



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

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Chairman

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Agenda Item # 12

**RESOLUTION
OF THE
COMMONWEALTH TRANSPORTATION BOARD
June 19, 2013
MOTION**

Made By: Mr. Sonny Martin

Seconded By: Mr. Miller

Action: Motion Carried

Title: Delegation of Authority to the Commissioner of Highways for Approval of Award and Execution of the Design-Build Contract for the U. S. Route 460 Connector, Phase II, Buchanan County

WHEREAS, Section 33.1-12(2)(b) of the Code of Virginia authorizes the Commonwealth Transportation Board to award contracts using the design-build contracting method; and

WHEREAS, in October, 2007, the Department received an unsolicited proposal from Pioneer Group, Inc. (presently, Rapoca Energy Company, LLC (hereafter, Rapoca)) to develop a new alignment of the planned portion of Corridor Q of the broader federal Appalachian Development Highway System project, named U.S. Route 460 Connector, Phase II (the Project); and

WHEREAS, Rapoca proposed the development, design, and construction of a rough-grade road bed for approximately 6.2 miles of the realigned portion of Corridor Q, with the design-build delivery method employing a coal synergy strategy; and

WHEREAS, in April, 2008, the Department received Appalachian Regional Commission (ARC) and Federal Highway Administration (FHWA) approval and funding for preliminary engineering and environmental studies for preparation of National Environmental Protection Act (NEPA) documentation, independent evaluation of the unsolicited proposal, and preparation of a decision document for the Project; and

WHEREAS, FHWA has issued a “finding of no significant impact” based upon the final Environmental Assessment, for the Project; and

WHEREAS, as of the date of this Motion, the work for delivering the Project to rough grade is fully funded utilizing funds allocated for Corridor Q by ARC; and

WHEREAS, in accordance with § 33.1-12(2)(b) of the *Code of Virginia*, the Department completed the Finding of Public Interest, dated August 11, 2011; and

WHEREAS, in September, 2011, FHWA concurred the Project is eligible for federal-aid funding and the procurement of Rapoca as a sole source Design-Builder (as the term is defined in the design-build contract for the Project, to be entered into between Department and Design-Builder (the Contract)) for the Project utilizing coal synergy concepts for rough grade road bed; and

WHEREAS, in May, 2013, Design-Builder (as Rapoca) provided its final proposal for the Project; and

WHEREAS, in June, 2013, Bizzack, Inc., an affiliate of Bizzack Construction, LLC, intends to enter into a purchase and sale agreement, pursuant to which Bizzack, Inc. will acquire 100% of the stock of Rapoca (the “Acquisition”); and

WHEREAS, the Acquisition contemplates preservation of the bases for award to Design-Builder (as Rapoca) of the sole-source procurement of the Project; and

WHEREAS, Bizzack Construction, LLC, is successor to the interests of Rapoca with respect to the Project and thus will assume the position of Design-Builder under the Contract Documents (as such term is defined in the Contract); and

WHEREAS, the Department desires Design-Builder to provide for the development, design, construction and performance of related services for the Project, all of which shall be provided based upon the terms and subject to the conditions set forth in the Contract; and

WHEREAS, Design-Builder desires to provide such services with respect to the Project upon such terms and subject to such conditions; and

WHEREAS, it is critical that the Contract for this Project be awarded in concert with agreements that will replace several key memorandums of understanding between the Design-Builder and coal companies which expire prior to the July meeting of the CTB.

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NOW, THEREFORE, BE IT RESOLVED by the Commonwealth Transportation Board, that the Commissioner of Highways is hereby authorized and delegated the Board's authority to approve the award and execution of the Contract to Design-Builder, provided the necessary negotiations and activities related to award of the Contract are appropriately completed.

BE IT FURTHER RESOLVED, that the Commissioner shall present the Design-Build Project and Contract at the next meeting of the Board for its affirmation of this Design-Build Contract award.

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