

TEXAS TRANSPORTATION COMMISSION

BEXAR County

MINUTE ORDER

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SAN ANTONIO District

In Minute Order 109523, dated December 18, 2003, the Texas Transportation Commission (commission) authorized the creation of the Alamo Regional Mobility Authority (authority), formerly known as the Bexar County Regional Mobility Authority, with the boundaries of the authority to be the entire geographic area of Bexar County, Texas.

The Texas Department of Transportation (department) and the authority have worked together to identify an approach to provide for the funding and development of certain transportation system improvements within the jurisdictional limits of the authority.

Transportation Code, §370.301 authorizes the department to provide for or contribute to the payment of costs of the design, financing, construction, operation, or maintenance of a turnpike project of a regional mobility authority (RMA) on terms agreed to by the department and the RMA. Transportation Code, §222.103 authorizes the department to participate, by spending money from any available source, in the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission.

Pursuant to Transportation Code, §222.103, the commission adopted Title 43, Texas Administrative Code, §27.50-27.58 (toll equity rules) to prescribe conditions for the commission's financing of a toll facility of a public or private entity.

On April 28, 2005, the department received an unsolicited concession proposal from a consortium led by Zachry American Infrastructure and Cintra Concesiones de Infraestructuras de Transporte (Zachry American/Cintra) proposing private development, operation, maintenance, and financing of a significant portion of the toll road network proposed in the San Antonio area. After review by the department, the commission, in Minute Order 110112, authorized issuance of a request for competing proposals and qualifications (RFPQ). That request was issued on July 29, 2005.

In accordance with Sections 27.53 and 27.54(a) of the toll equity rules, the commission, in Minute Order 110233, granted preliminary approval of financial assistance in the amount of \$1 million to pay for authority staff participation in the review and evaluation of competing proposals submitted in response to procurement documents, and in the development of the comprehensive development agreement (CDA) for the project. The financial assistance would also be used to allow the authority to obtain independent engineering, financial and legal consulting assistance in the development of project development and financing terms proposed by the authority for inclusion in the request for detailed proposals (RFDP) or the CDA.

Under Transportation Code, §223.204, all or part of a proposal submitted by a private entity for a CDA, supplemental information or material submitted by the private entity in connection with a proposal for a CDA, and information created or collected by the department or its agent during consideration of a proposal for a CDA is confidential and is not subject to disclosure.

Pursuant to Transportation Code, §223.204, all department and authority staff and consultants involved in the procurement and evaluation process for the project will be required to agree to maintain the confidentiality of all proposer evaluation and selection related information they obtain access to during the course of working on the project.

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In accordance with Section 27.54 of the toll equity rules, the executive director has negotiated a financial assistance agreement with the authority that complies with the requirements of Section 27.55 of those rules, including provisions for the repayment of the financial assistance if the project is ultimately transferred to the authority, the authority otherwise obtains a right to share in project revenue, or if authority staff or consultants release confidential information in contravention of Transportation Code, §223.204 and the confidentiality agreement. The authority has complied with all other applicable requirements of Section 27.54.

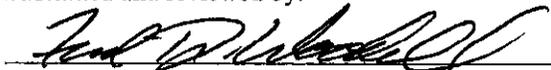
As the financial assistance will be used to pay for the involvement of the authority in the CDA procurement process, which should lead to the development of a needed project that will improve safety and mobility by adding capacity to an existing corridor that carries traffic volumes that exceed the efficient carrying capacity of a facility of its configuration, and the executive director has negotiated provisions relating to the disbursement and repayment of the financial assistance, the commission has determined that providing financial assistance will prudently provide for the protection of public funds.

As the department previously conducted or will conduct the necessary environmental studies and analyses of the proposed project, and any resulting CDA will require the consideration of the environmental consequences of the proposed project, compliance with all applicable environmental laws, regulations, and requirements, and implementation of all environmental permits, issues, and commitments, the commission has determined that the project will provide for all reasonable and feasible measures to avoid, minimize, or mitigate adverse environmental impacts.

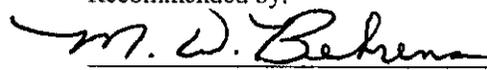
NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the Alamo Regional Mobility Authority meets the requirements of 43 TAC §27.54(c) and, in accordance with that provision, the commission grants final approval of the request for financing in the amount of \$1 million, and authorizes and directs the executive director to enter into a financial assistance agreement with the authority.

IT IS FURTHER ORDERED that the financial assistance shall be repaid by the authority if the project is ultimately transferred to the authority, the authority otherwise obtains a right to share in project revenue, or if authority staff or consultants release confidential information in contravention of Transportation Code, §223.204 and the confidentiality agreement. This order does not constitute approval of the transfer of the project as required by 43 TAC §26.43 nor does it commit the commission to any financial assistance in addition to that described in this order.

Submitted and reviewed by:

  
Director, Texas Turnpike Authority Division

Recommended by:

  
Executive Director

**110269 OCT 27 05**

Minute  
Number

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Passed