

**TEXAS TRANSPORTATION COMMISSION**

TRAVIS County

**MINUTE ORDER**

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AUSTIN 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 October 31, 2013, by Minute Order 113740, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the development, design, and construction of the SH 71 Toll Lanes Project that provides for the addition of toll lanes from Presidential Boulevard to just east of SH 130, along with the realignment of FM 973 from just south of the Colorado River to a point just south of the current SH71/FM 973 intersection in Travis County (SH 71 Toll Lanes Project). The department issued the RFQ on November 15, 2013. Ten proposer teams responded to the RFQ. On January 15, 2014, following the department's evaluation of those submissions, 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, and construct 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 71 Toll Lanes Project and to request detailed proposals from the five short-listed teams to develop, design, and construct the project.

Transportation Code § 223.249(a) and 43 TAC § 9.153(f) require 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 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 71 Toll Lanes Project or other department projects without further payment to the unsuccessful proposer. Transportation Code § 223.249(b) and 43 TAC § 9.153(f) also 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 an RFP to develop, design, and construct the SH 71 Toll Lanes Project providing for the addition of toll lanes from Presidential Boulevard to just east of SH 130, along with the realignment of FM 973 from just south of the Colorado River to a point just south of the current SH71/FM 973 intersection in Travis County.

**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 71 Toll 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 0.25% of the successful proposer's price for all work under the design-build agreement.

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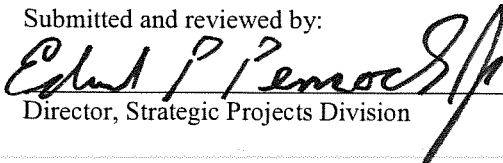
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AUSTIN District

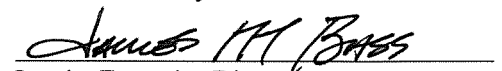
IT IS FURTHER ORDERED that in the event the procurement is terminated prior to the execution of the design-build agreement, and after consideration of the criteria in 43 TAC § 9.153(f), the department is authorized to pay each proposer a partial stipend based upon the value of the work product that can, as determined by the department, be used by the department in the performance of its functions, up to a maximum amount per proposer of \$125,000.00.

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 71 Toll Lanes Project procurement documents.

Submitted and reviewed by:

  
Director, Strategic Projects Division

Recommended by:

  
Interim Executive Director  
**113827 JAN 30 04**

Minute Number      Date Passed

# SH 71 Toll Lanes Project

