of way for operations of the department.

The three DCs, with one DC connecting eastbound SH 225 with northbound Sam Houston Tollway, one DC connecting eastbound SH 225 with southbound Sam Houston Tollway, and one DC connecting westbound SH 225 with southbound Sam Houston Tollway, will be constructed, operated, and maintained by the county as tolled facilities that are part of the county's toll road system, and constituting a project under Chapter 284 of the code. Subject to the requirements of §284.008 of the code, the three DCs will not be on the state highway system, although the construction, operation, and maintenance of the three DCs will involve work by the county within the limits of state owned right of way.

The Texas Administrative Code, at 43 Tex. Admin. Code §11.58, provides that a public or private entity may not connect a regionally significant highway to a segment of the state highway system without the approval of the commission, and provides the criteria for that approval. Pursuant to that provision, the county has submitted a request to the executive director to further connect the Sam Houston Tollway to the state highway system by means of the three DCs. The commission has determined that all criteria and conditions for the connection of the Sam Houston Tollway to the state highway system by means of the three DCs, including the criteria for approval of a request under 43 Tex. Admin. Code § 1.58, have been met or satisfied.

IT IS THEREFORE ORDERED by the commission that the county is permitted to use state highway right of way as necessary to construct, operate, and maintain the three DCs, subject to terms that the executive director may include in an agreement with the county that are in furtherance of the state's interests and are consistent with this minute order and applicable law, including that the county shall reimburse the department to utilize the department's highway right of way facility in the amount of \$95,380.43, which agreement may also provide for the department's waiver of the reimbursement if the value of any right of way transferred to the department by the county for the three DCs exceeds the amount of the required reimbursement.

IT IS FURTHER ORDERED that pursuant to 43 Tex. Admin. Code §11.58, the connection of the Sam Houston Tollway by means of the three DCs with a segment of the state highway system is approved, subject to terms that the executive director may include in an agreement with the county that are in furtherance of the state's interests and are consistent with this minute order and applicable law.

IT IS FURTHER ORDERED that any agreement between the department and the county governing the use of state owned right of way and the county's development, design, construction, operation, and maintenance of the DCs shall include any provisions necessary to carry out the purposes of this minute order.

IT IS FURTHER ORDERED that the executive director is authorized to take all actions necessary to carry out the purposes of this minute order.

**ITEM 10. Water Supply Service Corporation Utility Relocation Reimbursement Gillespie County** - Consider the approval of a request from the Stonewall Water Control and Improvement District to make the relocation of the Stonewall Water Control and Improvement District's utility facilities required by the US 290 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 Meade made a motion, which was seconded by Commissioner Alvis, and the commission approved the following minute order by a vote of 4 - 0.

116603  
ROW

The Texas Department of Transportation (department) has a state highway project in Gillespie County, on Highway US 290, that requires the relocation of utility facilities. The Stonewall Water Control & Improvement District owns certain of those utility facilities.

Transportation Code, §203.092(a-4) authorizes the Texas Transportation Commission (commission) to determine that certain publicly owned utilities are eligible for utility facility relocation at the expense of the state. The Stonewall Water Control & Improvement District 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 \$625,000.00.

The commission finds and determines that the Stonewall Water Control & Improvement District 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 the Stonewall Water Control & Improvement District, will not exceed the fiscal year limitation contained in Transportation Code, §203.092(e).

IT IS THEREFORE ORDERED by the commission that the relocation of the Stonewall Water Control & Improvement District utility facility required by the improvement of the state highway system is an expense of the state to be paid by the department.

**ITEM 11. 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 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 Vaughn, Commissioner Meade, and Commissioner Alvis (a vote of 4 - 0).

116604  
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-PP. 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 1-35 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><u>COUNTY</u></b>	<b><u>HIGHWAY</u></b>	<b><u>EXHIBIT</u></b>	<b><u>ROW CSJ NO.</u></b>	<b><u>PARCEL</u></b>
Bowie	US 82	27	0046-03-041	P00059409.001-.002
Bowie	US 82	28	0046-03-041	P00059412.001-.002
Bowie	US 82	29	0046-03-041	P00059416.001
Bowie	US 82	26	0046-03-045	P00073322
Collin	SH 5	18	0047-04-034	P00057038
Collin	SH 5	19	0047-04-034	P00057039
Collin	SH 5	20	0047-04-034	P00057040
Collin	SS 399	15	0047-10-004	P00069737
Collin	FM 1461	17	1973-01-018	P00075145
Denton	US 377	25	0081-06-043	P00024383
Denton	US 377	21	0081-06-043	P00024472
Denton	US 377	14	0081-06-043	P00024513
Denton	US 377	12	0081-06-043	P00061710
Denton	US 377	13	0081-06-049	P00024501

**NON-CONTROLLED ACCESS (continued)**

<b><u>COUNTY</u></b>	<b><u>HIGHWAY</u></b>	<b><u>EXHIBIT</u></b>	<b><u>ROW CSJ NO.</u></b>	<b><u>PARCEL</u></b>
Ellis	FM 664	22	1051-01-054	52
Gregg	SL 485	1	3290-02-012	P00068768.001
Hidalgo	FM 2220	16	2094-01-069	48
Kaufman	FM 741	2	1092-01-023	P00056541
Kaufman	FM 741	3	1092-01-023	P00056547
Kaufman	FM 741	4	1092-01-023	P00056549
Kaufman	FM 741	5	1092-01-023	P00056565
Kaufman	FM 741	6	1092-01-023	P00056583
Kaufman	FM 741	7	1092-01-023	P00056611.001
Kaufman	FM 741	30	1092-01-023	P00056613.001
Kaufman	FM 741	31	1092-01-023	P00056617.001
Kaufman	FM 741	32	1092-01-023	P00056618.001
Kaufman	FM 741	33	1092-01-023	P00056619.001
Kaufman	FM 741	34	1092-01-023	P00056621.001
Kaufman	FM 741	35	1092-01-023	P00056624.001
Kaufman	FM 741	8	1092-01-023	P00056627.001
Kaufman	FM 741	9	1092-01-023	P00056628.001
Kaufman	FM 741	10	1092-01-023	P00056629.001
Kaufman	FM 741	11	1092-01-023	P00056633.001
Smith	SH 31	23	0424-01-060	P00067162.001
Smith	SH 31	24	0424-01-060	P00067163.001

**CONTROLLED ACCESS**

<b><u>COUNTY</u></b>	<b><u>HIGHWAY</u></b>	<b><u>EXHIBIT</u></b>	<b><u>ROW CSJ NO.</u></b>	<b><u>PARCEL</u></b>
Austin	IH 35	Q	0015-13-434	P00064478
Bowie	US 82	KK	0046-03-041	P00059405.001
Harris	IH 45	LL	0500-03-608	302
Harris	IH 45	X	0500-03-608	306
Harris	IH 45	Y	0500-03-608	307
Harris	IH 45	MM	0500-03-608	317
Harris	IH 45	W	0500-03-608	319
Harris	IH 45	NN	0500-03-608	325
Harris	IH 45	V	0500-03-608	438
Harris	IH 45	EE	0500-08-002	506AAQ
Harris	IH 45	FF	0500-08-002	514AAQ
Harris	IH 45	GG	0500-08-002	516
Harris	IH 45	JJ	0500-08-002	527
Harris	IH 45	BB	0500-08-002	528AAQ
Harris	IH 45	II	0500-08-002	532
Harris	IH 45	T	0500-08-002	702
Harris	IH 45	U	0500-08-002	706
Harris	IH 45	AA	0500-08-002	711
Harris	IH 45	N	0500-08-002	712
Harris	IH 45	HH	0500-08-608	301
Harris	IH 45	DD	0500-08-608	303
Harris	IH 45	CC	0500-08-608	304
Harris	IH 45	R	0500-08-608	408
Harris	IH 45	S	0500-08-608	409

**CONTROLLED ACCESS (continued)**

<b>COUNTY</b>	<b>HIGHWAY</b>	<b>EXHIBIT</b>	<b>ROW CSJ NO.</b>	<b>PARCEL</b>
Harris	IH 45	M	0500-08-608	412
Harris	IH 45	L	0500-08-608	414
Harris	IH 45	K	0500-08-608	416
Harris	IH 45	O	0500-08-608	418
Harris	IH 45	P	0500-08-608	420
Harris	IH 45	J	0500-08-608	428
Harris	IH 45	H	0500-08-608	430
Harris	IH 45	I	0500-08-608	431
Jack	US 281	Z	0249-07-076	5
Tarrant	I-820	PP	0008-13-242	441
Tarrant	I-820	OO	0008-13-242	609
Travis	IH 35	D	0015-13-434	P00064466
Travis	IH 35	E	0015-13-434	P00064469
Travis	IH 35	G	0015-13-434	P00064472
Travis	IH 35	B	0015-13-434	P00064473
Travis	IH 35	F	0015-13-434	P00064474
Travis	IH 35	C	0015-13-434	P00070991
Travis	IH 35	A	0015-13-435	P00066413

Note: Exhibits A - PP and 1 - 35 are on file with the commission chief clerk.

**ITEM 12. Routine Minute Orders and Reports**

This item was presented by Executive Director Marc Williams. The commission heard comments from Lance Hamm, Vision Zero, South Texas about safety concerns for construction zones. Commissioner Vaughn made a motion, which was seconded by Commissioner Meade, 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)

116605  
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>
Caney Holdings LLC	HOU	Montgomery	Design and construction of a right turn deceleration lane from westbound FM 1485 into the Caney Crossing North development in New Caney.
DPEG Porter, LP	HOU	Montgomery	Design and construction of a right turn lane from westbound SH 99 frontage road into the Dhanani Private Equity Group development in unincorporated Montgomery County.
Preserve at HWY 6, LLC	HOU	Fort Bend	Design and construction of a left turn lane from northeast bound SH 6 into the Preserve at Highway 6 development in Fresno.
Texas Essential Housing Public Facility Corporation	AUS	Hays	Design and construction of roadway improvements to SH 123 that will serve The Heritage at Cottonwood Creek in San Marcos.

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

**b. Real Estate Dispositions****(1) McLennan County - I-35 - Consider the sale of right of way to an abutting landowner (MO)**116606  
ROW

In the city of Bruceville-Eddy, McLennan County, on I-35, the State of Texas acquired certain land for highway purposes by an instrument recorded in Volume 985, at Page 354, of the Deed Records of McLennan County, Texas.

All of the land, 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.

Charles Gullede is an abutting landowner and has requested to purchase the tract for \$2,500.

The commission finds \$2,500 to be a fair and reasonable value of the state's right, title, and interest in the tract.

IT IS THEREFORE ORDERED by the commission that the tract, 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 tract to Charles Gullede for \$2,500; SAVE AND EXCEPT, however, there is to be excepted and reserved therefrom all of the state's right, title, and interest, if any, in and to all of the oil, gas, sulphur, and other minerals, of every kind and character, in, on, under, and that may be produced from the land.

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

**(2) Williamson County - FM 487 - Consider an easement release to the underlying fee owner (MO)**116607  
ROW

In the city of Jarrell, Williamson County, on FM 487, the State of Texas acquired an easement interest in certain land by an instrument recorded in Volume 387, at Page 189, of the Deed Records of Williamson 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.

Centauro Land Development, 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 \$24,750.

The commission finds \$24,750 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 Centauro Land Development, LLC, a Texas limited liability company, for \$24,750.

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.

**d. Transportation Planning**

**SH 121 - Various Counties - Consider concurrence with the Regional Transportation Council of the North Central Texas Council of Governments' funding of construction and other project development costs of projects to be advanced through the use of payments received from the North Texas Tollway Authority in accordance with the SH 121 Toll Project Agreement (MO)**

116608  
TPP

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

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

The department has created subaccounts in the state highway fund to hold the payments received from the North Texas Tollway Authority (NTTA) for the right to develop, finance, design, construct, operate, and maintain the SH 121 toll project from Business SH 121 in Denton County to US 75 in Collin County (SH 121 payments).

Pursuant to Transportation Code, §228.012, the SH 121 payments may be used to pay the costs of a transportation project, highway project, or air-quality project within a region in which any part of the SH 121 toll project is located. Money must be allocated to projects authorized by Transportation Code, §228.0055 or §228.006, as applicable. An air-quality project is a project or program of the department or another governmental entity that the Texas Transportation Commission (commission) determines will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads.

In Minute Order 110727, dated October 26, 2006, the commission approved, and authorized the department's executive director to enter into, a memorandum of understanding (MOU) with the Regional Transportation Council (RTC), the transportation policy council of the North Central Texas Council of Governments (NCTCOG), a federally designated MPO, concerning the administration, sharing, and use of surplus toll revenue and CDA concession payments in the region served by the NCTCOG. The SH 121 toll project is located in the region served by the NCTCOG.

Responsibility for allocating the SH 121 payments has been assigned to the RTC under the MOU. The MOU provides that the selection of projects to be financed using those funds shall be made by the RTC, subject to commission concurrence. The projects are to be selected through a process which considers the desires of the cities and counties in which the project is located. The RTC has developed a plan for regional sharing of surplus toll revenue

and CDA concession payments, based on the location of the toll project from which these revenues are derived and the residential location of toll users in the region served by the NCTCOG.

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

The department has established a work program to account for and track projects and project costs in the NCTCOG Metropolitan Planning Area (MPA) boundary funded with the SH 121 payments. In previous minute orders, the commission concurred with certain projects identified by the RTC to be funded with those payments and approved the placement of those projects in the work program. The RTC, through an extensive public involvement process, has identified additional project costs in the NCTCOG MPA boundary to be funded with the SH 121 payments, as shown in exhibit A. The RTC has also identified changes to the list of previously approved projects, which are shown in exhibit B. A summary of funds associated with the SH 121 work program is set forth in exhibit C, which is included for informational purposes only.

IT IS THEREFORE ORDERED by the commission that, pursuant to the MOU and Minute Order 112015, it concurs with the projects shown in exhibit A that have been selected by the RTC to be funded with the SH 121 payments and approves the placement of the projects in the work program with CONSTRUCT authority, to be developed consistent with applicable state and federal laws, regulations, and procedures. Pursuant to the finding of the RTC, the commission determines that the projects shown in exhibit A are transportation or highway projects, or air-quality projects that will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads, and are therefore eligible to be funded with the SH 121 payments. The commission also concurs with the changes to the list of previously approved projects as shown in exhibit B.

IT IS FURTHER ORDERED that, unless otherwise approved by the commission, all direct costs associated with the projects for which federal and state funds have not been allocated shall be charged to this work program, including the costs of right of way acquisition, preliminary engineering, and construction engineering. The costs of department staff incurred in the development, procurement, and construction of on-system projects to be funded from the SH 121 payments subaccounts will not themselves be funded from the SH 121 payments subaccounts. Funds from the SH 121 payments subaccounts that were used to reimburse the costs of department staff will be returned to the subaccounts without interest at least quarterly.

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

**e. Speed Zones**

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

116609  
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 13. 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 Eagle Pass City Manager Ivan Morua on the Eagle Pass Bridge System; Texas Rail Advocates President Peter J. LeCody on the Statewide Carbon Reduction Strategy draft and lack of rail projects; and Lance Hamm, Vision Zero, South Texas on traffic safety. The commission received no further comments.

Commissioner Vaughn motioned adjournment and Commissioner Alvis seconded the motion. The commission voted 4 - 0 to adjourn. The regular meeting of the Texas Transportation Commission was adjourned at 10:48 a.m.



APPROVED by the Texas Transportation Commission on December 12, 2023:



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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 16, 2023, in Austin, Texas.



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Amanda Brown, Commission Chief Clerk  
Texas Department of Transportation