

## TEXAS TRANSPORTATION COMMISSION

DALLAS AND DENTON Counties

### MINUTE ORDER

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DALLAS District

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, financing, construction, maintenance, repair, operation, extension, or expansion of an eligible project.

On September 29, 2011, by Minute Order 112840, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the development of the IH 35E Managed Lanes Project from IH 635 in Dallas County to US 380 in Denton County. The department issued the RFQ on January 23, 2012 and subsequently determined that four of the five teams submitting qualifications statements in response to the RFQ were most qualified to be on the short list of teams that would be requested to submit detailed proposals to develop, design, construct, and, potentially, maintain the project.

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 June 28, 2012, by Minute Order 113156, the commission authorized and directed the department to issue an RFP requesting detailed proposals from the short-listed teams to develop, design, construct, and potentially maintain the IH 35E Managed Lanes Project from IH 635 in Dallas County to US 380 in Denton County and authorized a payment for work product of each unsuccessful responsive proposer of up to \$1 million. On July 13, 2012, the department issued the RFP.

On November 12, 2012, technical and financial proposals were received, and on November 19, 2012, price proposals were received, from AGL Constructors, Dallas to Denton Constructors, IH 35E Infrastructure, and Northern Link Constructors. From November 13, 2012 until December 5, 2012, the department evaluated the technical and financial proposals from the proposers, and from November 19, 2012 until December 5, 2012, the department evaluated the price proposals from the proposers.

The proposals were evaluated in the following categories: (1) Pass/Fail and Responsiveness; (2) Technical Score; and (3) Price Score. The project development plans in the technical proposals were evaluated using qualitative ratings of: meets minimum, fair, good, very good, and excellent; and assigned adjectival ratings and numerical scores for each evaluation subfactor. Points were assigned to the technical proposals based on those ratings and the weightings of the individual evaluation factors, with the sum of those points resulting in a total evaluation score, which was multiplied by a defined percentage to arrive at the Technical Score. To arrive at the Price Score, points were assigned to the price proposals using a formula that is comprised of the combination of the base price score, the options price score, and the maintenance price score.

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

The evaluation and scoring of each proposal under the Technical Score and Price Score categories resulted in the proposals being ranked as follows: AGL Constructors, Dallas to Denton Constructors, and Northern Link Constructors. IH 35E Infrastructure submitted a responsive proposal with a development price in excess of the Adjusted Available Public Funds Amount, and therefore

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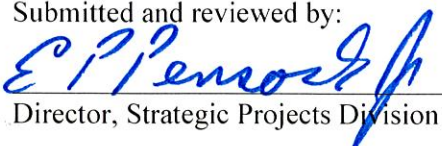
was not scored or ranked. The proposal submitted by AGL Constructors was accordingly determined to provide the apparent best value.

IT IS THEREFORE ORDERED by the commission that the determination that the proposal submitted by AGL Constructors provides the apparent best value to the department is approved, and the department is authorized and directed to commence and complete negotiations with AGL Constructors necessary to finalize the design- build comprehensive development agreement and associated optional capital maintenance agreement, to develop, design, construct, and, potentially, maintain the IH 35E Managed Lanes Project from IH 635 in Dallas County to US 380 in Denton County, and to modify the comprehensive development agreement as necessary as a result of such negotiations.

IT IS FURTHER ORDERED that the comprehensive development agreement and the associated optional capital maintenance agreement is awarded to AGL Constructors 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, including the optional capital maintenance agreement, is legally sufficient, in accordance with Transportation Code, §371.051; (5) notification and information having been provided to the Legislative Budget Board, in accordance with Transportation Code, §371.052(b) and Riders 22 and 24, Pages VII-33, Chapter 1355, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act); and (6) the mutual execution and delivery of the comprehensive development agreement, including the optional capital maintenance agreement, by the executive director of the department or his designee and the developer.

IT IS FURTHER ORDERED that if the executive director determines that the negotiations with AGL Constructors cannot be successfully completed, and that therefore the proposal submitted by AGL Constructors will not provide the apparent best value, the department is authorized to commence and complete discussions and negotiations with Dallas to Denton Constructors, 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, Strategic Projects Division

Recommended by:

  
Executive Director

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Minute Number Date Passed