TEXAS TRANSPORTATION COMMISSION

MINUTE ORDER

JEFFERSON County

BEAUMONT District

This minute order considers a donation of an estimated amount of $2.85 million to the Texas Department of Transportation (department) from SEMPRA Energy Inc. to provide for land acquisition and exchange of right of way, utility relocation, environmental assessments, schematics, plans specifications and estimates, construction and construction engineering for relocation of approximately 3.3 miles of SH 87 in Port Arthur, Texas.

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.

This donation has been examined, and the department recommends issuance of this minute order on the ground that acceptance of the donation is in the best interest and welfare of the traveling public. The commission finds that the donation will further the department's responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days. The commission also finds that the donor is not subject to department regulation or oversight and that acceptance of this donation will not influence or reasonably appear to influence the department in the performance of its duties. The donor previously donated funds for similar projects, and agreements have been signed without any issues.

IT IS THEREFORE ORDERED by the commission that the donation of $2.85 million by SEMPRA Energy Inc. is 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:

Bob Jerkins

Interim General Counsel

Recommended by:

M. W. Behrens

Executive Director

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Minute Number | Date Passed