

TEXAS TRANSPORTATION COMMISSION

BEXAR County

MINUTE ORDER

Page 1 of 2

SAN ANTONIO 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, § 223.242 authorizes the department to enter into, in each fiscal year, up to three design-build contracts for highway projects with estimated construction costs of \$50 million or more.

On May 31, 2012, by Minute Order 113116, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the development of Loop 1604 from SH 16 (Bandera Road) to south of Wiseman Boulevard in Bexar County. The department issued the RFQ on January 18, 2013, which shortened the project limits to run from SH 16 (Bandera Road) to FM 471 (Culebra Road). The RFQ also included an option to extend the project limits south to SH 151. These project limits, including the option, are within the limits authorized by Minute Order 113116. The project includes the expansion of Loop 1604 to a four lane non-toll expressway section with overpasses at Braun Road, New Guilbeau Road, and Shaenfield Road. Thirteen proposer teams responded to the RFQ. On March 21, 2013, following the department's evaluation of those submissions, four teams were determined to be best qualified to be on the short list of proposer teams that will be requested to submit detailed proposals to design, construct, and 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 Loop 1604 Western Extension Project from SH 16 (Bandera Road) to FM 471 (Culebra Road), which will include, in the department's sole discretion, the option to potentially design, construct, and maintain portions of Loop 1604 further south at SH 151, and to request detailed proposals from the four short-listed teams to design, construct, and, maintain the project.

Transportation Code § 223.249(a) and 43 TAC § 9.153(f) require the department to pay an unsuccessful private entity who submits a detailed proposal that is responsive to the requirements of the RFP a stipulated amount in exchange for the work product contained in the 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 Loop 1604 Western Extension Project or other department projects without further payment to the unsuccessful proposer. Transportation Code § 223.249(b) and 43 TAC § 9.153(f) also 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 to issue an RFP to design, construct, and maintain the Loop 1604 Western Extension Project from SH 16 (Bandera Road) to FM 471 (Culebra Road), and at the department's sole option, to potentially design, construct, and maintain portions of Loop 1604 further south at SH 151.

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 Loop 1604 Western Extension Project an amount based upon the value of the work

TEXAS TRANSPORTATION COMMISSION

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MINUTE ORDER

Page 2 of 2

SAN ANTONIO District

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 successful proposer's 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 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 \$125,000.

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 Loop 1604 Western Extension Project procurement documents.

Submitted and reviewed by



Director, Strategic Projects Division

Recommended by:



Executive Director

113557 APR 25 13

Minute
Number

Date
Passed

Attachment A:

Loop 1604 Western Extension Project

Other Responding Teams:
(Alphabetical Order)

1. **Anderson Columbia Co., Inc.***
 - Anderson Columbia Co., Inc.

2. **Archer Western/CP&Y**
 - Archer Western Contractors, LLC

3. **Austin Bridge & Road, LP**
 - Austin Bridge & Road, LP

4. **FCC/OCI**
 - FCC Construction, S.A.
 - Omega Contracting, Inc.

5. **James Construction Group, LLC**
 - James Construction Group, LLC

6. **McCarthy Building Companies, Inc.**
 - McCarthy Building Companies, Inc.

7. **North Loop Mobility Constructors**
 - Texas Sterling Construction Co.
 - OHL USA, Inc.

8. **The Lane Construction Corporation**
 - The Lane Construction Corporation

9. **Webber, LLC**
 - Webber, LLC

**Did not pass Pass/Fail*

Exhibit B
Loop 1604 Western Extension

