

**CHAIR**  
Robert D. Thomas

**COMMISSIONERS**  
William D. Darby  
Patti Jones  
Mike Novak  
Jack W. Perry  
Betty Reinbeck  
Joseph Slovacek



**EXECUTIVE DIRECTOR**  
Harvey Hilderbran

## **TEXAS FACILITIES COMMISSION**

Minutes No. 90: Minutes of the January 18, 2017 Public Meeting of the Texas Facilities Commission in Austin, Travis County, Texas.

After providing notice as required by the Texas Open Meetings Act, the Texas Facilities Commission held an open meeting at the Central Services Building, 1711 San Jacinto Boulevard, in Conference Room 402, Austin, Texas, on Wednesday, January 18, 2017, commencing at 10:00 a.m. Chairman Thomas presided, and Commissioners Novak, Reinbeck, Perry, and Slovacek were also present. Commissioners Jones and Darby was absent.

### **I. Call to Order.**

Chair Thomas called the meeting to order at 10:00 a.m.

### **II. Approval of the minutes from the November 16, 2016 Open Meeting.**

The Commission voted unanimously to approve the minutes from the previous meeting with a motion made by Commissioner Perry and a second to approve the motion made by Commissioner Reinbeck.

### **III. Public Comment.**

There was no public comment.

### **IV. Consent Agenda for Award of Lease Recommendations and Summaries.**

**Leases and/or Amendments Pending Execution with Commencement Date on or after January 18, 2017.**

#### **Replacement:**

1. Lease #20578 – Comptroller of Public Accounts: Downers Grove, IL.
2. Lease #303-7-20551 – Department of Public Safety: Jacksonville, TX.

#### **Renewals:**

3. Lease #9192 – Office of the Attorney General: Austin, TX.
4. Lease #20054 – Comptroller of Public Accounts: Dallas, TX.
5. Lease #303-7-10495 – Office of the Attorney General: Austin, TX.
6. Lease #7055 – Health and Human Services Commission; Department of Family and Protective Services: Tyler, TX.
7. Lease #303-5-10925 – Department of Family and Protective Services; Health and Human Services Commission; State Securities Board; Texas Lottery Commission; State Office of Administrative Hearings: Dallas, TX.
8. Lease #20162 – Comptroller of Public Accounts: Cerritos, CA.

9. **Lease #10420 – Department of Family and Protective Services; Health and Human Services Commission; Department of State Health Services; and the Texas Workforce Commission: Kerrville, TX.**
10. **Lease #303-3-20342 – Health and Human Services Commission; Department of Family and Protective Services; Department of State Health Services; Department of Aging and Disability Services; Texas Workforce Commission: Uvalde, TX.**

The Commission voted unanimously to approve the above Consent Agenda for Award of Lease Recommendations and Summaries with a motion to approve made by Commissioner Novak and a second to approve the motion made by Commissioner Perry.

- V. **Consideration and possible action to approve an architectural/engineering professional services contract amendment for master architectural services for the Capitol Complex New Buildings and Utility Infrastructure Project, Project No. 16-018-8001 in Austin, Texas.**

The Commission voted unanimously to approve an architectural/engineering professional services contract amendment to Page Southerland, Inc., in the amount of \$6,166,150.00 for master architectural services for the Capitol Complex New Buildings and Utility Infrastructure Project, Project No. 16-018-8001 in Austin, Texas with a motion to approve made by Commissioner Reinbeck and a second to approve the motion made by Commissioner Slovacek.

- VI. **Consideration and possible action to approve a construction contract for Phase 2 construction for the Capitol Complex New Buildings and Utility Infrastructure Project, Project No. 16-018-8001 in Austin, Texas.**

The Commission voted unanimously to approve a construction contract to Balfour Beatty Construction, LLC in the amount of \$19,795,920.00 for Phase 2 construction for the Capitol Complex New Buildings and Utility Infrastructure Project, Project No. 16-018-8001 in Austin, Texas, with a motion made by Commissioner Perry and a second to approve the motion made by Commissioner Novak.

- VII. **Consideration and possible action to award a construction manager-at-risk contract for the North Austin Complex, Phase I, Project No. 16-030-8060 in Austin, Texas.**

The Commission voted unanimously to approve a construction manager-at-risk contract to J.T. Vaughn Construction, LLC in the amount of \$155,000,000.00 for the North Austin Complex, Phase I, Project No. 16-030-8060 in Austin, Texas, with a motion made by Commissioner Reinbeck and a second to approve the motion made by Commissioner Slovacek.

- VIII. **Consideration and possible action to award a construction manager-at-risk contract for TFC's 2016-17 deferred maintenance on the William P. Hobby Towers I, II and III, Project No. 16-010-5880 in Austin, Texas.**

The Commission voted unanimously to approve a construction manager-at-risk contract to American Constructors, Inc., in the amount of \$5,743,000.00 for TFC's 2016-17 deferred maintenance on the William P. Hobby Towers I, II and III, Project No. 16-010-5880 in Austin, Texas, with a motion made by Commissioner Reinbeck and a second to approve the motion made by Commissioner Perry.

- IX. **Consideration and possible action to award a construction manager-at-risk contract for the TFC's 2016-17 Various Fire Protection Systems Repairs/Replacements, Project No. 16-008-5400.**

The Commission voted unanimously to approve a construction manager-at-risk contract to Flynn Construction, Inc., in the amount of \$11,310,000.00 for the TFC's 2016-17 Various Fire Protection Systems Repairs/Replacements, Project No. 16-008-5400 with a motion made by Commissioner Novak and a second to approve the motion made by Commissioner Slovacek.

- X. **Consideration and possible action to approve settlement for C.F. Jordan Construction, LLC v. TFC; OAG No. CX1831727726.**

The Commission voted unanimously to settle the C.F. Jordan vs. TFC for the amount of \$239,379.09, this amount includes releasing the retainage of \$165,325.09 and \$74,054.00, to be paid by DP, for improvements to the project, with a motion made by Commissioner Novak and a second to approve the motion made by Commissioner Perry.

**XI. Briefing from outside counsel regarding investigation of employment issues.**

Chairman Thomas stated that In Executive Session we received a lengthy detailed substantive report from an independent third party investigator regarding employment issues and we also received legal counsel from the Office of Attorney General, both of them were outstanding and done by good professionals. The substances of the report was that the potential claims of discrimination were unsubstantiated however we also learned that there are some good things we could do and could start working on in a very positive constructive manner base upon that and advice from counsel we are going to be developing a series of actions that we'll be taking to help facilitate a very positive constructive place for all our employees it's very important to us in the regard so thank you all so very much for your patience in the lengthy Executive Session.

**XII. Report from the Executive Director on facilities design, construction projects, facilities leasing, facilities operations, maintenance, energy management, HUB and legislation.**

There was no discussion on this agenda item.

**XIII. Monthly Status Report from the Director of Internal Audit.**

1. Discussion of Office of Internal Audit's (OIA) Review of Contract Management (Phase Two).
2. Review and discussion of the Internal Audit's Quarterly Status Report for the quarter ended November 30, 2016.
3. Review and discuss Office of Internal Audit's recent follow-up on the State Auditor's review of Selected Contracts at TFC (Report # 15-001), which was issued in September 2014.

There was no discussion on this agenda item.

**XIV. Report from the Commission Work Groups.**

1. Energy Work Group

There was no discussion on this agenda item.

**XV. Report from the Chief Financial Officer on the monthly financial report update.**

There was no discussion on this agenda item.

**XVI. Discussion on potential ground lease for State Parking Lot 15.**

There was no discussion on this agenda item.

**XVII. Discussion and possible action to approve a new contract with Austin Energy.**

The Commission voted unanimously to discuss Agenda Item XVII in Executive Session, with a motion made by Commissioner Novak and a second to approve the motion made by Commissioner Reinbeck. After Executive Session the Commission voted unanimously that the terms defining an agreement in principle with Austin Energy for the provision of electric service be approved and that the authority for final approval of the contract evolving from those terms to be delegated to the Executive Director, with a motion made by Commissioner Novak and a second to approve the motion made by Commissioner Slovacek.

**XVIII. Recess into CLOSED session, if necessary, pursuant to Texas Government Code Chapter 551 for the following purposes:**

- a. Pending and potential litigation, Section 551.071.
- b. The appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Executive Director and executive management staff, Section 551.074 The duties, roles, and responsibilities as Commissioners of the Texas Facilities Commission, Section 551.074.
- c. The deliberation regarding purchase, exchange, lease, or value of real property, Section 551.072.
- d. All matters identified in this agenda where the commission votes unanimously that deliberation in an open meeting of business and financial issues relating to a contract being negotiated would have a detrimental effect of the position of the State in negotiations with a third person and in which the General Counsel has issued a determination in writing, Section 551.0726.
- e. Any matters identified in this agenda where the Commissioners seek the advice of their attorney, Section 551.071.
- f. The deliberation regarding a security audit, Section 551.076.

Chair Thomas recessed the meeting to convene in Executive Session at 10:31 a.m. Upon reconvening the open meeting at 2:19 p.m., Chair Thomas reconvened the Executive Session at 2:22 p.m.

**XIX. Reconvene in open meeting and consider action on matters discussed in Executive Session.**

Chair Thomas reconvened the open meeting at 2:34 p.m.


**XX. Adjournment.**

Chair Thomas adjourned the meeting at 2:35 p.m.

**Reviewed and Submitted:**

By:   
Kay Molina, General Counsel

**Approved by the Commission on April 19, 2017.**

By:   
Robert D. Thomas, Chair