

TEXAS TRANSPORTATION COMMISSIONBRAZORIA, GALVESTON Counties**MINUTE ORDER**

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HOUSTON 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 state fiscal biennium, up to six design-build contracts for highway projects with estimated construction costs of \$150 million or more.

Planning and development of SH 99 (Grand Parkway), a proposed 180-mile circumferential highway traversing seven counties and serving the Houston area has been underway since the 1980s. During that time, the department and the counties in which the highway is proposed to be located have been proceeding with the development of the Grand Parkway from SH 146 in Galveston County to SH 146 in Harris County.

In accordance with the requirements of Transportation Code, §228.0111 and the policies included in Minute Order 111410, the department and the counties in which the Grand Parkway is located entered into a Market Valuation Waiver Agreement, effective March 25, 2009, in which the parties agreed on the terms and conditions for the development, construction, and operation of the Grand Parkway as a toll project (Grand Parkway Project), agreed to waive the development of a market valuation of the Grand Parkway Project, and agreed to certain other provisions applicable to the development, construction, and operation of the Grand Parkway Project. Per the agreement, each of the counties has the right to develop, construct, and operate the portion of the Grand Parkway Project located within the territory of the county unless such right is waived.

The department entered into a Toll Project Agreement with Galveston County, effective February 7, 2023, reflecting the waiver of primacy by Galveston County for the portion of Segment B of the Grand Parkway Project located within Galveston County. In addition, the department entered into a Toll Project Agreement with Brazoria County effective February 7, 2023, which was amended effective February 26, 2024, reflecting the waiver of primacy by Brazoria County for the portion of Segment B of the Grand Parkway Project from the Brazoria/Galveston County line west to south of FM 2403 just south of Alvin. Both agreements together provide the department with the authority to develop, finance, refinance, construct, reconstruct, toll, maintain and/or operate the portion of Segment B from I-45 South to south of FM 2403 for a total distance of 14.2 miles (Segment B-1).

In Minute Order 116626, dated January 17, 2024, the commission designated Segment B-1 as a toll project on the state highway system.

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On December 17, 2024, by Minute Order 116850, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the design, construction, and maintenance of the SH 99 Grand Parkway Segment B-1 Design-Build Project. The project will increase capacity on a portion of Segment B-1 in Brazoria and Galveston counties through the construction of two tolled lanes in each direction along SH 99, from south of FM 2403 to FM 646, and certain non-tolled operational improvements along SH 99 and SH 35, including around the SH 35/SH 99 interchange.

The department issued the RFQ on January 3, 2025. Three proposer teams responded to the RFQ. Following the department's evaluation of the qualifications statements, the best qualified teams will be short-listed and requested to submit detailed proposals to 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 99 Grand Parkway Segment B-1 Design-Build Project and to request detailed proposals from the short-listed teams to design, construct, and maintain the SH 99 Grand Parkway Segment B-1 Design-Build 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 stipend must be a minimum of twenty-five hundredths of one percent of the contract amount, the stipulated amount must be stated in the RFP, and it 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 99 Grand Parkway Segment B-1 Design-Build 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 to a proposer that submits a proposal that is responsive to the requirements of the RFP in the event that a procurement is terminated before the execution of a design-build contract.

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IT IS THEREFORE ORDERED by the commission that the department is authorized to issue an RFP to design, construct, and maintain the SH 99 Grand Parkway Segment B-1 Design-Build Project in Brazoria and Galveston counties.

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 99 Grand Parkway Segment B-1 Design-Build 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 contract.

IT IS FURTHER ORDERED that in the event the procurement is terminated prior to the execution of the design-build contract, and after consideration of the criteria in 43 TAC § 9.153(f), the department is authorized to pay each proposer that submits a proposal that is responsive to the requirements of the RFP 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 \$4,850,000.

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 99 Grand Parkway Segment B-1 Design-Build Project procurement documents.

Submitted and reviewed by:

Recommended by:

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Director, Alternative Delivery Division

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Executive Director

116930 April 24, 2025

Minute	Date
Number	Passed