

COMPREHENSIVE DEVELOPMENT AGREEMENT

Oklahoma to Mexico/Gulf Coast - TTC-35

March 11, 2005

Overview

BACKGROUND

On December 16, 2004, the Texas Transportation Commission selected a consortium led by Cintra Concesiones de Infraestructuras de Transporte, S.A., an international engineering and construction firm, and San Antonio-based Zachry Construction Corporation to develop the Oklahoma to Mexico/Gulf Coast element of the Trans-Texas Corridor (TTC-35). The Cintra-Zachry conceptual proposal included:

Private investment of \$6 billion to fully design, construct and operate a four-lane, 316-mile toll road between Dallas and San Antonio for up to 50 years as the initial segment of TTC-35

Payment to the state of \$1.2 billion for the long-term right to build and operate the initial segment as a toll facility, which the state may use to fund road improvements or high-speed and commuter rail projects along I-35 or the TTC-35 corridor.

The commission authorized the Texas Department of Transportation (TxDOT) to begin discussions with Cintra-Zachry on a comprehensive development agreement (CDA) for TTC-35. Under the CDA, Cintra-Zachry will produce a master development and financial plan which will schedule multi-modal projects over the life of the CDA (up to 50 years).

The final alignment of TTC-35 will be determined only after public input and completion of rigorous federal environmental impact studies. TxDOT and the Federal Highway Administration are responsible for these studies which will determine final alignment. These studies are currently under way, with the first phase expected to be completed by Spring 2006.

The Trans-Texas Corridor is a state-owned project. It will be part of the state highway system and right way will be purchased in the name of the state. The state retains and, will not transfer, its powers of eminent domain. Neither Cintra-Zachry, nor other private developer will be empowered to select the specific routes of the corridor.

OVERVIEW OF COMPREHENSIVE DEVELOPMENT AGREEMENT

The CDA, an agreement between Cintra-Zachry and TxDOT, authorizes a master development and financial plan to be developed for the Oklahoma to Mexico/Gulf Coast element (TTC-35). The master plan will include road, rail and utility projects along with funding alternatives for the entire 600-mile length of TTC-35.

The cost of the planning effort is estimated at \$3.5 million and will take approximately 12 - 15 months to complete.

The CDA is an umbrella agreement that includes several project delivery options TxDOT may use to develop individual segments of TTC-35.

TxDOT may choose to develop these segments with Cintra-Zachry or other groups.

The term of the CDA can be up to 50 years.

I. FINALIZE SCOPE OF WORK

TxDOT expects to authorize Cintra-Zachry to begin work on the master planning work within 60 days of signing the CDA. Finalizing the scope of work includes:

Cintra-Zachry drafting management and quality plans. These plans will demonstrate the organization and approach Cintra-Zachry will follow for all phases of work anticipated for TTC-35.

Determining Cintra-Zachry's role and responsibilities relating to public information and data collection, preliminary design and traffic analysis. If the scope of work is expanded to include these activities, TxDOT will determine if additional compensation is appropriate for any added work undertaken by Cintra-Zachry.

In the event that TxDOT and Cintra-Zachry cannot agree on the necessary modifications to the CDA during the first 60 days, the CDA may be terminated and compensation to Cintra-Zachry will be limited to \$750,000.

II. MASTER DEVELOPMENT AND FINANCIAL PLAN

Cintra-Zachry will develop the master development and financial plan for TTC-35, which must be approved by TxDOT. The master plan will be completed within 12-15 months and updated as needed.

The development plan will include:

- A list of specific transportation facilities that could be developed in the near-term (2005-2010), mid-term (2010-2025) and long-term (after 2025).
- An overall project schedule describing implementation of the specific facilities, subject to federal environmental approval.
- A master financial plan.
- Identification of facilities Cintra-Zachry would like to develop itself (i.e. self-performance). Facilities listed in this category still require negotiation with TxDOT before self-performance is approved.

Each facility identified in the master plan will include:

- A conceptual design, including requirements for support services such as rest stops and maintenance yards.
- Preliminary traffic and revenue studies.
- Preliminary cost estimates, as well as the sources of funds required for development and operation.
- Identification of existing and planned transportation projects that could impact the potential facility.
- A plan for complying with mitigation and environmental requirements of permits and other necessary approvals.
- Identification of potential third party agreements and approvals that will be needed to develop the facility.

The master plan will be continually updated to account for developments on TTC-35 due to environmental, financial and other factors.

Final determination of TTC-35 alignment will be made after completion of the federal environmental review process under the National Environmental Protection Act. Construction of individual facilities also will be subject to environmental review.

III. PLANNING AND DEVELOPMENT PROCESS

The development of the individual segments of road, rail or utilities will require a Facility Implementation Plan. The design, construction, maintenance and operations of individual transportation projects will be performed under a contract known as a Facility Agreement.

Facility Implementation Plan

The process for developing a project begins with a request from TxDOT or Cintra-Zachry for a facility implementation plan, which includes a general overview and description of the project, estimated cost to develop the proposed project, DBE/HUB goals and recommended project delivery method.

If TxDOT approves the request, the developer will finalize the facility implementation plan. This will include a detailed budget and project schedule, responsibilities of all parties, and other necessary work needed to bring the proposed project to a financial closing and potential construction in the future.

If the implementation plan is approved, TxDOT will enter into a facility agreement authorizing the developer to proceed with the work as outlined.

TxDOT has the option to seek competitive bids for facility agreements from other developers.

Project Delivery Options

The umbrella CDA provides TxDOT with several project delivery options for developing individual facilities for TTC-35.

These options include traditional methods where design and construction is performed by separate contractors. Other options include non-traditional methods, such as design-build, design-build-operate-maintain and concessions where a consortium of engineering and construction firms are selected to perform all work including financing, design, construction, operations and maintenance.

These delivery options provide flexibility in allowing TxDOT to choose the most efficient way to develop individual facilities of TTC-35 by selecting Cintra-Zachry or other groups.

Self-Performance by Cintra-Zachry

For this CDA, self-performance refers to work or services for specific facilities that will be done by Cintra-Zachry. Self-performance activities include financing, planning, design, construction, maintenance, and toll collection and operation.

During the preparation of the master plan, one or more near-term facilities (with a total estimated cost of at least \$400 million) will be identified and approved by TxDOT, as suitable for self-performance by Cintra-Zachry.

The consortium will have the right of first negotiation for development of those facilities, subject to TxDOT's approval.

IV. OTHER CDA PROVISIONS

Risk Allocation and Remedies – The CDA identifies a number of risks that could affect the performance of the work and summarizes the remedies available to the parties if such an event occurs. Events that could affect performance may be related to environmental approvals and financing.

Environmental Review Process – TxDOT has begun a two-phase environmental process for the TTC-35. The first phase is currently ongoing and involves the preparation of an environmental impact statement for the 600-mile TTC-35. The second phase involves environmental clearance for individual transportation facilities. The environmental studies are conducted by TxDOT and FHWA. Cintra-Zachry has no decision authority in selecting the final route.

V. TERMINATION OF CDA

Certain events may result in the termination of the CDA. The following are situations that may trigger termination:

- The environmental process results in no-action for the TTC-35.
- Parties fail to reach agreement on essential terms of the initial scope of work, master plan or any updates to this plan.
- Material breach of the CDA, including failure to meet milestones for the initial scope of work.
- TxDOT may terminate the CDA for convenience (i.e. without cause).

In addition, a facility may be removed from the CDA under various circumstances, causing partial termination of the CDA. Examples include:

- Changes due to the environmental process.
- Failure to agree on a facility-related document or agreement.
- Failure to agree on whether to start preliminary development activities for a facility.