

## TEXAS TRANSPORTATION COMMISSION

TRAVIS County

### MINUTE ORDER

Page 1 of 2

AUSTIN 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 a construction cost estimate of \$50 million or more to the department.

The SH 71 Toll Lanes Project (Project) will include the design and construction of SH 71 toll lanes from Presidential Boulevard to a point just east of SH 130 in Travis County, along with the realignment of FM 973 from just south of the Colorado River to a point approximately 0.5 miles south of the current SH 71/FM 973 intersection. The purpose of the Project is to add toll lanes and to realign FM 973 through the project limits. The department has concluded that harnessing private-sector creativity through a design-build approach is the best way to ensure cost-effective and expedited delivery of the Project and provide needed safety improvements, congestion relief and economic development benefits to the public. The Project's design and construction cost is approximately \$100 million.

On October 31, 2013, by Minute Order 113740, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the development, design, and construction of the Project. The department issued the RFQ on November 15, 2013. Ten proposer teams responded to the RFQ. On January 15, 2014, following the department's evaluation of those submissions, five teams were determined to be best qualified to submit detailed proposals to develop, design, and construct 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. On January 30, 2014, by Minute Order 113827, the department was authorized to issue an RFP and on March 5, 2014, the department issued an RFP for the SH 71 Toll Lanes Project.

On May 21, 2014 proposals were received from Balfour Beatty Infrastructure, Inc.; The Lane Construction Corporation; McCarthy Building Companies, Inc.; and OHL USA, Inc. One of the shortlisted proposers, CH2M Hill Engineers, Inc., declined to submit a proposal. From May 22, 2014 until June 16, 2014, the department evaluated those proposals.

The proposals were evaluated in the following categories: (1) Pass/Fail and Responsiveness; (2) Technical Score; and (3) Price Score. The proposals were first evaluated on the basis of certain pass/fail and responsiveness criteria set forth in the RFP. Next, the technical proposals, including the project development plans were evaluated 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, the Price Value was determined for each proposer, which is the sum, for each proposer, of the design-build price and the alternative technical concept price. The lowest Price Value of all proposers was then divided by the Price Value for a particular proposer,

TEXAS TRANSPORTATION COMMISSION

TRAVIS County

MINUTE ORDER

Page 2 of 2

AUSTIN District

with the result being multiplied by a defined percentage to arrive at the Price Score. The Price Scores were determined without knowing which prices were submitted by which proposer.

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 was determined to provide the apparent best value.

The evaluation and scoring of each proposal under the Technical Score and Price Score categories, as well as the Pass/Fail review, resulted in the proposals being ranked in descending order as follows: McCarthy Building Companies, Inc., Balfour Beatty Infrastructure, Inc., OHL USA, Inc. and The Lane Construction Corporation. The proposal submitted by McCarthy Building Companies, Inc. was accordingly determined to provide the apparent best value.

IT IS THEREFORE ORDERED by the commission that the determination that the proposal submitted by McCarthy Building Companies, Inc. provides the apparent best value to the department is approved, and the department is authorized and directed to commence and complete negotiations with McCarthy Building Companies, Inc. necessary to finalize the design-build contract to develop, design, and construct the SH 71 Toll Lanes Project, and to modify the design-build contract as necessary as a result of such negotiations.

IT IS FURTHER ORDERED that the design-build contract is awarded to McCarthy Building Companies, Inc. 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 Federal Highway Administration and other governmental approvals as identified by the department; and (4) the mutual execution and delivery of the design-build contract 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 McCarthy Building Companies, Inc. cannot be successfully completed, and that therefore the proposal submitted by McCarthy Building Companies, Inc. will not provide the apparent best value, the department is authorized to commence and complete discussions and negotiations with Balfour Beatty Infrastructure, Inc. 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:

*Edward P. Penock Jr.*  
Director, Strategic Projects Division

Recommended by:

*[Signature]*

Executive Director

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Minute

Date