

**State of Minnesota  
Department of Transportation**

In the matter of the Bid Protest by C.S. McCrossan and Ames/Lunda  
St. Anthony Falls (35W) Bridge Replacement Project  
Design-Build Project, S.P. 2783-120

**Introduction**

Pursuant to Section 3.10.2 of Addendum #7 -- September 12, 2007, of the Request for Proposals ("RFP") for the St. Anthony Falls (35W) Bridge Design-Build Project, S.P. 2783-120, this matter is before the Commissioner of the Minnesota Department of Transportation ("Commissioner") on the bid protest of C.S. McCrossan Construction, Inc. ("C.S. McCrossan") and Ames/Lunda, a joint venture between Ames Construction, Inc., and Lunda Construction, Inc. ("Ames/Lunda") of the determination to select Flatiron-Manson, a joint venture ("Flatiron"), as contractor for S.P. 2783-120 ("project").

On August 23, 2007, the Minnesota Department of Transportation ("Mn/DOT") issued the RFP for the project. On September 14, 2007, the proposers submitted their technical proposals to Mn/DOT. On September 19, 2007, pursuant to Minnesota Statutes section 161.3426, subdivision 1(c) (2006) and the RFP, Mn/DOT selected Flatiron as the responsive and responsible design-builder with the lowest adjusted score. Pursuant to Section 3.10.2, C.S. McCrossan and Ames/Lunda filed a written notice of protest of "Mn/DOT's announced intent to award" with the Protest Official within the agreed-upon time period. On September 28, 2007, Mn/DOT filed a response to the bid protest. Section 3.10.2 provides that the review by the Protest Official is limited to determining whether, by a preponderance of the evidence, Mn/DOT's award is "arbitrary, capricious, or contrary to law." After completing the review, the Protest Official is required to recommend either: (1) that the original determination be affirmed; or (2) that the Commissioner order remedial steps.

On October 8, 2007, the Protest Official recommended that the Commissioner "affirm the original determination to select the Flatiron proposal consistent with the evaluation team's technical review and application of the design-build statutory formula." Pursuant to Section 3.10.2, the Commissioner must issue Mn/DOT's final decision along with written reasons for the decision or incorporate those of the Protest Official. Pursuant to Minnesota Statutes Section 161.09, subdivision 1 (2006), "The official acts and determinations of the commissioner shall be denominated orders."

Based on a review of the submissions and the recommendation of the Protest Official, the Commissioner hereby Finds, Concludes, and Orders as follows:

**Findings and Conclusions**

1. The Protest Determination, dated October 8, 2007, is adopted and incorporated herein.

**Order**

Mn/DOT's original determination to select the Flatiron proposal is AFFIRMED.

Date: 10-8-2007



LISA J. FREESE

Deputy Commissioner of Transportation