TEXAS TRANSPORTATION COMMISSION

TRAVEL Division

MINUTE ORDER

This minute order considers donations in the amount of $500 each by ARCADIS G & M, Inc., Binkley & Barfield, Inc., Bucher, Willis, & Ratliff, Costello, Inc., LJA Engineering & Surveying, Inc., Pate Engineering, Inc., Rods Surveying, Inc., and S & B Infrastructure, Ltd. and from Othon, Inc. in the amount of $100 to the Texas Department of Transportation (department) in support of the Adopt-a-Highway Program. The purpose of the Adopt-a-Highway Program is to assist the department's litter prevention and highway maintenance efforts. These donations have been examined by department personnel. The department recommends issuance of this minute order on the ground that it is in the best interest and welfare of the traveling public.

Transportation Code, §201.206, authorizes the 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 60th 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 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 commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it 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.

The commission finds that the donations will further the department's responsibilities and that the donors are not a party to a contested case before the department and have not been a party to a contested case before the department during the last 30 days. The commission also finds that the donors are interested in or likely to become interested in a contract, purchase, payment, or claim with or against the department. The commission has determined that acceptance of the donations would nonetheless provide significant public benefits and would not influence or reasonably appear to influence the department in the performance of its duties.

IT IS THEREFORE ORDERED by the commission that the donation of a total amount of $4,100 by the donors has been accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

Submitted and reviewed by:

General Counsel

Recommended by:

M. W. Behrens

Executive Director

110246 SEP 29 05

Minute Number | Date Passed