

TEXAS TRANSPORTATION COMMISSION

VARIOUS Counties

MINUTE ORDER

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VARIOUS Districts

Transportation Code, §223.201 authorizes the Texas Department of Transportation (department) to enter into a comprehensive development agreement (CDA) with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand various types of projects.

Pursuant to Transportation Code, Section 223.210, a CDA entered into with a private participant may not, with certain exceptions, contain a provision permitting the private participant to operate the toll project or collect revenue from the toll project. This prohibition does not apply to a CDA in connection with a project located on US 77, US 281, or US 59 and which lies south of Refugio County.

The Texas Transportation Commission (commission) has adopted rules pertaining to CDAs, codified in 43 TAC §24.11 and §§27.1-27.10.

On February 23, 2006, in Minute Order 110436, the commission authorized the department to publish a request for qualifications (RFQ) for the development of the I-69/TTC, a planned transportation facility extending from Northeast Texas to Mexico and other facilities to the extent necessary for connectivity, mobility, safety, and financing. Two teams responded to the RFQ and both were designated by the department for inclusion on a short list of proposers to whom, on December 3, 2007, the department issued a request for proposals (RFP).

On March 26, 2008, proposals were received from ZAI ACS TTC-69 Team and Bluebonnet Infrastructure Investors. From March 27, 2008 until April 29, 2008, the department evaluated development and price proposals from the two proposers.

The development proposals were evaluated in the following categories: (1) US 77 Facility Conceptual Financial Plan; (2) US 77 Facility Conceptual Development Plan; (3) I-69/TTC Conceptual Development Plan; (4) I-69/TTC Conceptual Financial Plan; (5) Project Management Plan; (6) Quality Management Plan; and (7) compensation amount for the initial scope of work (and in that order of priority). The proposals were evaluated using qualitative ratings of meets minimum, fair, good, very good, and excellent, and assigned adjectival ratings and numerical scores in each category. Points were assigned to the development proposals based on those ratings and the weightings of the individual evaluation criteria.

The points assigned to the development proposals pursuant to the qualitative evaluations were then added to the points assigned to the proposed compensation amount for the initial scope of work to determine the total number of points received by each proposal. The proposal with the highest score was determined to provide the apparent best value.

The evaluations and scoring of each proposal resulted in the proposals being ranked as follows: (1) ZAI ACS TTC-69 and (2) Bluebonnet Infrastructure Investors. The proposal submitted by ZAI ACS TTC-69 was accordingly determined to provide the apparent best value.

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The CDA provides for ZAI ACS TTC-69 to perform certain planning activities, including the creation of a master development plan and master financial plan for the I-69/TTC project, over an 18-month period, at a cost of no more than \$5 million. The department shall not move forward, under the conditions set out in the CDA, with the actual design, construction, financing, maintenance and operation of any specific projects identified in the master development plan until further commission action is taken.

While the master development plan will build upon the conceptual plan included with the ZAI ACS TTC-69 proposal, any facility included in the master development plan is subject to commission and department approval. The concepts and recommendations of local agencies and the corridor and segment advisory committees will be considered in the development of the master development plan.

IT IS THEREFORE ORDERED by the commission that the determination that the proposal submitted by ZAI ACS TTC-69 provides the apparent best value to the department is approved, and the department is authorized and directed to enter into negotiations with ZAI ACS TTC-69 and finalize a CDA providing for the creation of a master development and financial plan for the I-69/TTC, at a cost of no more than \$5 million, and providing for the potential development, design, construction, financing, maintenance and operation of a combination of facilities that will ultimately constitute the I-69/TTC project.

IT IS FURTHER ORDERED that the CDA is awarded to ZAI ACS TTC-69 subject to, and effective upon the occurrence of, all of the following: (1) the successful conclusion of negotiations; (2) the issuance of a Notice of Intent to Award by the department; (3) applicable FHWA approvals as identified by the department; (4) a determination by the Office of the Attorney General that the proposed CDA is legally sufficient, in accordance with Transportation Code, §371.051; (5) notification to, and written approval from, the Legislative Budget Board, in accordance with Transportation Code, §371.052(b) and Rider 40, Page VII-30, Chapter 1428, Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act); (6) notification to the State Auditor's Office, in accordance with Transportation Code, §371.052(c); and (7) the mutual execution and delivery of the CDA by the executive director of the department and the proposer.

IT IS FURTHER ORDERED that if the executive director determines that the negotiations with ZAI ACS TTC-69 cannot be successfully completed, and that therefore the proposal submitted by ZAI ACS TTC-69 will not provide the apparent best value, the department is authorized to commence and complete discussions with Bluebonnet Infrastructure Investors, 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 commission approval is required before the department may approve the master development plan for the I-69/TTC. As required by department rule, the advice and recommendations of the corridor and segment advisory committees will be considered in the decision as to facilities to be included in the master development plan. The plan shall focus on the development of highway and rail facilities.

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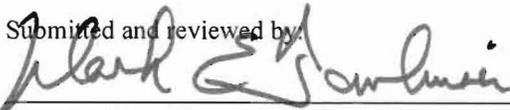
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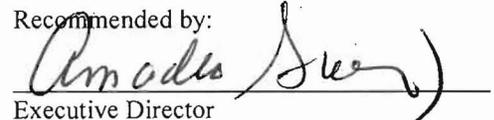
IT IS FURTHER ORDERED that commission approval is required before the executive director may enter into any agreement for the construction of a proposed segment or facility on I-69/TTC. As required by 43 TAC §24.13(c)(4), the commission shall consider and give great weight to the recommendations of a corridor segment committee created under that section before deciding whether or not the proposed segment or facility will be constructed.

Submitted and reviewed by:



Director, Texas Turnpike Authority Division

Recommended by:



Executive Director

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Minute
Number

Date
Passed