

TEXAS TRANSPORTATION COMMISSION

DALLAS County

MINUTE ORDER

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DALLAS District

Transportation Code, Chapter 223, Subchapter F prescribes the process by which the Texas Department of Transportation (department) may enter into a design-build contract with a private entity that provides for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project.

Transportation Code, §223.245 prescribes requirements for the procurement of a project to be developed under a design-build contract and requires the department to publish a request for qualifications in the *Texas Register* and on the department's Internet website that includes the criteria that will be used to evaluate any received qualifications statements, the relative weight given to the criteria, and a deadline by which qualifications statements must be received.

On October 27, 2011, by Minute Order 112874, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the development, design, construction, and, potentially, maintenance of the Dallas Horseshoe Project on I-30 from Sylvan Avenue to west of I-45 and on I-35E from north of Eighth Street to north of I-30 (project). The department issued the RFQ on December 9, 2011, and subsequently determined that three of the seven teams submitting qualifications statements in response to the RFQ were qualified to be on the short list of teams that will be requested to submit detailed proposals to develop, design, construct, and, potentially, maintain the project.

Transportation Code, §223.246 and 43 TAC §9.153(d) 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. The department intends to issue an RFP for the Dallas Horseshoe Project and request detailed proposals from the three short-listed teams to develop, design, construct, and, potentially, maintain the project.

Transportation Code, §223.249 and 43 TAC §9.153(f) require the department to pay an unsuccessful private entity that submits a detailed proposal that is responsive to the requirements of the RFP a stipulated amount in exchange for the work product contained in that proposal. The stipulated amount must be stated in the RFP and may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. Payment for this work product would allow the department to use the work product for the benefit of the Dallas Horseshoe project or other department projects without further payment to the unsuccessful proposer. Transportation Code, § 223.249 and 43 TAC §9.153(f) require the department to pay a partial stipend in the event that a procurement is terminated before the execution of a design-build contract.

IT IS THEREFORE ORDERED that the department is authorized and directed to issue an RFP to develop, design, construct, and, potentially, maintain the Dallas Horseshoe Project on I-30 from Sylvan Avenue to west of I-45 and on I-35E from north of Eighth Street to north of I-30 in Dallas County.

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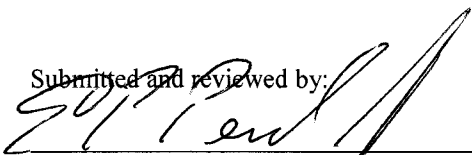
DALLAS District

IT IS FURTHER ORDERED that, after consideration of the criteria in 43 TAC §9.153(f), the department is authorized to pay each proposer that submits a responsive, but unsuccessful, proposal for the Dallas Horseshoe Project an amount based upon the value of the work product provided in the proposal that can, as determined by the department, be used by the department in the performance of its functions, up to a maximum amount per proposer of 0.25% of the price for all work under the design-build agreement.

IT IS FURTHER ORDERED that in the event the procurement is terminated prior to the execution of the design-build agreement, and after consideration of the criteria in 43 TAC §9.153(f), the department is authorized to pay each proposer a partial stipend based upon the value of the work product provided in the proposal that can, as determined by the department, be used by the department in the performance of its functions, up to a maximum amount per proposer of \$728,000.

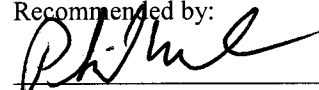
IT IS FURTHER ORDERED that payment for work product may only be paid to the extent that the work product submitted meets the minimum criteria and the proposer satisfies the conditions for payment identified by the department in the Dallas Horseshoe Project procurement documents.

Submitted and reviewed by:



Director, Strategic Projects Division

Recommended by:



Executive Director

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Minute
Number

Date
Passed