

TEXAS TRANSPORTATION COMMISSIONBexar County**MINUTE ORDER**

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San Antonio 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.

On March 31, 2022, by Minute Order 116217, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) to design, construct, and potentially maintain the I-35 Northeast Expansion (NEX) South Project (Project). The Project includes non-tolled improvements along I-35 from approximately I-410 South to I-410 North, including transitions along I-35 from Petroleum Drive to I-410 South, and along the portion of I-410 South from the I-35/I-410 South Interchange to 0.3 miles north of Seguin Road/FM 78, in Bexar County, Texas. The department issued the RFQ on April 15, 2022. Following the department's evaluation of the qualifications statements, the best qualified teams were short-listed and requested to submit detailed proposals to design, construct, and maintain 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. On August 30, 2022, by Minute Order 116305, the commission authorized and directed the department to issue an RFP requesting detailed proposals from the short-listed teams to design, construct, and maintain the project, and authorized a payment for work product for each proposer that submitted a responsive, but unsuccessful, proposal of up to a maximum amount per proposer of 0.25% of the successful proposer's price for all work under the design-build contract (DBC).

On November 9, 2022, the department issued the final RFP. On March 28, 2023, proposals were received from Alamo South Construction, Archer Western / Sundt Joint Venture and Lone Star Constructors, NEX. From March 29, 2023, until May 12, 2023, the department evaluated the technical, financial, and price proposals received from the proposers.

The proposals were evaluated in the following categories: (1) pass/fail and responsiveness; (2) technical score; and (3) price score. The proposals were first evaluated on the basis of certain pass/fail criteria set forth in the RFP and reviewed for responsiveness to the submittal requirements in the RFP. The technical proposals were then evaluated and scored in accordance with the requirements of the RFP, which included: (1) consideration of performance evaluations prepared by the department in accordance with 43 TAC §9.152 and §27.3, (2) other performance evaluations as deemed relevant by the department, and (3) oral presentations given by each proposer in response to TxDOT-developed questions seeking to clarify information provided in proposers' technical proposals. The price proposals were then evaluated and scored, also in accordance with the requirements of the RFP. The technical score points assigned to the technical proposals were then added to the price score points to determine the total number of points received by each proposal. The responsive proposal with the highest score was determined to provide the apparent best value.

The evaluation and scoring of each proposal under the technical score and price score categories resulted in the proposals being ranked as follows: Lone Star Constructors, NEX, Alamo South Construction, Archer Western / Sundt Joint Venture. The proposal submitted by Lone Star Constructors, NEX was accordingly determined to provide the apparent best value.

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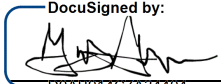
On August 30, 2022, the commission approved the 2023 Unified Transportation Program (UTP), which includes language providing that, for projects requiring an increase in funding, the commission may approve additional funding up to 25% in categories 2, 4, and 12. The additional funding is subject to the availability of funds for that category and commission approval at the time of award of the contract for the highway construction project. Increases to funding may not impact the total formula allocation to the district or Metropolitan Planning Organization. The project is included in the 2023 UTP and is funded with funding from categories 3 and 12.

IT IS THEREFORE ORDERED by the commission that the determination that the proposal submitted by Lone Star Constructors, NEX provides the apparent best value to the department is approved, and the department is authorized and directed to commence and complete negotiations with Lone Star Constructors, NEX necessary to finalize the DBC and the corresponding capital maintenance contract (CMC) to design, construct and maintain the project, and to modify the DBC and CMC as necessary as a result of such negotiations.

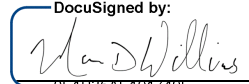
IT IS FURTHER ORDERED that the DBC and the corresponding CMC are awarded to Lone Star Constructors, NEX subject to, and effective upon the occurrence of, all of the following: (1) the successful conclusion of negotiations, including satisfaction of conditions to final award specifically identified by the department in its letter notice of conditional award to the proposer; (2) the issuance of a Notice of Intent to Award by the department; (3) applicable Federal Highway Administration approvals as identified by the department; and (4) the mutual execution and delivery of the DBC and CMC by the executive director of the department and the design-build contractor.

IT IS FURTHER ORDERED that if the executive director determines that the negotiations with Lone Star Constructors, NEX cannot be successfully completed, and that therefore the proposal submitted by Lone Star Constructors, NEX will not provide the apparent best value, the department is authorized to commence and complete discussions and negotiations with Alamo South Construction, the next highest-ranked proposer, with award to the next highest-ranked proposer subject to the terms and conditions in the immediately preceding paragraphs of this order.

Submitted and reviewed by:

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Director, Alternative Delivery Division

Recommended by:

DocuSigned by: 
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Executive Director
116481 May 25, 2023

Minute Number Date Passed