TEXAS TRANSPORTATION COMMISSION

DALLAS County

MINUTE ORDER

DALLAS District

Transportation Code, Chapter 223, Subchapter E, prescribes the process by which the Texas Department of Transportation (department) may enter into a comprehensive development agreement (CDA) with a private entity that provides for the design, development, financing, construction, maintenance, repair, operation, extension, or expansion of a toll project on the state highway system.

On April 28, 2005, by Minute Order 110052, the Texas Transportation Commission (commission) authorized and directed the department to issue a request for qualifications (RFQ) for the development of the INTERSTATE 635 (I-635) Managed Lanes Project. The department issued the RFQ on May 23, 2005 and subsequently determined that all four teams submitting qualifications statements in response to the RFQ were qualified to be on the short list of teams that would be requested to submit detailed proposals for the project.

Transportation Code, §223.203 and 43 TAC §27.4 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 October 26, 2006, by Minute Order 110725, the commission authorized and directed the department to issue an RFP for the I-635 Managed Lanes project requesting detailed proposals from the short-listed teams, and authorized a payment for work product stipend of up to $1 million per unsuccessful responsive proposer, which amount was subsequently increased to $1.5 million on March 27, 2008, by Minute Order 111296. On September 18, 2007, the department issued the RFP.

On January 21, 2009, proposals were received from LBJ Development Partners and LBJ Mobility Group. From January 22, 2009 until February 25, 2009, the department evaluated development and price proposals from the two proposers.

The proposals were evaluated concurrently in the following categories: (1) Pass/Fail and Responsiveness; (2) Technical Score; and (3) Price Score. The technical development proposals were evaluated using qualitative ratings of meets minimum, fair, good, very good, and excellent, and assigned adjectival ratings and numerical scores in each category. Points were assigned to the technical development proposals based on those ratings and the weightings of the individual evaluation criteria to arrive at the Technical Score. To arrive at the Price Score, points were assigned to the financial proposal using a formula that is based on the net present value of all public funds requested by a proposer as of the proposal due date or the nominal value of a concession payment, if any, offered to the department.

The Technical Score points assigned to the technical development proposal were then added to the Price Score points assigned to the financial proposal 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 concurrent qualitative evaluation and scoring of each proposal under the Technical Score and Price Score categories, and the Pass/Fail review, resulted in the proposals being ranked as follows: (1) LBJ Development Partners and (2) LBJ Mobility Group. The proposal submitted by LBJ Development Partners was accordingly determined to provide the apparent best value.

IT IS THEREFORE ORDERED by the commission that the determination that the proposal submitted by LBJ Development Partners provides the apparent best value to the department is approved, and the department is authorized and directed to commence and complete negotiations with LBJ Development Partners necessary to finalize the comprehensive development agreement to develop, design, construct, finance, maintain and operate the I-635 Managed Lanes project along I-635 from east of Luna Road to Greenville Avenue and on I-35E from south of the Loop 12/I-35E split to south of Valwood Parkway in Dallas County, as well as other potential facilities to the extent necessary for connectivity, safety, and financing, and to modify the comprehensive development agreement as necessary as a result of such negotiations.

IT IS FURTHER ORDERED that the comprehensive development agreement is awarded to LBJ Development Partners 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; (4) a determination by the Office of the Attorney General that the proposed comprehensive development agreement is legally sufficient, in accordance with Transportation Code, §371.051; (5) notification to, and written approval from, the Legislative Budget Board, in accordance with Transportation Code, §371.052(b) and Riders 40 and 43, Pages VII-30-VII-31, Page VII-30, Chapter 1428, Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act); (6) notification to the State Auditor's Office, in accordance with Transportation Code, §371.052(c); and (7) the mutual execution and delivery of the comprehensive development agreement by the executive director of the department and the proposer.

IT IS FURTHER ORDERED that if the executive director determines that the negotiations with LBJ Development Partners cannot be successfully completed, and that therefore the proposal submitted by LBJ Development Partners will not provide the apparent best value, the department is authorized to commence and complete discussions and negotiations with LBJ Mobility Group, 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, Texas Turnpike Authority Division

Recommended by:

Executive Director

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