

TEXAS TRANSPORTATION COMMISSION

KLEBERG AND NUECES Counties

MINUTE ORDER

Page 1 of 3

CORPUS CHRISTI 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 (DBC) with a private entity that provides for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project on the state highway system. 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 US 77 Project from Kingsville to Driscoll will upgrade US 77 to interstate standards from north of Kingsville in Kleberg County to south of Driscoll in Nueces County (US 77 Upgrade Project). The proposed upgrades will improve safety and mobility and foster economic development throughout South Texas.

On May 31, 2012, by Minute Order 113115, the Texas Transportation Commission (commission) authorized and directed the department to issue a request for qualifications (RFQ) for the development of US 77 Highway from E. Corral Avenue in the northern portion of the city of Kingsville in Kleberg County to south of the city of Driscoll in Nueces County. The department issued the RFQ on June 1, 2012, for the design, construction, and capital maintenance of the US 77 Upgrade Project, and subsequently determined that four of the six teams submitting qualifications statements in response to the RFQ were best qualified to be on the short list of teams that would be requested to submit detailed proposals to design, construct, and maintain the project.

Transportation Code, §223.246 and 43 TAC §9.153 permit the department to issue a request for proposals (RFP) from all private entities qualified for the short-list. On July 26, 2012, by Minute Order 113188, the commission authorized the department to issue an RFP for the US 77 Upgrade Project requesting detailed proposals from the short-listed teams. On September 5, 2012, the department issued an RFP requesting detailed proposals from the short-listed teams to design, construct, and maintain the US 77 Upgrade Project using a design-build contract and an associated capital maintenance agreement. The RFP provided that a stipend in an amount based upon the value of the work product contained in the proposal that can, as determined by the department, be used in the performance of its functions, up to a maximum amount of twenty-five hundredths of one percent of the successful proposer's price for all work under the design-build contract would be paid to each proposer that submits a responsive, but unsuccessful, proposal.

On December 14, 2012, technical and price proposals were received from Webber, LLC, Route 77 Constructors, Austin-Bay, JV, and Anderson Columbia Co., Inc. All of the proposals were 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 (BAFO) from each proposer. Revised RFP documents were issued on January 28, 2013, which, among other things, revised the project limits to run from E. Corral Avenue in the northern portion of the city of Kingsville to County Road 12 south of the city of Driscoll. On February 14, 2013, proposal revisions were received from all proposers. From December 15, 2012 until February 27, 2013, the department evaluated technical and 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 proposals were first evaluated on the basis of certain pass/fail and responsiveness criteria set forth in the RFP. Next, the project development plans in the technical proposals were evaluated in the categories of technical solutions, project management plan,

TEXAS TRANSPORTATION COMMISSION

KLEBERG AND NUECES Counties

MINUTE ORDER

Page 2 of 3

CORPUS CHRISTI District

and quality management plan, using qualitative ratings of: meets minimum, fair, good, very good, and excellent. The technical proposals were 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 Base Price Value was determined for each proposer, which is the sum, for each proposer, of the design-build price, the alternative technical concept price adjustments, and the maintenance price. The lowest Base Price Value of all proposers was then divided by the Base Price Value for a particular proposer, 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: Austin-Bay, JV; Anderson Columbia Co., Inc.; Route 77 Constructors; and Webber, LLC. The proposal submitted by Austin-Bay, JV was accordingly determined to provide the apparent best value.

IT IS THEREFORE ORDERED by the commission that the determination that the proposal submitted by Austin-Bay JV provides the apparent best value to the department is approved, and the department is authorized and directed to commence and complete negotiations with Austin-Bay, JV necessary to finalize the design-build contract and the associated capital maintenance agreement to design, construct, and maintain the US 77 Upgrade Project from E. Corral Avenue in the northern portion of Kingsville in Kleberg County to County Road 12 south of Driscoll in Nueces County, and to modify the design-build contract and capital maintenance agreement as necessary as a result of such negotiations; should additional funds become available, the department is further authorized to increase the project limits to the original scope from the northern portion of Kingsville to County Road 16 south of Driscoll by issuance of change orders to the design-build contract and the capital maintenance agreement.

IT IS FURTHER ORDERED that the design-build contract and the associated capital maintenance agreement are awarded to Austin-Bay, JV 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; and (4) the mutual execution and delivery of the design-build contract, including the capital maintenance agreement, by the executive director of the department and the proposer.

TEXAS TRANSPORTATION COMMISSION

KLEBERG AND NUECES Counties


MINUTE ORDER

Page 3 of 3

CORPUS CHRISTI District

IT IS FURTHER ORDERED that if the executive director determines that the negotiations with Austin-Bay, JV cannot be successfully completed, and that therefore the proposal submitted by Austin-Bay, JV will not provide the apparent best value, the department is authorized to commence and complete discussions and negotiations with Anderson Columbia Co., Inc., 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
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Date
Passed