

TEXAS TRANSPORTATION COMMISSION

TARRANT and DALLAS Counties

MINUTE ORDER

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FORT WORTH 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 March 30, 2006, by Minute Order 110468, the Texas Transportation Commission (commission) authorized and directed the department to issue a request for qualifications (RFQ) for the development of I-820 and SH 121/SH 183 from I-35W to SH 161, along I-820 east from SH 121/SH 183 to Randol Mill Road, and along I-35W from I-30 to SH 170 in Tarrant and Dallas counties (North Tarrant Express project). The department issued the RFQ on December 8, 2006 and subsequently determined that four of the seven 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 North Tarrant Express 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 December 13, 2007, by Minute Order 111169, the commission authorized and directed the department to issue an RFP for the North Tarrant Express project requesting detailed proposals from the short-listed teams, and authorized a payment for work product stipend of up to \$750,000 per unsuccessful responsive proposer, which amount was subsequently increased to \$1 million on September 25, 2008, by Minute Order 111530. On March 3, 2008, the department issued the RFP.

The RFP solicited detailed proposals for comprehensive development agreements for (1) an initial concession facility comprised of Segment 1 and any other portions of the North Tarrant Express project that the proposer includes in its proposal (Concession Facility), and (2) all or part of Segments 2-4 of the project (Segments 2-4).

On December 1, 2008, proposals were received from NTE Mobility Partners and OHL Infrastructure, Inc. From December 2, 2008 until January 21, 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) Concession Facility Development Plan; (3) Proposal for Segments 2-4; and (4) Concession Financial Score. The 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 development proposals based on those ratings and the weightings of the individual evaluation criteria. Points were assigned to the Concession Financial Proposal using a formula that is based on pre-assigned credits for the value of each project element and element option a proposer included in its proposal.

The points assigned to the development proposals for the Concession Facility and for Segments 2-4 pursuant to the qualitative evaluations were then added to the points assigned to the proposed Concession Financial Plan 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.

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The Pass/Fail and Responsiveness evaluation of each proposal resulted in a determination that the proposal submitted by OHL Infrastructure Inc., was non-responsive, and, consequently, not eligible for award of the comprehensive development agreements.

The concurrent qualitative evaluation and scoring of each proposal under the Concession Facility Development Plan, Proposal for Segments 2-4, and Concession Financial Score categories, and the Pass/Fail review, resulted in the proposals being ranked as follows: (1) NTE Mobility Partners and (2) OHL Infrastructure, Inc. The proposal submitted by NTE Mobility 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 NTE Mobility Partners provides the apparent best value to the department is approved, and the department is authorized and directed to commence and complete negotiations with NTE Mobility Partners necessary to finalize the comprehensive development agreements to develop, design, construct, finance, maintain and operate the North Tarrant Express project along I-820 and SH 121/SH 183 from I-35W to SH 161, along I-820 east from SH 121/SH 183 to Randol Mill Road, and along I-35W from I-30 to SH 170 in Tarrant and Dallas counties, as well as other potential facilities to the extent necessary for connectivity, safety, and financing, and to modify the comprehensive development agreements as necessary as a result of such negotiations.

IT IS FURTHER ORDERED that the comprehensive development agreements are awarded to NTE Mobility 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 agreements are 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) 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 agreements by the executive director of the department and the proposer.

IT IS FURTHER ORDERED that the department is authorized to commence and complete negotiations with NTE Mobility Partners necessary to finalize any agreement for the construction of a proposed facility under the Segments 2-4 comprehensive development agreement and that commission approval is required before the executive director may enter into any such agreement.

Submitted and reviewed by:

Clark E. Johnson
Director, Texas Turnpike Authority Division

Recommended by:

Arnoldo Saiz
Executive Director

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Minute Number Date Passed