

TEXAS TRANSPORTATION COMMISSION

Travis County

MINUTE ORDER

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Austin 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 fiscal year, up to three design-build contracts for highway projects with estimated construction costs of \$150 million or more.

On September 27, 2018, by Minute Order 115335, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the development, design, construction, and potential maintenance of the Oak Hill Parkway Project (Project) in Travis County. The Project consists of non-tolled improvements along US 290 from approximately the east end of Circle Drive to Loop 1, and non-tolled improvements along SH 71 from US 290 to Silvermine Drive, which improvements include the addition of frontage roads and grade separations at major intersections. As part of the Project, the US 290 and SH 71 interchange will be reconstructed with the US 290 mainlanes going underneath SH 71, and with direct connectors at the intersection. The Project will improve the existing four-lane divided roadway with signalized intersections along US 290 to a six-lane controlled access facility with grade separations and frontage roads. Additionally, the existing controlled access portion from Loop 1 to near Joe Tanner Lane will have minor widening for operational improvements near entrance and exit ramps.

The department issued the RFQ on October 12, 2018. Four 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 develop, design and construct 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 Project and to request detailed proposals from the short-listed teams to develop, design and construct the 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 the Project or other department projects without further payment to the unsuccessful proposer(s). Transportation Code § 223.249(b) and 43 TAC § 9.153(f) require the department to pay a partial stipend in the event that a procurement is terminated before the execution of a design-build contract.

IT IS THEREFORE ORDERED by the commission that the department is authorized to issue an RFP to develop, design and construct the Oak Hill Parkway Project in Travis County.

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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 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 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 \$584,000.

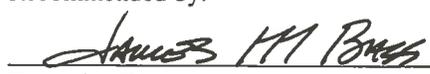
IT IS FURTHER ORDERED that payment for work product may only be paid to the extent that the work product submitted meets the minimum criteria and the proposer satisfies the conditions for payment identified by the department in the Project procurement documents.

Submitted and reviewed by:



Director, Project Finance
Debt & Strategic Contracts Division

Recommended by:



Executive Director

115392 DEC 13'18
Minute Date
Number Passed