

TEXAS TRANSPORTATION COMMISSION

VARIOUS Counties

MINUTE ORDER

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BEAUMONT and HOUSTON Districts

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 June 26, 2014, by Minute Order 113979, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the development, design, construction, and potential maintenance of the SH 99 Grand Parkway Segments H, I-1, and I-2 in Chambers, Harris, Liberty and Montgomery counties (SH 99 H&I project). Maintenance of parts of Segment I-2A in Chambers County, currently in operation as a four-lane controlled-access toll facility extending 8.7 miles from I-10 East to FM 1405, may also be included in the project. The project will increase capacity by providing a new two to four lane controlled-access toll facility as Segments H and I-1 from US 59 North to I-10 East, a new four-lane controlled access toll facility as Segment I-2B from FM 1405 to SH 146, and the addition of connection facilities to the existing Segment I-2A facility.

The department issued the RFQ on July 31, 2014. Four (4) proposer teams responded to the RFQ. Following the department's evaluation of the qualifications statements, a short list of 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 SH 99 H&I Project and to request detailed proposals from the short-listed teams to develop, design, construct, and maintain the SH 99 H&I 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 stipend must be a minimum of twenty-five hundredths of one percent of the contract amount, the stipulated amount must be stated in the RFP, and it 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 SH 99 H&I Project 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.

The SH 99 Segment H runs from US 59 North to US 90 East; Segment I-1 from US 90 East to I-10 East; Segment I-2A from I-10 East to FM 1405; and Segment I-2B from FM 1405) to SH 146. The SH 99 Segments H and I-1 were environmentally cleared through the department's receipt of a record of decision for Segments H and I-1 on June 24, 2014. SH 99 Segments I-2A and I-2B were environmentally cleared through the department's receipt of a record of decision on August 13, 1998

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with two re-evaluations, one in 2002 and one in 2012; and two approved categorical exclusions, one in 2006 and one in 2008.

Transportation Code, § 228.051 provides that the commission, by order, may designate one or more lanes of a segment of the state highway system as a toll project or system. Minute Order 111167, dated December 13, 2007, previously designated Segment I-2A from I-10 to Fisher Road as a toll project on the state highway system.

IT IS THEREFORE ORDERED that the department is authorized to issue an RFP to develop, design, construct and, potentially, maintain the SH 99 Grand Parkway Segments H, I-1 and all or part of I-2 in Chambers, Harris, Liberty, and Montgomery counties and, potentially, to maintain the existing Segment I-2A facility in Chambers County.

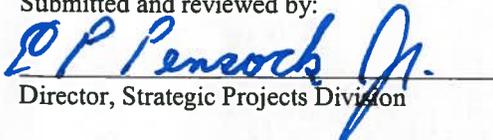
IT IS FURTHER ORDERED that, after consideration of the criteria in 43 TAC § 9.153(f), the department is authorized to pay each proposer that submits a responsive, but unsuccessful, proposal for the SH 99 H&I Project an amount based upon the value of the work product provided in the proposal that can, 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 \$747,000.

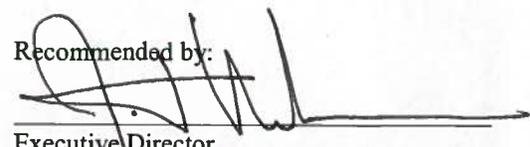
IT IS FURTHER ORDERED that payment for work product may only be paid to the extent that the work product submitted meets the minimum criteria and the proposer satisfies the conditions for payment identified by the department in the SH 99 H&I Project procurement documents.

IT IS FURTHER ORDERED that the SH 99 Grand Parkway Segment H from US 59 North to US 90 East; Segment I-1 from US 90 East of I-10 East; and Segment I-2B from FM 1405 to SH 146 in Chambers, Harris, Liberty and Montgomery Counties is designated a toll project on the state highway system.

Submitted and reviewed by:


Director, Strategic Projects Division

Recommended by:


Executive Director

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Passed