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AGENDA

TEXAS TRANSPORTATION COMMISSION
125 East 11th Street
Austin, Texas

THURSDAY
December 15, 2016

9:00 A.M. CONVENE MEETING

1. **Safety Briefing**
Staff will provide general safety instruction.
2. **Approval of Minutes** of the November 16, 2016, workshop meeting and the November 17, 2016, regular meeting of the Texas Transportation Commission
3. **Acknowledgement of Service**
Recognize by resolution Paul Montgomery, P.E., Paris District Engineer, for nearly 29 years of service to the department
4. **Aviation**
 - a. Award federal funds for non-primary entitlement grants for airport improvement projects at various locations (MO) (MO)
Federal law authorizes the award of federal funding to preserve and improve the state's general aviation system. The airports listed in the exhibits to the minute orders are eligible for award of these grant funds and the department seeks approval of the awards.
 - b. Award federal and state funds for discretionary grants for airport improvement projects at various locations (MO)
Federal law authorizes the award of federal funding to preserve and improve the state's general aviation system. State law authorizes the award of state funding for capital improvement projects. The airports listed in Exhibit A are eligible for award of these grant funds and the department seeks approval of the awards.
5. **Public Transportation**
 - a. **Various Counties** - Award federal \$5310 Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program funds and transportation development credits for FY 2016 (MO)
This minute order awards \$96,000 to the City of Tyler, \$3,000 to West Texas Opportunities, Inc. and \$5,000 to Central Texas Rural Transit District from residual federal grant funds from the Federal Transit Administration \$5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program. Transportation development credits are awarded to these transportation agencies to assist with the match of federal funds for capital projects.

5. **Public Transportation (continued)**
 - b. **Various Counties** - Award state funds, federal funds, and transportation development credits to Texoma Area Paratransit System, Inc. (MO)

The awards identified in this minute order reflect the allocation of previously allocated and subsequently withheld state funds and federal funds from several Federal Transit Administration grant programs, to Texoma Area Paratransit System, Inc. Transportation development credits are awarded to assist with the match of federal funds for capital projects.

6. **Promulgation of Administrative Rules** Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:
 - a. **Final Adoption**
 - (1) **Chapter 9 - Contract and Grant Management**

Amendments to §9.11, Definitions, §9.13, Notice of Letting and Issuance of Bid Forms, §9.15, Acceptance, Rejection, and Reading of Bids, §9.17, Award of Contract , and §9.18, After Contract Award (Highway Improvement Contracts) and §9.227, Information from Bidders (Disadvantaged Business Enterprise (DBE) Program) (MO)

These amendments incorporate the Disadvantaged Business Enterprise (DBE) bidding requirements of federal regulation, 49 CFR §26.53 (What are the good faith efforts procedures recipients follow in situations where there are contract goals), and are necessary to comply with the requirements of that section.
 - (2) **Chapter 11 - Design**

New §§11.400 - 11.418 (Transportation Alternatives Set-Aside) (MO)

The proposed new subchapter implements the Transportation Alternatives Set-Aside Program (TA Set-Aside) as authorized by the federal Fixing America's Surface Transportation Act (FAST Act). The FAST Act establishes the TA Set-Aside as part of the Surface Transportation Block Grant, and replaces the Transportation Alternatives Program (TAP) which was established as an independent funding category under the Moving Ahead for Progress in the 21st Century Act (MAP-21). Like the TAP, the TA Set-Aside provides funding for a variety of alternative transportation projects
 - (3) **Chapter 16 - Planning and Development of Transportation Projects**

Amendments to §16.105, Unified Transportation Program (Transportation Programs), and §16.152, Cash Flow Forecast, §16.153, Funding Categories, §16.154, Transportation Allocation Funding Formulas, and §16.160, Funding Allocation Adjustments (Transportation Funding) (MO)

These amendments implement requirements established by House Bill 20, which was enacted during the 84th Legislative Session, and update certain planning process associated with the development of the UTP. The amendments affect fiscal constraint requirements, organizational goal changes, performance management and metrics, cash flow forecast terminology, funding distribution methodology, and letting management.
 - b. **Proposed Adoption**
 - (1) **Chapter 4 - Employment Practices**

Amendments to §4.33, Prohibited Conduct, §4.34, Illegal Drugs, §4.37, Test Results, and §4.39, Refusal to Test (Substance Abuse Program) (MO)

Amend Substance Abuse Policy rules to add dispensation of illegal drugs to the list of prohibited conduct for employees and to require the termination of any employee who refuses to take a required alcohol or drug test.

6. **Promulgation of Administrative Rules** Under Title 43, Texas Administrative Code, and the Administrative Procedure Act, Government Code, Chapter 2001:
 - b. **Proposed Adoption (continued)**
 - (2) **Chapter 9 - Contract and Grant Management**
 Amendments to §9.14, Submittal of Bid (Highway Improvement Contracts) (MO)
These amendments add to the department's rules the requirements for a bid guaranty that were established in Minute Order 108851. A bid guaranty is required for a highway improvement contract in an estimated amount of more than \$25,000. The amendments include the process used to determine the amount of the guaranty. After these requirements become a part of the rules, the minute order will be rescinded.

7. **Purchase Order Amendment**
 Consider the approval of a material change to a purchase order awarded under Chapter 2155 of the Texas Government Code for the provision of toll operations and customer service center operator services for the department (MO)
This minute order proposes an amendment to a purchase order awarded under Government Code, Chapter 2155 for the provision of toll operations and customer service center operator services for the department. The terms of the purchase order allow the amendment being proposed. Section 2155.088, Government Code, requires that the governing body of a state agency, at a meeting, consider a material change to the contract for goods or services awarded under Chapter 2155, Government Code, and consider why that change is necessary. The proposed amendment is a material change under Chapter 2155.

8. **Contested Case**
Travis County - CKORP, LLC v. Texas Department of Transportation - Consider action on proposal for decision by administrative law judge concerning TxDOT's decision to debar CKORP for a period of two years, final order (MO)
The executive director issued an order debarring CKORP from bidding on or entering into a contract with TxDOT for two years. The State Office of Administrative Hearings recommends that the proposed sanction be upheld.

9. **Contracts**
 Award or reject contracts for maintenance, and highway and building construction
These proposed minute orders contain information concerning the receipt of bids for highway improvement contracts. The department may reschedule receipt of bids for those projects where the commission rejects all bids. Those bids accepted by the commission will result in conditional contract awards to the low bidders. Contract award conditions may involve securing funding from other sources, the contractor's ability to satisfy federal DBE subcontracting requirements, or other requirements as outlined in the project bid proposal.
 - a. **Construction of Highways, Department Buildings, and Other Transportation Facilities**
 (see attached itemized list) (MO)
 - b. **Highway Maintenance**
 (see attached itemized list) (MO)

10. **Eminent Domain Proceedings**

Various Counties - Authorize the filing of condemnation proceedings to acquire real property by eminent domain for non-controlled and controlled access highways (see attached itemized list) (MO)

Commission findings, determinations, and authorizations for the state, by motion made in accordance with Senate Bill 18 (82nd Legislature), to acquire by eminent domain, upon the payment of adequate and just compensation, various ownership interests in specific parcels of real property that are needed to develop or improve both non-controlled and controlled access state highways, to include requesting the state attorney general to bring and pursue condemnation suits relating to those specific parcels of real property described in the attached itemized list.

11. **Routine Minute Orders and Reports**

a. **Donations to the Department**

Various Districts - Consider the acknowledgment of donations made to the department to include: (a) donations in any form, including realty, personalty, money, materials, or services, which are made to the department for the purpose of carrying out its functions and duties; and (b) donations from landowners, with 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. (See attached itemized list) (MO)

The donations will ensure the safety of the traveling public.

b. **Real Estate Dispositions**

The commission must approve the sales, transfers, and exchanges of state rights of way and other real properties that are no longer needed for a state highway purpose. It must also approve, accept and acknowledge donations to the state of real property that is valued at \$500 or more.

(1) **Coleman County** - US 84 on Jim Ned Creek, north of Novice - Consider the quitclaim of right of way to honor a reversionary clause (MO)

The district has determined that a roadside park is no longer needed for highway purposes. The instrument of conveyance contained a provision that should the land cease to be used as a park, title reverts to the grantor, his heirs, and assigns.

(2) **El Paso County** - I-10 at Horizon Blvd. in El Paso - Consider the sale of right of way by sealed bid (MO)

The district has determined that the land is no longer needed for highway purposes. The local governmental entities and abutting landowners declined interest in purchasing the land, and it was advertised for sale by sealed bid. An acceptable bid was received, and the land may be sold to the bidder.

(3) **Harris County** - SH 99 at Bridgeland Creek Parkway - Consider the quitclaim of easements acquired by donation (MO)

The easements were donated to the county for drainage purposes and were subsequently transferred to the state. The district has determined that the easements are no longer needed for highway drainage purposes, and they may be quitclaimed to the donor.

(4) **Jefferson County** - US 90 in Beaumont - Consider the removal from the system and designation on a new location. Also consider a quitclaim of right of way to the City of Beaumont (MO)

The district has determined that a segment of the highway is no longer needed as part of the system. There is no record title to the property, and the City of Beaumont (city) has maintained this segment for years. The city has requested that the state quitclaim its interest, and the land may be quitclaimed to the city. A portion of the current alignment of US 90 will be removed from the system and designated concurrently with a segment of I-10.

11. **Routine Minute Orders and Reports (continued)**

b. **Real Estate Dispositions (continued)**

- (5) **Jim Wells County** - FM 1352 in Alice - Consider the sale of a former maintenance site and improvements to the county (MO)

The district has determined that the property is no longer needed for highway purposes. The county has requested to purchase the property. Other governmental entities have declined interest in the property, and it may be sold to the county.

- (6) **Lubbock County** - US 82, southeast corner at Texas Tech Parkway in Lubbock - Consider the sale of a right of way easement to Texas Tech University (MO)

The district has determined that a portion of the easement is no longer needed for highway purposes. Texas Tech University (university) is the underlying fee owner and has requested to purchase the easement. The easement may be sold to the university.

c. **Reports**

- (1) **Compliance Division report**

State law requires the commission to establish a compliance program, which must include a Compliance Division to oversee the program. The Compliance Division is responsible for acting to prevent and detect serious breaches of department policy, fraud, waste, and abuse of office, including any acts of criminal conduct within the department. The Compliance Division is required to provide a monthly report to the commission regarding investigations and a summary of information relating to trends and recommendations.

- (2) **Report of Environmental Review of Projects** - Semiannual report on projects being processed under the department's environmental review process (MO)

This report is being submitted under Transportation Code, §201.762(a), which requires the department to submit to the commission twice a year a report that identifies projects being processed under the department's environmental review process.

d. **Designation of Access Control**

- Brazoria County** - SH 288, approximately 950 feet north of Discovery Bay Drive - Consider the designation of a location on the highway at which access will be permitted to the abutting property (MO)

The designation of a 65-foot break in the control-of-access line will allow the abutting landowner to open a proposed driveway location for access to the southbound frontage road. The district has determined that access may be permitted at the designated location.

e. **Speed Zones**

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

This minute order establishes or alters regulatory and construction speed zones on various sections of highways in the state.

12. **Executive Session Pursuant to Government Code, Chapter 551**

Section 551.071 - Consultation with and advice from legal counsel regarding any item on this agenda, pending or contemplated litigation, or other legal matters.

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.

ADJOURN

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NOTE:

Enumerated agenda items are assigned numbers for ease of reference only, and will not necessarily be considered by the commission in that particular order. Items identified with (MO) for minute order are those upon which the commission is considering an action. Persons with special needs or disabilities who plan to attend this meeting and require auxiliary aids or services are requested to contact Robin Carter at (512) 305-9536 at least three working days prior to the meeting so that appropriate arrangements can be made.

Atención. Si desea recibir asistencia gratuita para traducir esta información, llame al 512-936-0942.

TEXAS TRANSPORTATION COMMISSION AGENDA
Attached Lists
December 15, 2016

Construction of Highways, Department Buildings, and Other Transportation Facilities - State Let (a)

<u>Dist.</u>	<u>County Name</u>	<u>Highway Number</u>	<u>Controlling Project No.</u>
ABL	CALLAHAN	IH 20	NH 2017(364)
ATL	BOWIE	US 67	STP 2017(333)HES
ATL	HARRISON	FM 1186	STP 2017(336)HESG
AUS	LEE	FM 2239	STP 2017(323)
BMT	CHAMBERS	VA	STP 2017(422)TAPS
BRY	BURLESON	SH 21	NH 2017(346)
BRY	FREESTONE	IH 45	NH 2017(348)
CHS	DICKENS	US 82	STP 2017(370)HES
CRP	KARNES	US 181	NH 2017(302)
CRP	SAN PATRICIO	SH 35	STP 2017(304)
DAL	NAVARRO	FM 1838	STP 2016(992)HES
HOU	FORT BEND	IH 10	CC 271-5-42
HOU	GALVESTON	VA	FT 912-73-205
HOU	HARRIS	VA	STP 2017(306)
LBB	PARMER	US 70	NH 2017(371)
LFK	NACOGDOCHES	FM 343	STP 2017(314)
ODA	REEVES	RM 652	BR 2017(327)
PAR	HUNT	IH 30	NH 2017(352)
PHR	HIDALGO	FM 681	STP 2017(317)
SAT	BEXAR	IH 410	NH 1602(247)
SAT	COMAL	IH 35	NH 2017(152)
TYL	SMITH	VA	STP 2016(366)

Construction of Highways, Department Buildings, and Other Transportation Facilities - State Let (a) (continued)

<u>Dist.</u>	<u>County Name</u>	<u>Highway Number</u>	<u>Controlling Project No.</u>
WAC	BELL	FM 3470	STP 2017(398)
WAC	LIMESTONE	US 84	STP 2017(397)
WFS	COOKE	CR	BR 2006(653)
WFS	WICHITA	BU 287J	NH 2017(399)
YKM	FAYETTE	US 90	BR 2017(318)
YKM	GONZALES	SH 80	STP 2017(321)
YKM	MATAGORDA	SH 60	STP 2017(319)HES

Highway Maintenance - State Let (b)

<u>Dist.</u>	<u>County Name</u>	<u>Highway Number</u>	<u>Controlling Project No.</u>
ATL	TITUS	IH 30	RMC - 630816001
ATL	UPSHUR	US 259	RMC - 630792001
AUS	TRAVIS	IH 35	RMC - 631022001
AUS	TRAVIS	IH 35	RMC - 631115001
BMT	CHAMBERS	IH 10	RMC - 630540001
BWD	STEPHENS	US 180	RMC - 630974001
BRY	MADISON	FM 1119	RMC - 628632001
DAL	DALLAS	US 80	BPM - 630320001
DAL	KAUFMAN	IH 20	RMC - 630620001
HOU	HARRIS	SL 8	RMC - 630838001
HOU	MONTGOMERY	IH 69	RMC - 630857001
HOU	MONTGOMERY	IH 69	RMC - 630868001
ODA	REEVES	IH 20	RMC - 630936001
ODA	WINKLER	FM 1218	RMC - 630415001
SAT	MEDINA	FM 2200	RMC - 631094001
SAT	UVALDE	US 90	RMC - 630993001
SAT	WILSON	US 181	RMC - 630992001
TYL	SMITH	FM 344	RMC - 630887001

Highway Maintenance - State Let (b) (continued)

<u>Dist.</u>	<u>County Name</u>	<u>Highway Number</u>	<u>Controlling Project No.</u>
YKM	FAYETTE	BS 71E	RMC - 630593001
YKM	VICTORIA	US0059	RMC - 631204001

**Eminent Domain
Controlled Access**

<u>County</u>	<u>Highway</u>	<u>Exhibit</u>	<u>ROW CSJ No.</u>	<u>Parcel</u>
Brazos	FM 2347	J	3138-01-026	17
Dallas	IH 635	E	2374-07-071	1
Denton	IH 35W	G	0081-13-055	5X
Galveston	IH 45	A	0500-04-120	19
Galveston	IH 45	H	0500-04-120	22
Galveston	IH 45	MM	0500-04-123	105
Galveston	IH 45	NN	0500-04-123	113
Galveston	IH 45	II	0500-04-123	210
Galveston	IH 45	R	0500-04-123	217
Galveston	IH 45	JJ	0500-04-123	226
Harris	SH 99	KK	3510-08-003	1002AAQ
McLennan	IH 35	N	0015-01-234	121,121AC
Montgomery	SH 99	D	3510-07-008	802AAQ
Tarrant	IH 820E	I	0008-13-232	1
Tarrant	IH 820E	LL	0008-13-232	4
Tarrant	IH 820E	M	0008-13-232	15
Tarrant	IH 820E	L	0008-13-232	21
Tarrant	SH 360	O	2266-02-145	103
Tarrant	SH 360	B	2266-02-145	131
Tarrant	SH 360	F	2266-02-145	132
Tarrant	SH 360	C	2266-02-145	140
Tarrant	SH 360	K	2266-02-145	141
Travis	IH 35	P	0015-13-393	1
Travis	IH 35	Q	0015-13-393	2
Travis	IH 35	OO	0015-13-393	4
Travis	IH 35	S	0015-13-393	7
Travis	IH 35	T	0015-13-393	8
Travis	IH 35	U	0015-13-393	10
Travis	IH 35	V	0015-13-393	12AAQ
Travis	IH 35	W	0015-13-393	15
Travis	IH 35	X	0015-13-393	19

Eminent Domain
Controlled Access (continued)

<u>County</u>	<u>Highway</u>	<u>Exhibit</u>	<u>ROW CSJ No.</u>	<u>Parcel</u>
Travis	IH 35	Y	0015-13-393	20
Travis	IH 35	Z	0015-13-393	21
Travis	IH 35	AA	0015-13-393	22
Travis	IH 35	BB	0015-13-393	23
Travis	IH 35	CC	0015-13-393	24
Travis	IH 35	DD	0015-13-393	25
Travis	IH 35	EE	0015-13-394	18
Travis	IH 35	FF	0015-13-394	26
Travis	IH 35	GG	0015-13-394	28
Travis	IH 35	HH	0015-13-394	29

Eminent Domain
Non-Controlled Access

<u>County</u>	<u>Highway</u>	<u>Exhibit</u>	<u>ROW CSJ No.</u>	<u>Parcel</u>
Bexar	US 281	15	0253-04-149	30
Bexar	US 281	16	0253-04-149	32
Bexar	US 281	5	0253-04-151	7A
Burleson	FM 60	17	0648-03-064	19
Burleson	FM 60	24	0648-03-064	20
Burleson	FM 60	25	0648-03-064	21
Burleson	FM 60	13	0648-03-064	26
Dawson	SH 349	6	0380-19-002	4
Galveston	SH 146	21	0389-06-092	418
Galveston	SH 146	9	0389-06-096	408
Galveston	SH 146	10	0389-06-096	409
Galveston	SH 146	11	0389-06-096	410
Grayson	FM 121	7	0729-01-044	10
Grayson	FM 121	12	0729-01-044	18
Grayson	FM 121	1	0729-01-044	23
Harris	SH 146	26	0389-05-095	114
Harris	SH 146	27	0389-05-095	115
Harris	SH 146	20	0389-05-095	126
Harris	SH 146	19	0389-05-095	130
Harris	SH 146	28	0389-05-095	136
Matagorda	FM 457	23	0605-01-063	1
Nacogdoches	FM 2609	22	2590-01-027	8
Nacogdoches	FM 2609	18	2590-01-027	9

Eminent Domain

Non-Controlled Access (continued)

<u>County</u>	<u>Highway</u>	<u>Exhibit</u>	<u>ROW CSJ No.</u>	<u>Parcel</u>
Rockwall	FM 3549	14	1015-01-077	11
Rockwall	FM 3549	29	1015-01-077	12
Rockwall	FM 3549	2	1015-01-077	17
Smith	FM 2493	8	0191-03-082	8
Smith	FM 2493	4	0191-03-082	14
Smith	FM 2493	3	0191-03-082	23

Donations to the Department

<u>Donor</u>	<u>Dist</u>	<u>County</u>	<u>Donation Description</u>
Amarillo Arborlogical, Inc.	AMA	Potter	Pruning and clean-up of trees and other landscape vegetation of the State's IH-40, IH-27 interchange right of way in Amarillo.
Continental Homes of Texas, L.P. dba D.R. Horton Homes	AUS	Williamson	Design and construction of a traffic signal at FM 685 and Riverwalk Drive in Hutto.
CS Titan Valley Park Limited Partnership	BRY	Brazos	Design and construction of 12 FT wide and 1020 linear feet Shared Use Path (SUP) located in the northwest quadrant of FM 60 and FM 2818 interchange in State Right of Way in College Station.
Flying "W" Properties, Ltd.	SAT	Comal	Design and construction for roadway widening to accommodate left-turn and right-turn lanes at the intersection of FM 2439 and FM 1102 in New Braunfels.
HT Springs Stuebner Land, LP	HOU	Harris	Design and construction of a traffic signal on FM 2920 and Emerald Mist Parkway at the Laural Park North Subdivision in Spring.