

## TEXAS TRANSPORTATION COMMISSION

NUECES and KLEBERG Counties

**MINUTE ORDER**

Page 1 of 2

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 with a private entity that provides for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project.

On May 31, 2012, by Minute Order 113115, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) to develop, design, construct, and, potentially, maintain the U.S. 77 Project between E. Corral Avenue in Kingsville to south of Driscoll to interstate standards. The department issued the RFQ on June 1, 2012. Six proposer teams responded to the RFQ. On July 12, 2012, following the department's evaluation of those submissions, four proposer teams were determined to be qualified to be on the short list of proposer teams that will be requested to submit detailed proposals to develop, design, construct, and, potentially, 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 U.S. 77 Project and request detailed proposals from the four short-listed teams to develop, design, construct, and, potentially, maintain the project.

Transportation Code, §223.249 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 that 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 U.S. 77 Project or other department projects without further payment to the unsuccessful proposer. Transportation Code, § 223.249 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 a request for proposals to develop, design, construct, and maintain the U.S. 77 Project between E. Corral Avenue in Kingsville to south of Driscoll to interstate standards.

**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 U.S. 77 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.

TEXAS TRANSPORTATION COMMISSION

NUECES and KLEBERG Counties

MINUTE ORDER

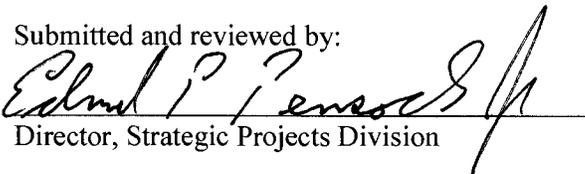
Page 2 of 2

CORPUS CHRISTI District

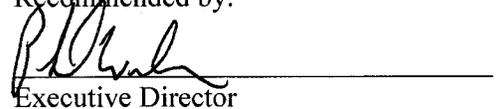
IT IS FURTHER ORDERED that in the event the procurement is terminated prior to the execution of the design-build agreement, and after consideration of the criteria in 43 TAC §9.153(f), the department is authorized to pay each proposer a partial stipend based upon the value of the work product provided 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 \$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 U.S. 77 Project procurement documents.

Submitted and reviewed by:

  
Director, Strategic Projects Division

Recommended by:

  
Executive Director

**113188 JUL 26 12**

Minute  
Number

Date  
Passed