

TEXAS TRANSPORTATION COMMISSION

TARRANT and DALLAS Counties

MINUTE ORDER

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FORT WORTH and DALLAS Districts

Transportation Code, Chapter 223, Subchapter E, prescribes the process by which the Texas Department of Transportation (department) may enter into a comprehensive development agreement (CDA) with a private entity that provides for the design, development, construction, maintenance, repair, operation, extension, or expansion of a toll project on the state highway system.

On March 30, 2006, by Minute Order 110469, the Texas Transportation Commission (commission) authorized and directed the department to issue a request for qualifications (RFQ) to develop, design, and construct and to potentially finance, maintain, and operate SH 114 from SH 114L Business to east of International Parkway and SH 121 from FM 2499 to SH 360 (the SH 114/SH 121 corridor), including tolled managed lanes along SH 114 from east of FM 1709 to east of International Parkway, as well as other facilities to the extent necessary for connectivity, mobility, safety, and financing (DFW Connector Project). On December 29, 2006 the department issued a RFQ for the DFW Connector Project and subsequently determined that three of the teams submitting qualification statements in response to the RFQ were qualified to be on the short list of teams that will be requested to submit detailed proposals.

Transportation Code, §223.203 and 43 TAC §27.4 provide that, if authorized by the commission, the department will issue a request for proposals (RFP) from all private entities qualified for the short-list. On October 25, 2007, by Minute Order 111102, the commission authorized and directed the department to issue an RFP for the DFW Connector Project requesting detailed proposals from the short-listed teams, and authorized a payment for work product stipend of up to \$500,000 per unsuccessful responsive proposer, which amount was subsequently increased to \$750,000 on September 25, 2008, by Minute Order 111529. On March 28, 2008, the department issued the RFP.

On July 15, 2008, proposals were received from Gateway Connector Constructors J.V., NorthGate Constructors J.V., and Trinity Infrastructure L.L.C. All of the proposals were significantly over the amount of available public funds designated for the Project. It was determined that it was in the best interest of the state to issue revised RFP documents requesting a Best and Final Offer from each Proposer. To assure that the project could be funded with available public funds, each proposer was asked to submit a bid on three separate project configurations. Revised RFP documents were released on December 10, 2008.

On January 12, 2009, best and final offer proposals were received from the three proposer teams. On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act (ARRA). The ARRA created an economic stimulus package that provides \$64.1 billion nationwide for infrastructure projects, including \$27.5 billion for highway and bridge construction, and \$1.5 billion for surface transportation grants to be administered by the Secretary of Transportation. On March 5, 2009, by Minute Order 111734, the commission authorized and directed the department to commit \$250,000,000 in ARRA funds to the DFW Connector Project. In light of the change in funding availability, on March 6, 2009, revised RFP documents were issued to each of the three proposers in order to correctly reflect the changed circumstances and obtain the best value for the State.

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On March 16, 2009, proposal revisions were received from Gateway Connector Constructors J.V. and NorthGate Constructors, J.V. Trinity Infrastructure L.L.C. did not submit a proposal revision and was deemed non-responsive. From January 13, 2009 until March 19, 2009, the department evaluated development and price proposals from the proposers.

The proposals were evaluated concurrently in the following categories: (1) Pass/Fail and Responsiveness; (2) Technical Score; and (3) Price Score. The technical development proposals were evaluated using qualitative ratings of meets minimum, fair, good, very good, and excellent, and assigned adjectival ratings and numerical scores in each category. Points were assigned to the technical development proposals based on those ratings and the weightings of the individual evaluation criteria to arrive at the Technical Score. Points were assigned to the financial proposal using a formula that calculated a price score for each of the three configurations independently based on pre-assigned credits for the value of each configuration included in its proposal.

The Technical Score points assigned to the technical development proposals were then added to the Price Score points assigned to the financial proposal to determine the total number of points received by each proposal. The responsive proposal with the highest score was determined to provide the apparent best value.

The concurrent qualitative evaluation and scoring of each proposal under the Technical Score and Price Score categories, and the Pass/Fail and Responsiveness review, resulted in the proposals being ranked as follows: (1) NorthGate Constructors, J.V., and (2) Gateway Connector Constructors J.V. The proposal submitted by NorthGate Constructors, J.V., was accordingly determined to provide the apparent best value.

IT IS THEREFORE ORDERED by the commission that the determination that the proposal submitted by NorthGate Constructors, J.V., provides the apparent best value to the department is approved, and the department is authorized and directed to commence and complete negotiations with NorthGate Constructors, J.V., necessary to finalize the project agreements to develop, design, and construct and to potentially finance, maintain, and operate the DFW Connector Project from SH 114L Business to east of International Parkway and SH 121 from FM 2499 to SH 360 (SH 114/SH 121 corridor), including tolled managed lanes along SH 114 from east of FM 1709 to east of International Parkway, as well as other facilities to the extent necessary for connectivity, mobility, safety and financing.

IT IS FURTHER ORDERED that the project agreements are awarded to NorthGate Constructors, J.V., subject to, and effective upon the occurrence of, all of the following: (1) the successful conclusion of negotiations; (2) the issuance of a Notice of Intent to Award by the department; (3) applicable FHWA approvals as identified by the department; (4) a determination by the Office of the Attorney General that the proposed comprehensive development agreement is legally sufficient, in accordance with Transportation Code, §371.051; (5) notification to, and written approval from, the Legislative Budget Board, in accordance with Transportation Code, §371.052(b) and Riders 40 and 43, Pages VII-30-VII-31, Chapter 1428, Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act); (6) notification to the State Auditor's Office, in accordance with Transportation Code, §371.052(c); and (7) the mutual execution and delivery of the comprehensive development agreement by the executive director of the department and the proposer.

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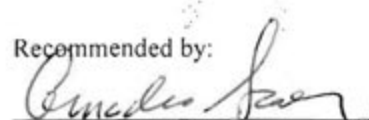
IT IS FURTHER ORDERED that if the executive director determines that the negotiations with NorthGate Constructors, J.V., cannot be successfully completed, and that therefore the proposal submitted by NorthGate Constructors, J.V., will not provide the apparent best value, the department is authorized to commence and complete discussions with Gateway Connector Constructors J.V., the next highest ranked proposer, with award to the next highest ranked proposer subject to the terms and conditions in the immediately preceding paragraph of this order.

Submitted and reviewed by:



Director, Texas Turnpike Authority Division

Recommended by:



Executive Director

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Minute
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Date
Passed