

TEXAS TRANSPORTATION COMMISSION

DALLAS AND DENTON Counties

MINUTE ORDER

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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, construction, financing, maintenance, or operation of a toll project on the state highway system.

Transportation Code, § 223.203, prescribes requirements for a solicited proposal and requires the department to publish a request for qualifications (RFQ) in the *Texas Register* that includes the criteria that will be used to evaluate any received qualifications statements, the relative weight given to the criteria, and a deadline by which qualifications statements must be received.

On September 29, 2011, by Minute Order 112840, the Texas Transportation Commission (commission) authorized the department to issue a RFQ for the development of the I-35E Managed Lanes Project from I-635 in Dallas County to US 380 in Denton County. The department issued the RFQ on January 23, 2012, and subsequently determined that four of the five teams submitting qualifications statements in response to the RFQ were qualified to be on the short list of teams that will be requested to submit detailed proposals to develop, design, construct, and, potentially, maintain 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. The department intends to issue an RFP for the I-35E Managed Lanes Project and request detailed proposals from the four short-listed teams to develop, design, construct, and, potentially, maintain the project.

Transportation Code, § 223.203(m) and 43 TAC § 27.4(f) authorize the department to pay an unsuccessful private entity who 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 I-35E Managed Lanes Project or other department projects without further payment to the unsuccessful proposer.

IT IS THEREFORE ORDERED that the department is authorized and directed to issue an RFP to develop, design, construct, and, potentially, maintain the I-35E Managed Lanes Project from I-635 in Dallas County to US 380 in Denton County.

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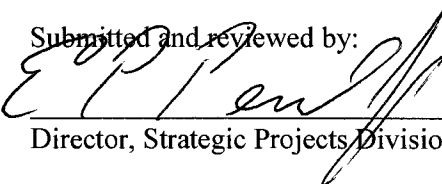
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DALLAS District

IT IS FURTHER ORDERED that the department is authorized to pay each proposer who submits a responsive, but unsuccessful, proposal for the I-35E Managed Lanes 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 \$1 million.

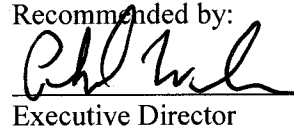
IT IS FURTHER ORDERED that payment for work product may only be paid to the extent that the work product submitted meets the minimum criteria and other conditions of payment identified by the department in the I-35E Managed Lane Project procurement documents.

Submitted and reviewed by:



Director, Strategic Projects Division

Recommended by:



Executive Director

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Minute
Number

Date
Passed