

TEXAS TRANSPORTATION COMMISSION

FANNIN County

MINUTE ORDER

Page 1 of 2

PARIS District

Transportation Code, §91.002, authorizes the Texas Department of Transportation (department) to acquire, finance, construct, operate, and maintain rail facilities. The department may enter into an agreement with a public entity, including a political subdivision of the state, to permit the entity independently or jointly with the department, to acquire, construct, maintain, or operate a rail facility or system.

The Texas Transportation Commission (commission) approved the department to purchase a 33.5-mile segment of the Union Pacific Railroad Company's (UP) Bonham Subdivision between milepost 94.0, near Paris, and milepost 127.5, east of Bonham, in Fannin and Lamar Counties with Minute Order 109588 on February 26, 2004. Subsequently, the commission approved the department to lease the rail line to the Fannin County Rural Rail Transportation District (FRRTD) with Minute Order 110350 on December 15, 2005.

FRRTD has requested that the department acquire an additional 1.35 miles of rail line from the UP that is contiguous to the west end of the segment of track already owned by the state and that terminates in Bonham. FRRTD proposes to lease this line from the department and intends to improve the line to provide a tourist passenger service and to provide local freight rail service.

The Bonham Economic Development Corporation (BEDCO) has offered a cash donation of \$140,000 to the department for the purchase of the line. The purchase of the rail line and improvements would preserve a regional transportation alternative through Fannin and Lamar counties that is necessary for rural economic development opportunities.

A public hearing concerning the proposed donation and acquisition was held by BEDCO at the Fannin County Annex in Bonham on April 7, 2009. Public comments were positive and BEDCO passed a resolution agreeing to provide funding to the department for the acquisition.

The commission has considered the information presented by FRRTD and BEDCO and has determined that acquisition of the rail facility from the UP and the lease of the rail line to FRRTD are in the best interest of the state. The acquisition of the installed rails, signals, switches, structures and other improvements that comprise the rail facility is necessary for the preservation and restoration of the operation of freight and passenger rail service along this corridor.

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 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

TEXAS TRANSPORTATION COMMISSION

FANNIN County

MINUTE ORDER

Page 2 of 2

PARIS District

would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

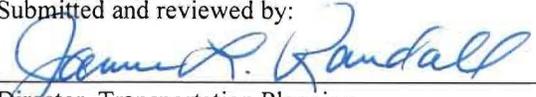
The commission finds that the donation furthers the department's responsibilities and that BEDCO is not a party to a contested case before the department, has not been a party to a contested case before the department during the last 30 days; is not subject to department regulation or oversight, and is not interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department. The department has determined that acceptance of the donation is in the best interest and welfare of the traveling public and will provide a significant public benefit.

IT IS THEREFORE ORDERED by the commission that the donation of \$140,000 by Bonham Economic Development Corporation 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 acknowledgement of the donation.

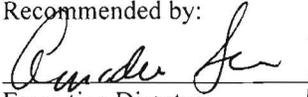
IT IS FURTHER ORDERED by the commission that the executive director or the executive director's designee is authorized to enter into any necessary agreements to acquire from UP the 1.35-mile rail facility along the Bonham Subdivision between milepost 127.5, and milepost 128.85, in Bonham, in Fannin County, for an amount not to exceed \$140,000.

IT IS FURTHER ORDERED by the commission that the executive director or the executive director's designee is authorized to amend the existing lease agreement with FRRTD to include the new portion of line and allow for use as a passenger rail facility.

Submitted and reviewed by:

  
Director, Transportation Planning  
and Programming Division

Recommended by:

  
Executive Director

**111852 JUN 25 09**

Minute Number Date Passed