TEXAS TRANSPORTATION COMMISSION

TARRANT AND DALLAS Counties **MINUTE ORDER**

FORT WORTH AND DALLAS Districts

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) to develop, design, construct, finance, maintain, and operate, as necessary to achieve the optimal traffic solution, tolled managed lanes along I-820 and SH 183 from I-35W to SH 161, along I-820 to Randol Mill Road, and along I-35W from I-30 to SH 170 in Tarrant and Dallas counties, as well as other facilities to the extent necessary for connectivity, mobility, safety, and financing (North Tarrant Express Project).

On December 8, 2006 the department issued a RFQ for the North Tarrant Express Project. The department determined that four proposing teams submitting qualification submittals in response to the RFQ were qualified to be on the short list of teams that will be requested to submit detailed proposals.

Transportation Code, §223.203(m) allows the department to pay an unsuccessful private entity that submits a responsive proposal in response to an RFP a stipulated amount in exchange for the work product contained in that proposal. The stipulated amount must be stated in the request for proposals 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. In accordance with Title 43, Texas Administrative Code, §27.4, in determining whether to approve a payment, the commission shall consider: 1) the effect of a payment on the department's ability to attract meaningful proposals and to generate competition; 2) the work product expected to be included in the proposal and the anticipated value of that work product; and 3) the costs anticipated to be incurred by a private entity in preparing a proposal.

In the RFP, the department will request detailed engineering, design, financial, and other information from the short-listed proposers that is anticipated to be of value to the department and able to 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 the North Tarrant Express Project or for other department projects without further payment to the applicable proposers. Payment for the work product of proposers will defray a portion of the costs to be incurred by the short-listed proposers in preparing a proposal, and is thereby anticipated to increase the quality of detailed proposals submitted for the North Tarrant Express Project and to increase competition for the North Tarrant Express Project.

IT IS THEREFORE ORDERED that the department is authorized and directed to issue an RFP to develop, design, construct, finance, maintain, and operate, as necessary to achieve the optimal traffic solution, along I-820 and SH 183 from I-35W to SH 161, along I-820 to Randol Mill Road, and along I-35W from I-30 to SH 170 in Tarrant and Dallas counties, as well as other facilities to the extent necessary for connectivity, mobility, safety, and financing.

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IT IS FURTHER ORDERED that the department is authorized to pay to each proposer that submits a responsive, but unsuccessful proposal for the North Tarrant Express 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 $750,000.

IT IS FURTHER ORDERED that payment for work product may only be paid if the work product submitted meets the minimum criteria and other conditions for payment identified by the department in the North Tarrant Express Project procurement documents.

Submitted and reviewed by:

Director, Texas Turnpike Authority Division

Recommended by:

Executive Director

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Minute Number | Date Passed