

TEXAS TRANSPORTATION COMMISSION

VARIOUS Counties

MINUTE ORDER

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FORT WORTH 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. 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 February 27, 2014, by Minute Order 113861, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the development, design, construction, and maintenance of the SH 360 Project in Ellis, Johnson, and Tarrant Counties. The SH 360 Project includes the design, construction, and, at the election of the department, maintenance of approximately 9.7 miles of improvements, generally from Green Oaks Boulevard to US 287. The improvements include two toll lanes in each direction from approximately two miles south of I-20 near East Sublett Road/Camp Wisdom Road to East Broad Street and one toll lane in each direction with periodic passing lanes from East Broad Street to US 287, in addition to frontage road and intersection improvements.

The department issued the RFQ on March 10, 2014. Nine proposer teams responded to the RFQ. Following the department's evaluation of the qualifications statements, five 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 360 Project and to request detailed proposals from the five short-listed teams to develop, design, construct, and maintain the 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 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 SH 360 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.

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. The SH 360 Project was environmentally cleared through the department's receipt of a finding of no significant impact on January 16, 2014.

IT IS THEREFORE ORDERED that the department is authorized to issue an RFP to develop, design, construct, and maintain the SH 360 Project, from south of I-20 to US 287.

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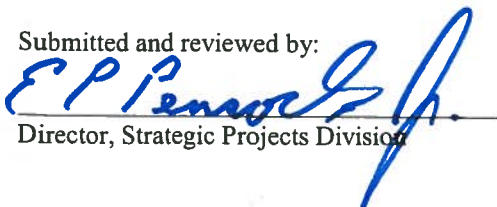
IT IS FURTHER ORDERED that, after consideration of the criteria in 43 TAC § 9.153(f), the department is authorized to pay each proposer that submits a responsive, but unsuccessful, proposal for the SH 360 Project an amount based upon the value of the work product provided in the proposal that can, as 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 \$223,000.

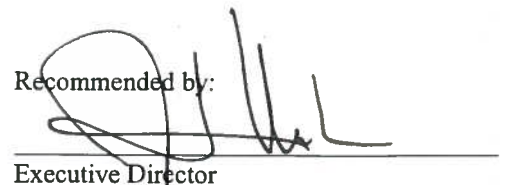
IT IS FURTHER ORDERED that payment for work product may only be paid to the extent that the work product submitted meets the minimum criteria and the proposer satisfies the conditions for payment identified by the department in the SH 360 Project procurement documents.

IT IS FURTHER ORDERED that the SH 360 Project in Ellis, Tarrant, and Johnson Counties from approximately 2 miles south of I-20 near East Sublett Road/Camp Wisdom Road to US 287 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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Minute Number Date Passed