

TEXAS TRANSPORTATION COMMISSION

Grimes & Montgomery Counties

MINUTE ORDER

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Bryan & Houston Districts

Subchapter F, Chapter 223, Transportation Code 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. Pursuant to the General Appropriations Act and House Bill 20, 84th Legislative Session, 2015, the department is authorized to enter into, in each fiscal year, up to three design-build contracts for highway projects with estimated construction costs of \$250 million or more.

On April 14, 2015, the Grimes County Commissioners Court passed a resolution that supports the SH 249 Extension (Project), contingent upon the department providing an additional \$8 to \$10 million for infrastructure, in the form of \$4 million for access roads and an estimated \$4 to \$6 million for an additional exchange.

On April 30, 2015, by Minute Order 114242, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the development, design, construction, and maintenance of the Project in Montgomery and Grimes counties. The SH 249 Extension in Montgomery and Grimes counties provides for the addition of a new location tolled facility from FM 1774 in Pinehurst, Texas to SH 105 near Navasota, Texas.

The department issued the RFQ on May 15, 2015. Seven proposer teams responded to the RFQ. Following the department's evaluation of the qualifications statements, five 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 develop, 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 Project and to request detailed proposals from the five short-listed teams to develop, 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 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 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 SH 249 Extension or other department projects without further payment to the unsuccessful proposer. Transportation Code § 223.249(b) 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 to issue an RFP to develop, design, construct, and maintain the SH 249 Extension from FM 1774 in Pinehurst, Texas to SH 105 near Navasota Texas.

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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 SH 249 Extension 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 successful proposer's price for all work under the design-build agreement.

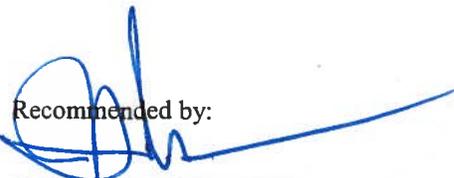
IT IS FURTHER ORDERED that in the event the procurement is terminated prior to the execution of the design-build agreement, and after consideration of the criteria in 43 TAC § 9.153(f), the department is authorized to pay each proposer a partial stipend based upon the value of the work product that can, as determined by the department, be used by the department in the performance of its functions, up to a maximum amount per proposer of \$359,000.

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 SH 249 Extension procurement documents.

Submitted and reviewed by:

Katharine D. Nees, P.E.
Director, Strategic Projects Division

Recommended by:


Executive Director

114348 AUG2715

Minute
Number

Date
Passed