

**APPROVAL OF THE APPARENT BEST VALUE PROPOSAL FOR THE
PLANNING, DEVELOPMENT, ACQUISITION, DESIGN, CONSTRUCTION,
FINANCING, MAINTENANCE, AND OPERATION OF THE SH 121 TOLL PROJECT**

Description

This minute order approves the determination of the proposal that provides the apparent best value to the department and directs the department to negotiate a comprehensive development agreement to develop, design, construct, finance, maintain and operate the SH 121 toll project from Business SH 121 to US 75 in Denton and Collin Counties.

Background

The commission has adopted rules on how the department will obtain and evaluate proposals. Under these rules, and the authority granted by the commission in Minute Order 109980 on March 25, 2005, the department issued a request for qualifications (RFQ) for the SH 121 toll project.

The department short-listed four proposer teams submitting qualification submittals and requested them to submit detailed proposals on August 15, 2006.

On January 26, 2007, proposals were received from three of the four short-listed proposer teams. The department evaluated technical and financial proposals from Cintra Concesiones de Infraestructuras de Transporte, S.A.; Macquarie 121 Partnership; and Texas Partners 121.

The proposals were evaluated in the categories of Project Development Plan, including project management approach, technical solutions, and quality management approach; financial plan; and schedule. The project development plans were evaluated using qualitative ratings of minimum, fair, good, very good, and excellent, and assigned ratings and numerical scores in each category. Points were assigned based on those ratings and the weightings of the individual evaluation criteria. The technical score resulting from the evaluation of project development plans were then added to the price score resulting from the evaluation of the financial plans and the schedule score to determine the total number of points received by each proposal. The proposal with the highest total proposal score was deemed to provide the apparent best value.

Criteria

None.

Problem/Condition

None.

Other Comments

None.

Alternate Solution/Actions

None.

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Transportation Code, Chapter 223, Subchapter E (act) authorizes the Texas Department of Transportation (department) to enter into comprehensive development agreements with private entities that provide for the development, design, construction, financing, maintenance, or operation of a toll project on the state highway system.

Pursuant to that authority, the Texas Transportation Commission (commission) has adopted rules prescribing how the department will obtain and evaluate proposals from private entities to develop a toll project under a comprehensive development agreement, codified in 43 TAC §§27.1-27.6 (rules).

Pursuant to the act and rules, and the authority granted by the commission in Minute Order 109980, on March 25, 2005, the department issued a request for qualifications (RFQ) for the development, design, construction, financing, maintenance and operation of the SH 121 toll project from Business SH 121 to US 75 in Denton and Collin Counties, as well as other potential facilities to the extent necessary for connectivity and financing, through a comprehensive development agreement.

The department determined that four proposer teams submitting qualification submittals were qualified to be on the short list of teams requested to submit detailed proposals. On August 15, 2006, the department issued a request for proposals (RFP). The RFP provided that the comprehensive development agreement will be awarded to the proposer determined to provide the best value to the department.

On January 26, 2007, proposals were received from three of the four short listed proposer teams. The department evaluated technical and financial proposals from Cintra Concesiones de Infraestructuras de Transporte, S.A.; Macquarie 121 Partnership; and Texas Partners 121.

The proposals were evaluated in the categories of Project Development Plan, including project management approach, technical solutions, and quality management approach; financial plan; and schedule. The project development plans were evaluated using qualitative ratings of minimum, fair, good, very good, and excellent, and assigned adjectival ratings and numerical scores in each category. Points were assigned based on those ratings and the weightings of the individual evaluation criteria. The technical score resulting from the evaluation of project development plans were then added to the price score resulting from the evaluation of the financial plans and the schedule score to determine the total number of points received by each proposal. The proposal with the highest total proposal score was deemed to provide the apparent best value.

The evaluations and scoring of each proposal resulted in the proposals being ranked as follows: (1) Cintra Concesiones de Infraestructuras de Transporte, S.A., (2) Macquarie 121 Partnership, and (3) Texas Partners 121. The proposal submitted by Cintra Concesiones de Infraestructuras de Transporte, S.A. was accordingly determined to provide the apparent best value.

IT IS THEREFORE ORDERED by the commission that the determination that the proposal submitted by Cintra Concesiones de Infraestructuras de Transporte, S.A. provides the apparent best value to the department is approved, and the department is authorized and directed to commence and complete negotiations with Cintra Concesiones de Infraestructuras de Transporte, S.A. necessary to finalize the comprehensive development agreement to develop, design, construct, finance, maintain and operate the SH 121 toll project from Business SH 121 to US 75 in Denton and Collin Counties, as well as other potential facilities to the extent necessary for connectivity and financing, and to modify the comprehensive development agreement as necessary as a result of such negotiations.

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IT IS FURTHER ORDERED that the comprehensive development agreement is awarded to Cintra Concesiones de Infraestructuras de Transporte, S.A., subject to, and effective upon the occurrence of, all of the following: (1) the successful completion of negotiations, (2) concurrence in award by FHWA and any other applicable FHWA approvals as identified by the department, including NEPA approval, (3) receipt by the department of all of the documents and payment required to be provided under the RFP prior to execution of the comprehensive development agreement, and (4) the mutual execution and delivery of the comprehensive development agreement by the executive director of the department and the proposer.

IT IS FURTHER ORDERED that if the executive director determines that the negotiations with Cintra Concesiones de Infraestructuras de Transporte, S.A. cannot be successfully completed, and that therefore the proposal submitted by Cintra Concesiones de Infraestructuras de Transporte, S.A. will not provide the apparent best value, the department is authorized to commence and complete negotiations with Macquarie 121 Partnership, the next highest ranked proposer, with award to the next highest ranked proposer subject to the terms and conditions in the immediately preceding paragraph of this order.

IT IS FURTHER ORDERED that if the executive director determines that the negotiations with Macquarie 121 Partnership cannot be successfully completed, and that therefore the proposal submitted by Macquarie 121 Partnership will not provide the apparent best value, the department is authorized to commence and complete discussions with Texas Partners 121 the next highest ranked proposer, with award to the next highest ranked proposer subject to the terms and conditions in the paragraph preceding the immediately preceding paragraph of this order.

Submitted and reviewed by:

Recommended by:

Director, Texas Turnpike Authority Division

Executive Director

Minute Number Date Passed