

**REQUEST FOR QUALIFICATIONS  
TO DESIGN AND CONSTRUCT  
SH 71 TOLL LANES  
THROUGH A  
DESIGN-BUILD AGREEMENT**

**TEXAS DEPARTMENT OF TRANSPORTATION  
ISSUED November 15, 2013**

**Texas Department of Transportation  
125 East 11<sup>th</sup> Street  
Austin, Texas 78701**

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**EXHIBITS:**

- Exhibit A Project Information and Status
- Exhibit B Draft Design-Build Agreement Term Sheet

**FORMS:**

- Form A Transmittal Letter
- Form B Information Regarding Proposer, Equity Members, Major Non-Equity Members, Guarantors and Construction Team Members
- Form C Certification
- Form D-1 Technical Experience - Design
- Form D-2 Technical Experience - Construction
- Form E Project Descriptions
- Form F Safety Questionnaire

# **PART A**

## **BACKGROUND AND INSTRUCTIONS**

### **1. INTRODUCTION**

The Texas Department of Transportation ("TxDOT"), an agency of the State of Texas, hereby requests submittal of sealed qualifications statements ("QSs") from entities ("Proposers") desiring to design and construct SH 71 Toll Lanes from Presidential Boulevard to a point just east of SH 130 in Austin, along with the realignment of FM 973 from just south of the Colorado River to a point approximately 0.5 mile south of the current SH 71/FM 973 intersection, referred to as the "Project," pursuant to a Design-Build Agreement ("DBA"). The purpose of the project is to add toll lanes and realign FM 973 through the project limits. TxDOT has concluded that harnessing private-sector creativity through a design-build approach is the best way to ensure cost-effective and expedited delivery of this Project and provide needed safety improvements, congestion relief and economic development benefits to the public.

TxDOT is issuing this Request for Qualifications ("RFQ") in accordance with the provisions of Chapter 223, Subchapter F of the Texas Transportation Code (the "Code"), other applicable provisions of law pertaining to design-build contracts, Sections 9.150-9.155 of Title 43, Texas Administrative Code (the "Rules"), and other applicable provisions of Texas and federal law. Please see the Project webpage at:

<http://www.txdot.gov/inside-txdot/projects/studies/austin/sh71-express.html> (the "Project Webpage").

The Texas Transportation Commission's (the "Commission") Minute Order 113740 dated October 31, 2013 authorized issuance of an RFQ to design and construct SH 71 from Presidential Boulevard to a point just east of SH 130 in Travis County, and to realign FM 973 from just south of the Colorado River to a point approximately 0.5 mile south of the current SH 71/FM 973 intersection. A copy of that order is available on the Project Webpage. Proposers shortlisted in response to this RFQ will be invited to submit detailed proposals ("Proposals") in response to a request for proposals ("RFP").

TxDOT has assembled a set of documents relating to the Project as set forth in Exhibit A hereto (the "Reference Information Documents"). The Reference Information Documents will be made available to prospective Proposers upon issuance of this RFQ on the Project Webpage. Proposers may request electronic copies on a memory storage device of available documents by contacting TxDOT's Project Manager at the following address:

Frank Holzmann, P.E.  
Texas Department of Transportation  
814 Arion Parkway, Suite 401  
San Antonio, TX 78216  
Email: [TxDOT-AUS-PPP-SH71@txdot.gov](mailto:TxDOT-AUS-PPP-SH71@txdot.gov)

TxDOT will charge \$25.00 (check only) for the costs of providing electronic copies on a memory storage device. It is requested that the proper contact TxDOT at email:

[TxDOT-AUS-PPP-SH71@txdot.gov](mailto:TxDOT-AUS-PPP-SH71@txdot.gov) one (1) day prior to pickup in order to ensure that storage device is available for pickup. "Day of request" pickups cannot be guaranteed.

Please note that the Reference Information Documents and reference to any website (including the Project Webpage) in this RFQ are provided for reference and background information only. The information contained in the Reference Information Documents or set forth in any referenced website (including the Project Webpage) reflects information as of any date or time identified therein. TxDOT has not determined whether the Reference Information Documents or information available on any such website (including the Project Webpage) are accurate, complete, pertinent, or of any other value to potential developers. TxDOT makes no representation as to the accuracy, completeness, or pertinence of the Reference Information Documents or information in any referenced website (including the Project Webpage), and, in addition, shall not be responsible for any interpretations thereof or conclusions drawn therefrom. The statements made in the Reference Information Documents or in any referenced website (including the Project Webpage) that are not purely historical are forward-looking statements, including TxDOT's expectations, intentions or strategies regarding the future. These statements are based on information currently available to TxDOT and TxDOT assumes no obligation to update any such forward-looking statements.

## **2. DESCRIPTION OF PROJECT OPPORTUNITY**

### **2.1 Description of the Proposed Contracting Opportunity**

TxDOT intends, through this procurement, to enter into a DBA that will result in cost-effective and expedited completion of all elements of the Project. The DBA will obligate the Design-Build Contractor to design and construct and warrant the Project. The DBA is expected to include a two-year general warranty, along with a performance-specific warranty for certain elements that will extend for up to five years following the completion of the Project.

TxDOT currently expects that the DBA will include a fixed price to complete the Project. The DBA will set forth the terms of the Design-Build Contractor's compensation, which is currently anticipated, to be based on progress payments with a maximum payment curve. Proposers are advised to review the draft DBA Term Sheet attached as Exhibit B for additional details of the Design-Build Contractor's anticipated obligations and responsibilities.

The contract will include technical provisions and minimum standards for the Project.

### **2.2 Project Scope**

Project scope components include the design and construction of SH 71 Toll Lanes from Presidential Boulevard to a point just east of SH 130 and the realignment of FM 973 from just south of the Colorado River to a point approximately 0.5 mile south of the current SH 71/FM 973 intersection in Austin as shown in the Preliminary Project Schematics located on the Project Webpage. See Exhibit A for further information regarding the Project.

### **3. DESCRIPTION OF PROCUREMENT PROCESS**

#### **3.1 Procurement Process**

TxDOT reserves the right, in its sole discretion, to modify the following procurement process to comply with applicable law and/or to address the best interests of TxDOT and the State of Texas, including canceling the procurement.

TxDOT will evaluate the QSs it receives in response to this RFQ and intends to establish, according to criteria generally outlined herein, a shortlist of two or more Proposers that are eligible to receive the RFP. If only one responsive QS is received, TxDOT will terminate this procurement.

Following the shortlisting of Proposers, TxDOT anticipates releasing a draft RFP to shortlisted Proposers for review and comment. Following receipt of written comments, TxDOT may schedule one-on-one and/or group meetings to discuss issues and comments identified by the shortlisted Proposer teams. This process is referred to as the industry review process. Specific details concerning the industry review process will be made available to the shortlisted Proposer teams following the shortlisting announcement.

After consideration of industry input, and if authorized by the Commission, TxDOT plans to issue a final RFP to the shortlisted Proposers. The final RFP will include a scope of work, contract documents, and the objective methodology for determining the overall best value Proposal.

Following receipt and evaluation of Proposals, the Commission may select a Proposer for negotiations, based on a determination of apparent best value, to finalize a DBA for award and execution. If negotiations are not successful with the apparent best value Proposer, TxDOT may negotiate with the next highest rated Proposer. Alternatively, TxDOT may modify and re-issue the RFP, or terminate the procurement.

#### **3.2 Payment for Work Product**

As contemplated by Texas Transportation Code Section 223.249, TxDOT intends to pay each unsuccessful Proposer that submits a Proposal responsive to the RFP maximum stipulated amounts not exceeding the value of the work product contained in its Proposal that TxDOT determines can be used in performance of its functions. Specific provisions regarding payment of the stipulated amounts shall be included in the RFP. There will be no payment to Proposers who are not shortlisted.

#### **3.3 Procurement Schedule**

TxDOT anticipates carrying out the first phase of the procurement process contemplated hereby in accordance with the following schedule:

Issue Request for Qualifications	November 15, 2013
Industry Workshop (TxDOT Austin District Office at 7901 North IH-35 (Building 7 Hearing Room), Austin, TX 78753)	November 21, 2013 at 1:00 p.m.

Deadline for questions regarding the RFQ	November 26, 2013 at 5:00 p.m.
Questions relating to any addendum issued after November 26, 2013	Three business days after the addendum is issued (but no later than the QS Due Date)
QS Due Date	3:00 p.m. Central Time December 13, 2013

This schedule is subject to modification at the sole discretion of TxDOT. Proposers will be notified of any change by an addendum to this RFQ. TxDOT intends to issue an industry review draft of the RFP shortly after selection of the shortlisted Proposers and to prosecute the procurement to a DBA award thereafter. TxDOT anticipates awarding and executing a DBA for the Project in Summer 2014.

### **3.4 Industry Workshop**

TxDOT intends to hold an industry workshop at 7901 North IH-35, Austin, TX 78753 on the date and time specified in Part A, Section 3.3. Attendance at this workshop is not mandatory and interested parties shall remain eligible to submit a QS if they do not attend the workshop. Further information regarding the workshop will be made available on the Project Webpage.

### **3.5 Questions and Requests for Clarification; Addenda**

In order to facilitate receipt, processing and response, Proposers must submit all questions and requests for clarification regarding this procurement in writing via e-mail to [TxDOT-AUS-PPP-SH71@txdot.gov](mailto:TxDOT-AUS-PPP-SH71@txdot.gov).

Proposers are responsible for ensuring that any written communications clearly indicate on the first page or in the subject line, as applicable, that the material relates to the Project. TxDOT may make edits in addenda to this RFQ in response to clarification requests if desired by TxDOT. Alternatively, TxDOT may respond to those questions of a general application that TxDOT deems to be material and not adequately addressed through potential addenda to the RFQ. TxDOT will post any such responses and/or addenda to this RFQ on the Project Webpage.

Proposers are responsible for monitoring the Project Webpage for information concerning this procurement as teams responding to this RFQ will be required to acknowledge in the transmittal letter (Part C, Form A) that they have received and reviewed all materials posted thereon.

### **3.6 Ombudsman**

TxDOT has designated an employee who is not involved in this procurement to act as an ombudsman. Subject to the cut-off date for questions regarding the RFQ set forth in Part A, Section 3.3, a Proposer may submit confidential communications to the ombudsman, including questions, comments, or complaints regarding the procurement if the Proposer believes in good faith that confidentiality is essential. After receiving such confidential communications regarding the procurement process, the ombudsman shall, to the extent practicable, remove any information identifying the Proposer and shall forward the communication to TxDOT's Project Manager as identified in Part A, Section 1. TxDOT's designated ombudsman for this

procurement is:

Ms. Becky Blewett, Esq.  
Associate General Counsel  
Texas Department of Transportation  
125 E. 11<sup>th</sup> St.  
Austin, Texas 78701  
Email: [Becky.Blewett@txdot.gov](mailto:Becky.Blewett@txdot.gov)

### **3.7 Federal Requirements**

Proposers are advised that the RFP will be drafted based on the assumption that the Project and the plan of finance for the Project will remain eligible for federal-aid funds. Therefore, the procurement documents and the DBA must conform to requirements of applicable federal law, regulations and policies. TxDOT anticipates that certain federal procurement requirements will apply, including but not limited to Equal Opportunity requirements (Title VI of the Civil Rights Act of 1964, as amended), requirements applicable to Disadvantaged Business Enterprises ("DBEs") (Title 49 Code of Federal Regulations Part 26, as amended), Small Business requirements (United States Code Sections 631 et seq.), Buy America requirements (49 Code of Federal Regulations Part 661) and Davis-Bacon wage rates. TxDOT reserves the right to modify the procurement process described herein to address any concerns, conditions or requirements of federal agencies, including FHWA. Proposers shall be notified in writing via an addendum of any such modifications.

### **3.8 DBE Requirements**

TxDOT has determined that DBE requirements will apply to the Project. TxDOT has adopted the definition of DBEs set forth in 49 CFR § 26.5. TxDOT currently estimates the overall DBE goal for the Project will be 4% for design and 8% for construction. Information regarding DBE requirements and goals will be included in the RFP. In responding to this RFQ, a Proposer team may include and identify team members to satisfy DBE goals. It is the policy of TxDOT to encourage the participation of DBEs, historically underutilized businesses, women-owned business enterprises and minority business enterprises in all facets of the business activities of TxDOT, consistent with applicable laws and regulations. Specific provisions concerning DBE requirements will be set forth in the RFP and the DBA.

### **3.9 Liability, Insurance and Security**

TxDOT anticipates that the Design-Build Contractor will be required to assume liabilities, to provide bonds and insurance coverage and to indemnify and defend TxDOT against third party claims as specified in the DBA. TxDOT, as owner of the Project, will have the benefit of tort liability limitations to the extent permitted by Texas law. TxDOT is prohibited by State law from indemnifying any Proposer. The State of Texas and TxDOT do not intend that there be any waiver of their respective sovereign immunity protections under State law. Specific provisions concerning bonding, letters of credit, guarantees, insurance and indemnity will be set forth in the RFP and the DBA.



## 4. QS CONTENT AND SUBMITTAL REQUIREMENTS

### 4.1 General

TxDOT expects Qs submitted in response to this RFQ to provide enough information about the requested items so as to allow TxDOT to evaluate and competitively rank and shortlist the Proposers based on the criteria set forth herein.

### 4.2 Format

- (a) Number of copies: Each responding Proposer shall submit one original and 9 hard copies (for a total of **10**) of Volume 1 of its QS; the original and each copy in its own loose-leaf three ring binder. These binders shall be contained in a sealed package, labeled as Volume 1. Each responding Proposer shall also submit one original and nine hard copies (for a total of **10**) of Volume 2 of its QS; the original and each copy in its own loose-leaf three ring binder. These binders shall be contained in a sealed package, labeled as Volume 2. The original must be clearly marked "Original" on its face and spine. Each copy must be numbered Copy 1 of 9 through Copy 9 of 9, as applicable, on its face and spine. The Proposer's name and volume number must also be clearly marked on the face and spine of each binder. In addition, each Proposer shall include one digital copy of its entire QS submittal in a read-only format on a compact disk ("CD") placed in a clear plastic pouch on the inside cover of the original of Volume 1. The Proposer's name must be clearly marked on the CD.
- (b) General format requirements: Submittals must be prepared on 8-1/2" x 11" sized white paper and bound. Double-sided printing is encouraged. 11" x 17" pages are allowed for schematics, organizational charts, other drawings or schedules, but not for narrative text. Each 11" x 17" page will be counted as a single page and will be included in the page count contained in Volume 1. Printed lines may be single-spaced. Insofar as is practical or economical, all paper stock used shall be composed of recycled materials.
- (c) Volume 1 requirements: Volume 1 (as described in Part B) shall have all pages numbered and shall not exceed 20 pages, including any 11" x 17" pages (insofar as they are allowed as stated in Part A, Section 4.2(b)) but excluding all Forms. Each printed side shall be considered one page. The font size in Volume 1 shall be no smaller than twelve-point, other than in tables, diagrams, organization charts and other such graphics, which may be in ten-point. The Volume 1 Appendix (as described in Part B) does not have page numbering, page amount or type font size requirements or limitations, but must be clearly differentiated from the initial 20 pages of the section.
- (d) Volume 2 requirements: Volume 2 (as described in Part B) does not have page numbering, page limitation or type font size requirements.
- (e) Standard corporate brochures, awards, licenses and marketing materials should not be included in the QS, although proof of license in good standing will be

required as a condition to award for licensed professionals proposed to work on the Project.

### **4.3 Contents and Organization**

Proposers must organize their QS in the order set forth in Part B. Each volume may be subdivided as needed; dividers do not count as pages subject to page limitations noted herein.

### **4.4 QS Submittal Requirements**

All packages constituting the QS shall be individually labeled as follows:

Response to the Request for Qualifications  
for the SH 71 Toll Lanes Project  
through a Design-Build Contract

QSs shall be delivered by hand or courier to the following address:

Frank Holzmann, P.E.  
Texas Department of Transportation  
7600 Chevy Chase Drive, Building 2, Suite 400  
Austin, Texas 78752

QSs will be accepted only at this address. TxDOT will not accept facsimile or other electronically submitted QSs.

Acknowledgment of receipt of QSs will be evidenced by the issuance of a receipt by a member of TxDOT staff.

QSs will be accepted and must be received by TxDOT during normal business hours before 3:00 p.m. (Central Time) on the QS Due Date specified in Part A, Section 3.3.

Proposers are solely responsible for assuring that TxDOT receives their QSs by the specified delivery date and time at the address listed above. TxDOT shall not be responsible for delays in delivery caused by weather, difficulties experienced by couriers or delivery services, misrouting of packages by courier or delivery services, improper, incorrect or incomplete addressing of deliveries and other occurrences beyond the control of TxDOT.

## **5. EVALUATION PROCESS AND CRITERIA**

### **5.1 Responsiveness**

Each QS will be reviewed for conformance to the RFQ instructions regarding organization and format and the responsiveness of the Proposer to the requirements set forth in this RFQ. Those QSs not responsive to this RFQ may be excluded from further consideration and the Proposer will be so advised. TxDOT may also exclude from consideration any Proposer whose QS contains a material misrepresentation.

In order for project experience provided in any QS to be considered responsive, Forms D-1 and D-2 shall list only projects for which the corporate entity (company, joint-venture, partnership or

consortium) providing the engineering or construction experience is respectively the Equity Member, Lead Engineering Firm or Lead Contractor itself; a controlled subsidiary of such Equity Member, Lead Engineering Firm or Lead Contractor; or a parent company of the Equity Member (as those terms are defined in Part B, Volume 1). Project experience provided by a sister company of the Lead Engineering Firm or Lead Contractor shall not be considered responsive to this QS.

Key Personnel shall be employed by: (a) the Equity Member, Lead Engineering Firm or Lead Contractor itself; (b) a controlled subsidiary of such Equity Member, Lead Engineering Firm or Lead Contractor; (c) a parent company of an Equity Member; or (d) in the case of the Design Quality Acceptance Manager and the Construction Quality Acceptance Manager, by an independent quality acceptance firm that will be hired by the Proposer.

## **5.2 Pass/Fail Review**

Following or in conjunction with evaluation of each QS for responsiveness, TxDOT will evaluate each QS based upon the pass/fail criteria set forth below. A Proposer must obtain a "pass" on all pass/fail items in order for its QS to be evaluated qualitatively under Part A, Section 5.3.

- (a) The QS contains an original executed transmittal letter as required in Part B, Volume 1, Section A(a).
- (b) The Proposer or Lead Contractor is capable of obtaining a payment bond and a performance bond, each in an amount at least equal to \$100 million, which is the current estimated cost for construction of the Project, from a surety rated in the top two categories by two nationally recognized rating agencies or rated at least A minus (A-) or better and Class VIII or better by A.M. Best and Company, as evidenced by the Surety Letter provided in Part B, Volume I Appendix Section C.
- (c) Neither the Proposer nor any other entity that has submitted Form C as required by this RFQ (1) has been disqualified, removed, debarred or suspended from performing or bidding on work for the State of Texas or any local government where such disqualification, removal, debarment or suspension has resulted in the Proposer or other entity being currently disqualified, removed, debarred or suspended from performing or bidding on TxDOT contracts or (2) is currently disqualified, removed, debarred or suspended from performing or bidding on work for the federal government or at least three other states.
- (d) The Proposer has the financial capability to carry out the Project responsibilities potentially allocated to it as demonstrated by the materials provided in Volume 2 of the QS (see Part B, Volume 2).
- (e) The information disclosed in Form C does not materially adversely affect the Proposer's ability to carry out the Project responsibilities potentially allocated to it.

### **5.3 Qualifications Evaluation Criteria and Weighting**

Each responsive QS passing all of the “pass/fail” qualification requirements set forth above in Part A, Section 5.2 will be evaluated and scored according to the criteria set forth below. The relative weighting or importance of the evaluation criteria within each category is described in Part A, Sections 5.3.1, 5.3.2 and 5.3.3 below.

#### **5.3.1 Project Qualifications and Experience (65% Weighting)**

The background and experience of the Proposer, individual team members, and Key Personnel with developing, designing, fabricating and/or constructing comparable projects will be evaluated in accordance with the criteria set forth in this Section 5.3.1. For these purposes, TxDOT considers a comparable project to be any similar road project in size and scope, whether or not such project was delivered through a design-build contract or otherwise.

- (a) The extent, depth, strength and likelihood of success of the Proposer’s and its individual team members’ experience with developing, designing and/or constructing comparable projects. Although no Proposer must have design-build experience, a brief description of the design-build management approach that the Proposer commits to implementing must be provided (30 points);
- (b) The strength and depth of experience of the management team and Key Personnel for the Project listed in Proposer’s response to Part B, Volume 1 Appendix, Section D (30 points);
- (c) Responsiveness toward the DBE involvement, objectives and goals in response to Part A, Section 3.7, including any description of innovative approaches or unique outreach or marketing concepts used successfully by the Proposer or its team members to encourage DBE participation (5 points).

Project and personnel references, as well as the information provided as required in Part B, Volume 1, Sections B(a) through B(c) and Part B, Volume 1 Appendix, Sections A, C, D and E will be used, as deemed appropriate by TxDOT, to assist in the evaluation of the General/Experience category.

#### **5.3.2 Statement of Technical Approach (25% Weighting)**

The Statement of Technical Approach will be evaluated in accordance with the following criteria:

- (a) The extent to which the Statement of Technical Approach demonstrates a full understanding of the Project’s scope and complexity (15 points); and
- (b) The extent to which the Statement of Technical Approach demonstrates a complete understanding of Project risks and potential solutions, regardless of ownership, that may arise during all Project phases, including design and construction (10 points).

#### **5.3.3 Safety Qualifications (10% Weighting)**

This RFQ seeks to identify those Proposers that can demonstrate the ability to develop and

implement an effective safety program for the Project that ensures worker safety and protects the traveling public. The safety qualifications of the Proposer, as documented in the Forms F submitted by the Lead Contractor and each Construction Team Member, will be evaluated in accordance with the following criteria:

- (a) The strength and consistency of the Proposer's and individual team members' safety records (6 points).
- (b) The strength of the Proposer's and individual team members' safety practices and the extent to which such practices demonstrate an understanding of an effective safety program (4 points).

#### **5.4 QS Evaluation Procedure**

TxDOT anticipates utilizing one or more committees to review and evaluate the QSs in accordance with the above criteria and to make recommendations to the Commission. Evaluations and rankings of QSs are subject to the sole discretion of TxDOT. TxDOT will make the final determinations of the Proposers to be shortlisted in its sole discretion, and in the best interests of the State of Texas.

### **6. COMMUNICATIONS, PUBLIC INFORMATION AND ORGANIZATIONAL CONFLICTS OF INTEREST**

#### **6.1 Improper Communications and Contacts**

The following rules of contact shall apply during the procurement for the Project, which began upon the date of issuance of this RFQ and will be completed with the execution of the DBA. These rules are designed to promote a fair and unbiased procurement process. Contact includes face-to-face, telephone, facsimile, electronic-mail (e-mail), or formal written communication.

The specific rules of contact are as follows:

(a) After submittal of QSs, no Proposer or any of its team members may communicate with another Proposer or its team members with regard to the RFP or either team's QS or Proposal, except that team members that are shared between two or more Proposer teams may communicate with their respective team members so long as those Proposers establish a protocol to ensure that the subcontractor will not act as a conduit of information between the teams (contact among Proposer organizations is allowed during TxDOT sponsored informational meetings);

(b) The Proposers shall correspond with TxDOT regarding the RFQ and RFP only through TxDOT's and Proposer's designated representatives;

(c) Commencing with the issuance of this RFQ and continuing until the earliest of (i) award and execution of the DBA, (ii) rejection of all Proposals by TxDOT or (iii) cancellation of the procurement, no Proposer or representative thereof shall have any communications regarding the RFQ, RFP or the procurement described herein with any member of the Texas Transportation Commission or any Commission staff or aides or with any TxDOT staff, advisors, contractors or consultants involved with the procurement or the Project, except for

communications with TxDOT consultants who have completed their services for the Project and been released by TxDOT, communications expressly permitted by the RFQ or RFP or except as approved in advance by the Director of the Strategic Projects Division, in his/her sole discretion. The foregoing restriction shall not, however, preclude or restrict communications with regard to matters unrelated to this RFQ, the RFP or the procurement or from participating in public meetings of the Commission or any public or Proposer workshop related to this RFQ or the RFP.

(d) The Proposers shall not contact stakeholders regarding the Project, including employees, representatives and members of the entities listed below, except as specifically approved by TxDOT in writing: FAA; FHWA; City of Austin (including ABIA); Travis County; TxDOT (except as provided herein); CTRMA; CapMetro; and CAMPO.

## **6.2 Public Information Act**

### **6.2.1 Disclosure Waiver**

Each Proposer, by submitting a QS to TxDOT in response to this RFQ, consents to the disclosures described in this RFQ, including this [Part A, Section 6.2](#), and all other disclosures required by law, and expressly waives any right to contest, impede, prevent or delay such disclosure, or to initiate any proceeding that may have the effect of impeding, preventing or delaying such disclosure, under Texas Government Code Chapter 552 (the Public Information Act or the "Act"), the Code, the Rules or any other law relating to the confidentiality or disclosure of information. Under no circumstances will TxDOT be responsible or liable to a Proposer or any other party as a result of disclosing any such materials. Proposer hereby further agrees to assist TxDOT in complying with these disclosure requirements.

### **6.2.2 Observers During Evaluation**

Proposers are advised that observers from federal or other agencies, including representatives of local governmental entities, may observe the QS evaluation process and will have the opportunity to review the QSs after the QS Due Date.

### **6.2.3 Public Disclosure of Proposal Documents**

Proposers are advised that all portions of the QS other than Volume 2 may be publicly disclosed by TxDOT at any time and at TxDOT's sole discretion.

## **6.3 Organizational Conflicts of Interest**

The Rules at Section 9.155 *et seq.* regarding organizational conflicts of interest apply to this Project. Proposers are advised that these rules may preclude certain firms and their subsidiaries and affiliates from participating on a Proposer team.

Firms that are prohibited from proposing or joining a Proposer team include, but are not limited to:

- CDM Smith, Inc.
- Reynolds, Smith and Hills, Inc.

- Ramos Consulting, LLC
- HBMG, Inc.
- Surveying and Mapping, Inc.
- Nancy Ledbetter and Associates, Inc.
- Mayer Brown LLP
- Jacobs, Inc.
- Atkins, Inc.
- Ximenes & Associates
- McGray & McGray
- American Acquisition Group
- Texas Land Professionals
- HNTB, Inc.
- Blanton and Associates, Inc.
- Telvent USA, LLC
- Schneider Electric
- Affiliates or subsidiaries of any of the above.

Proposers are advised that other TxDOT consultants working on the Project may have an organizational conflict of interest. Proposers are encouraged to review the Rules and discuss potential conflicts of interest with prospective team members. Proposers are also advised that TxDOT's policy is in addition to applicable federal and state law. Such applicable law will also apply to Proposer teams and teaming and may preclude certain firms and their related entities from participating on a Proposer team.

## **7. PROTEST PROCEDURES**

Subchapter I in Chapter 9 of Title 43 of the Texas Administrative Code sets forth the exclusive protest remedies available with respect to this RFQ and prescribes exclusive procedures for protests regarding:

- (a) allegations that the terms of the RFQ are wholly ambiguous, contrary to legal requirements applicable to the procurement, or exceed TxDOT's authority;
- (b) a determination as to whether a QS is responsive to the requirements of the RFQ; and

(c) shortlisting determinations.

Any Proposer wishing to file a protest must do so in accordance with Subchapter I in Chapter 9 of Title 43 of the Texas Administrative Code.

## **8. TXDOT RESERVED RIGHTS**

TxDOT reserves all rights described herein and available at law, including, without limitation, all rights described in Subchapter I in Chapter 9 of Title 43 of the Texas Administrative Code.

**This RFQ does not commit TxDOT to enter into a contract or proceed with the procurement described herein. Except as expressly set forth in Part A, Section 3, TxDOT and the State of Texas assume no obligations, responsibilities or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to this RFQ, or any subsequent RFP. All of such costs shall be borne solely by each Proposer.**

**In no event shall TxDOT be bound by, or liable for, any obligations with respect to the Project until such time (if at all) as a DBA, in form and substance satisfactory to TxDOT, has been executed and authorized by TxDOT, and then only to the extent set forth therein.**



# PART B

## QUALIFICATIONS STATEMENT

### 1. DEFINITIONS

The following terms describe the members of the Proposer's team that are required to be named in the QS:

**Construction Team Member** – Any member of the Proposer's team, other than the Lead Contractor, that will be responsible for 20% or more of the construction work on the Project.

**Equity Member** – A member of the Proposer team that is (a) if the Proposer is a joint venture, a member of the joint venture, (b) if the Proposer is or will be a newly formed limited liability entity, an equity owner of the Proposer, or (c) if the Proposer is a corporation or other entity that is not newly formed, the Proposer.

**Key Personnel** – The personnel listed in Part B, Volume 1 Appendix, Section D.

**Lead Contractor** – The member of the Proposer team, whether a single entity or joint venture, primarily responsible for the construction of the Project.

**Lead Engineering Firm** – The member of the Proposer team, whether a single entity or joint venture, primarily responsible for the design and engineering of the Project.

**Major Non-Equity Member** – The Proposer team's Lead Engineering Firm and Lead Contractor, to the extent they are not Equity Members.

## 2. ORGANIZATION

Proposers are required to assemble their QS in the order prescribed and following the outline form contained in this Part.

Volume 1		Maximum number of pages allowed
Section A – General	(a) Form A – Transmittal Letter	N/A
	(b) Executive Summary	Sub-limited to 2 pages; included in 20-page overall limit
Section B – Proposal Information/ Project Experience	Management Structure/Organizational Charts	No max within 20-page limit for Volume 1
Section C – Technical Qualifications	(a) Forms D-1 and D-2- Relevant Experience	N/A
	(b) Form E – Project Descriptions	Sub-limited to 1 page per project; included in 20-page overall limit
Section D – Statement of Technical Approach	Statement of Technical Approach	Sub-limited to 3 pages; included in 20-page overall limit
Section E – Safety Qualifications	Form F – Safety Questionnaire	N/A
Volume 1 Appendix		
Section A	Form B – Proposer Team Information	N/A
Section B	Form C – Certification	N/A
Section C	Surety Letter	N/A
Section D	Personnel Qualifications	1 page per resume
Volume 2		

Section A	Financial Statements/Pre-Qualification	N/A
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## VOLUME 1

Volume 1 of the QS shall contain the following:

### **Section A General**

#### **(a) Form A – Transmittal Letter:**

A duly authorized official of the Proposer or lead firm must execute the transmittal letter. For Proposers that are (or are expected to be) joint ventures, partnerships, limited liability companies or other associations, the transmittal letter shall have appended to it letters on the letterhead stationery of each Equity Member, executed by authorized officials of each Equity Member, stating that representations, statements and commitments made by the lead firm on behalf of the Equity Member’s firm have been authorized by such Equity Member, are correct, and accurately represent the role of the Equity Member’s firm in the Proposer team. The Form A transmittal letter is excluded from the 20-page limit for Volume 1.

#### **(b) Executive Summary:**

An Executive Summary, not exceeding two pages and included in the 20-page limit for Volume 1. The Executive Summary shall be written in a non-technical style and shall contain sufficient information for reviewers with both technical and non-technical backgrounds to become familiar with the Proposer's QS and its ability to satisfy the financial and technical requirements of the Project.

### **Section B Proposer Information/Project Experience/Management Structure**

Organization chart showing the Proposer’s Equity Members, Major Non-Equity Members and any Construction Team Members. Indicate the percentage of equity interest among the Equity Members. In instances where the Lead Contractor or Lead Engineering Firm is a joint venture, also indicate the percentage of equity interest for each equity participant in the joint venture. In addition, any Proposer that anticipates it will be required to provide a parent company guarantee shall provide a table of organization showing the relationship between the applicable Equity Member or Major Non-Equity Member and its parent entity. (See Part B, Volume 2, Section A(f) for instances where a guarantee may be required.)

Organizational chart showing the Proposer’s Management Structure and “chain -of -command” with Key Personnel shown together with other relevant personnel, and identifying major functions to be performed and their reporting relationships in designing and constructing the Project.

The organizational charts are included in the 20-page limit for Volume 1.

## **Section C Technical Qualifications**

Provide the following information relevant to qualifications of the Proposer, its Equity Members and any Major Non-Equity Members, as applicable.

### **(a) Forms D-1 and D-2 – Relevant Experience**

The QS shall contain completed Forms D-1 and D-2, which are excluded from the 20-page limit for Volume 1. Project descriptions for each of the projects listed on Forms D-1 and D-2 shall be included as discussed below in Part B, Volume 1, Section C(b).

Form D-1: Technical Experience – Lead Engineering Firm: Provide details for a maximum of two projects in compliance with the requirements set forth in Form D-1 and best meeting the evaluation criteria set forth in Part A, Section 5.

Form D-2: Technical Experience – Lead Contractor: Provide details for a maximum of three projects in compliance with the requirements set forth in Form D-2 and best meeting the evaluation criteria set forth in Part A, Section 5.

For projects/contracts listed for design firms that were traditional consultant/engineering services contracts (as opposed to, for example, design-build contracts), the information sought above shall be limited only to the consultant/engineering services contract, rather than any ensuing construction contract where such entity had limited or no involvement.

For projects/contracts listed for construction firms using the traditional design/bid/build delivery method, the information sought above shall be limited only to the construction contract, rather than any design contract where such entity had limited or no involvement. Proposers are requested to verify that contact information is correct, and are advised that if the contact information provided is not current, TxDOT may elect to exclude the experience represented by that project in determining the Proposer's qualifications.

### **(b) Forms E – Project Descriptions**

Volume 1, Section C(b) of the QS shall include the project descriptions discussed in Part B, Volume 1, Section C(a) and listed on Forms D-1 and D-2. These descriptions shall be a maximum of a one page per project on a separate 8 ½" x 11" sized white paper and shall be presented using Form E. Form E is extracted from the Federal form SF330. These descriptions should, at a minimum, give an overview of the project and explain why the experience the company gained on the project is relevant to this procurement. Proposers are advised that TxDOT may, in its sole discretion, contact the listed owner contact for these projects for a reference.

## **Section D Statement of Technical Approach**

Provide a narrative statement of the Proposer's technical approach to the Project. This statement shall include the Proposer's:

1. Understanding of the Project scope and delivery using design-build contracting.
2. Identification and understanding of the top Project risks and potential solutions to address the risk throughout the Project lifecycle.

The Statement of Technical Approach may be no longer than three pages and is included in the 20-page limit for Volume 1.

### **Section E Safety Qualifications**

The QS shall contain a completed Form F for the Lead Contractor and any Construction Team Member. Forms F are excluded from the 20-page limit for Volume 1.

# VOLUME 1 APPENDIX

Volume 1 Appendix of the QS shall contain the following:

## **Section A Form B – Proposer Team Information**

Originals of Form B completed and executed on behalf of each of the following: the Proposer, each Equity Member, each Major Non-Equity Member, each Guarantor and any Construction Team Member. If any of the foregoing is a joint venture or newly formed entity (formed within the past two years), complete a separate Form B for each member of or partner in such joint venture or newly formed entity. **Proposers are advised that Form B may be released to the public and media.**

## **Section B Form C – Certification**

Originals of Form C (Certification) completed and executed on behalf of each of the following: the Proposer, each Equity Member, each Major Non-Equity Member and each Guarantor. If the Proposer, an Equity Member, Major Non-Equity Member or Guarantor is a joint venture or newly formed entity (formed within the past two years), complete a separate Form C for each member of or partner in such joint venture or newly formed entity.

## **Section C Surety Letter**

Evidence from a surety or an insurance company indicating that the Proposer team is capable of obtaining a performance bond and a payment bond, each in an amount of at least equal to \$100 million, which is the current estimated cost for construction of the Project. The evidence shall take the form of a letter from a surety/insurance company indicating that such capacity exists for the Proposer or the Lead Contractor. Letters indicating “unlimited” bonding capability are not acceptable.

The surety/insurance company providing such letter must be rated in one of the two top categories by two nationally recognized rating agencies or at least A- (A minus) or better or Class VIII or better by “AM Best & Company,” and must indicate the relevant rating in the letter. The letter must specifically state that the surety/insurance company has read this RFQ and evaluated the Proposer’s backlog and work-in-progress in determining its bonding capacity.

If the Proposer or Lead Contractor, as applicable, is a joint venture, partnership, limited liability company or other association, separate letters for one or more of the Equity Members of the Proposer or the individual equity participants of the Lead Contractor, as applicable, are acceptable, as is a single letter covering all Equity Members or equity participants, as applicable. However, the aggregate amount of bonding capacity reflected in such letter or letters must equal the amounts specified above.

TxDOT has not yet determined the specific amount or form of security that it will require for the Project. Proposers are advised that the RFP may require payment, performance and/or guaranty amounts in excess of the amount referenced above. TxDOT shall delineate such requirements, which will be consistent with applicable law, in the RFP.

## Section D Personnel Qualifications

Proposers are required to provide separate resumes for all Key Personnel, as well as other relevant personnel who are shown in the Organization Chart included in Volume 1, and whose qualifications and experience will be evaluated as described in Part A, Section 5.

Other personnel may also be shown in the Organization Chart.

Resumes shall be limited to one page per person (exclusive of licenses and/or license applications) and only one individual shall be designated to fill each position.

Resumes shall include the following information for each project listed:

- (a) Name of the project, description of the work or services provided and role on the project, the time period for the work, the project owner's contact information (project manager name, phone number, e-mail address), and project number (if any) and dates of work performed on the project. If one or more role was played, identify the dates and duration of each role. If the owner's project manager is no longer employed by the owner, provide an alternative contact at the owner/agency who played a leadership role for the owner during the dates work was performed on the project and is familiar with the project. TxDOT may elect to use the information provided to verify the experience claimed for an individual. A minimum of three individual projects and references shall be provided for each resume. Resumes may include references from current TxDOT personnel other than those identified in Table 1.
- (b) Relevant licensing and registration (copies of licenses and/or application for licenses, where applicable, must be attached).

Key Personnel are listed as follows:

<b>Key Personnel Category</b>	<b>Description of Position</b>
Project Manager	Responsible for overall design, construction and contract administration for the Project.
Construction Manager	Responsible for ensuring that the Project is constructed in accordance with the Project requirements. Responsible for managing the Design-Build Contractor's construction personnel, scheduling of the construction quality acceptance personnel, and administering all construction requirements of the DBA.
Design Manager	A Professional Engineer* responsible for ensuring that the overall Project design is completed and design criteria requirements are met. Responsible for managing the Design-Build Contractor's design personnel and administering all design requirements of the DBA.

<b>Key Personnel Category</b>	<b>Description of Position</b>
Professional Services Quality Control Manager	A Professional Engineer* responsible for the management of the quality control program for the design, environmental, ROW, utilities and survey. Independent of direct scheduling or production activities and reports directly to the Design-Build Contractor’s management team.
Construction Quality Control Manager	Responsible for the Quality Control aspect of the Construction Quality Management Plan (CQMP). Independent of direct scheduling or production activities and reports directly to the Design-Build Contractor’s management team.
Design Quality Acceptance Manager	A Professional Engineer* responsible for all aspects of design quality and for implementation of procedures to ensure all design products are accurate and checked before release. Works for an independent quality acceptance firm hired by the Design-Build Contractor.
Construction Quality Acceptance Manager	A Professional Engineer* responsible for managing the quality acceptance inspection and the materials quality acceptance testing. Works for an independent quality acceptance firm hired by the Design-Build Contractor.
Environmental Compliance Manager	Responsible for assuring compliance of all on site activities with the requirements of all permits and regulatory requirements. Reports directly to TxDOT and the Design-Build Contractor’s Project Manager simultaneously. Independent of Lead Contractor’s production team and has the authority to stop work.
Safety Manager	<p>Responsible for carrying out the Design-Build Contractor’s safety plan and all safety-related activities, including training and enforcement of safety operations.</p> <ul style="list-style-type: none"> <li>• Must have actual roadway construction &amp; safety enforcement experience.</li> <li>• Must have at minimum ten (10) years of progressive heavy construction experience, five (5) years of which must be safety management experience on complex heavy civil projects <ul style="list-style-type: none"> <li>○ Certification as a Construction Health and Safety Technician (CHST) by the Board of Certified Safety Professionals, or as a Certified Safety &amp; Health Official (CSHO) may be substituted for two (2) years of safety management experience</li> </ul> </li> <li>• Must have completed the OSHA #500 – Trainer Course in OSHA Standards for Construction.</li> <li>• Must have completed training and current certification for CPR</li> </ul>



<b>Key Personnel Category</b>	<b>Description of Position</b>
	<p>and First Aid.</p> <ul style="list-style-type: none"> <li>• Must have completed training for flaggers in the work zone and work zone traffic control.</li> <li>• The position reports directly to the Joint Venture Board or Company Executive President.</li> <li>• The position has the authority to stop all work on the project.</li> </ul> <p>If a proposed Safety Manager does not meet the qualification requirements set forth above as of the QS Due Date, Proposer shall submit to TxDOT with its QS a written statement, signed by Proposer and the proposed Safety Manager, committing to meet such qualifications of the Safety Manager not later than the execution of the DBC.</p>

\* Professional Engineers must be licensed in the State of Texas, or become licensed in the State of Texas prior to execution of the DBA.

# VOLUME 2

Volume 2 of the QS shall contain the following:

## **Section A Financial Statements**

If the Proposer, the Equity Member(s) of the Proposer responsible for construction, or Guarantor(s) have been prequalified by TxDOT pursuant to Section 9.12 of Title 43, Texas Administrative Code, in lieu of completing this Section A, a prequalification letter from TxDOT shall be provided indicating the entity, or its members, is prequalified by TxDOT. Further, the entity must be listed as pre-qualified on TxDOT's list of prequalified contractors qualified by confidential questionnaire that may be found at <http://www.txdot.gov/business/contractors/contractor-prequalification.html>.

If the letter includes prequalified Guarantors, the Guarantors are subject to the requirements of Part B, Volume 2, Section A(f).

For all other Proposers, Equity Members or Guarantors, financial statements for the most recent completed fiscal year must be provided to demonstrate financial capability of the Proposer.

Information for each entity should be packaged separately and include a cover sheet identifying the name of the organization and its role as Proposer, Equity Member or Guarantor.

Financial statement information must include:

- (1) Opinion Letter (Auditor's Report);
- (2) Balance Sheet;
- (3) Income Statement;
- (4) Statement of Changes in Cash Flow; and
- (5) Footnotes.

In addition, financial statements must meet the following requirements:

- (a) **GAAP** – Financial statements must be prepared in accordance with U.S. Generally Accepted Accounting Principles ("U.S. GAAP"). If financial statements are prepared in accordance with principles other than U.S. GAAP, a letter must be provided from a certified public accountant discussing the areas of the financial statements that would be affected by a conversion to U.S. GAAP.
- (b) **U.S. Dollars** - Financial statements must be provided in U.S. dollars. If financial statements are not available in U.S. dollars, the Proposer, Equity Member or Guarantor must include summaries of the Income Statements and Balance Sheets for the applicable time periods converted to U.S. dollars by a certified public accountant.

- (c) **Audited** - Financial statements must be audited by an independent party qualified to render audit opinions (e.g. a certified public accountant). If audited financials are not available for the Proposer, an Equity Member or a Guarantor, the QS shall include unaudited financial statements for such entity, certified as true, correct and accurate by the chief financial officer ("CFO") or treasurer of the entity.
- (d) **English** – Financial statement information must be prepared in English. If audited financial statements are prepared in a language other than English, translations of all financial statement information must be provided with the original financial statement information.
- (e) **Newly Formed/Not Yet Formed Entity** - If the Proposer is a newly formed entity or has not yet formed a legal entity and does not have independent financial statements, financial statements or precertification for the Equity Members shall be provided (and the Proposer shall expressly state that the Proposer is a newly formed entity or not yet formed entity and does not have independent financial statements).
- (f) **Guarantee** - If financial statements of a parent company or affiliate company ("Guarantor") are provided to demonstrate financial capability of the Proposer or Equity Members of a newly formed Proposer, additional information regarding the Guarantor shall be provided as specified in this RFQ. Proposers shall note that TxDOT may, in its discretion based upon the review of the information provided, specify that an acceptable Guarantor is required as a condition of shortlisting.

# **PART C EXHIBITS AND FORMS**

## **EXHIBIT A Project Information and Status**

Map of Project Area

**See attached Figure A.1**

### **1. Project Description/Information**

The Project components include the design and construction of the roadways shown on the Preliminary Project Schematics located on the Project Webpage, which includes the following:

- SH 71 from Presidential Boulevard to a point just east of SH 130
  - Toll lanes
  - General purpose lanes
  - Overpasses at FM 973 and SH 130
  - City Street connections, including FM 973 realignment from just south of the Colorado river to a point approximately 0.5 mile south of the current SH 71/FM 973 intersection.
  - Tie-in transitions to existing SH 71

### **2. Status of Project Design and Construction**

The SH 71 Toll Lanes Preliminary Project Schematics were presented at an open house on August 13, 2013.

### **3. Project Environmental Status**

TxDOT is developing an environmental assessment for the Project. An open house was held on August 13, 2013 to present the proposed Project to the public. A final decision regarding the environmental assessment is anticipated in May 2014.

### **4. Project Cost Estimates**

TxDOT's current total design-build estimate for the improvements to be developed as described in [Part A, Section 2.2](#) is approximately \$108 million. This estimate is inclusive of all costs to design and construct the Project, and estimated costs reflect the currently developed schematic and environmentally studied project components at current construction prices.

### **5. Funding Available for Project Costs**

TxDOT intends to fully finance the design and construction of the Project and no private financing is required.

## **6. Right-of Way Acquisition**

TxDOT does not anticipate the need for ROW acquisition services for this Project.

## **7. Geotechnical, Utility Relocation, Hazardous Materials Investigations, Detention Plan, Aesthetic Treatment and Railroad Coordination**

### **(a) Geotechnical Investigation Program**

TxDOT will conduct limited geotechnical investigation for the Project. The Proposers will be allowed to conduct geotechnical investigation activity on TxDOT ROW or available private property (pursuant to a right of entry granted to TxDOT), during the procurement. Such activities will require the appropriate coordination with TxDOT as specified by TxDOT during the procurement process (i.e., permitting, traffic control, notification etc.). Proposers must obtain permits through the normal permitting process prior to performing any drilling on State ROW. TxDOT will provide geotechnical information during the RFP process.

### **(b) Utility Investigation**

The DBA will require the Design-Build Contractor to be responsible for performing or causing to be performed necessary utility relocations/adjustments in accordance with applicable standards and, with limited exceptions specified in the DBA, for the costs associated with utility relocations/adjustments, except to the extent the utilities are legally responsible for such costs. TxDOT is planning to provide to the shortlisted Proposers subsurface utility engineering (SUE) Quality Level C and/or Level B throughout the Project, and Level A at certain locations.

### **(c) Hazardous Materials Investigation**

No hazardous materials are anticipated within the Project. If any is identified during the procurement process, the appropriate data will be provided to Proposers.

### **(d) Aesthetic Treatment**

The Design-Build Contractor will be required, as applicable, to comply with the Project aesthetic guidelines.

Additional details and requirements concerning aesthetic guidelines shall be set forth in the RFP.

### **(e) Railroad Coordination**

The current Project limits as shown in the Preliminary Project Schematics do not require coordination with any railroad.

### **(f) Other Due Diligence Activities**

TxDOT is currently assessing what, if any, additional site and due diligence information beyond that which is specified in Part C, Exhibit A, Sections 7(a) through 7(f) will be provided. The shortlisted Proposers may, during the industry review process, be asked to provide input on this topic.

**EXHIBIT B  
DRAFT DESIGN-BUILD AGREEMENT  
TERM SHEET**

***[See attached term sheet.]***

**SH 71 FROM PRESIDENTIAL BLVD TO EAST OF SH 130  
DRAFT DESIGN-BUILD AGREEMENT TERM SHEET**

This document is intended as a general description of certain major contract terms and is not a restatement or interpretation of the contract requirements. There are numerous details, exceptions and qualifications associated with the provisions described below which can only be ascertained by reviewing the Design-Build Agreement (the “DBA”) itself.

**DESCRIPTION OF PROJECT**

Project scope components include the design and construction of the Project. Except as otherwise specified, all work for design and construction (the “Work”) will be the responsibility of the Design-Build Contractor. See Exhibit A hereto for further details regarding the Project.

TxDOT currently anticipates that the DBA will include an extended warranty of the Work for a period of up to 5 years following the completion of the Project. Such warranty will be comprised of a 2-year general warranty and a performance-specific warranty for certain elements that will extend for up to 5 years.

The parties intend for the DBA to be a fixed price, lump sum contract obligating the Design-Build Contractor to complete the Work by the deadlines set forth in the DBA and in a manner satisfactory to TxDOT, for the agreed price (the “Price”), subject only to certain specified limited exceptions.

<b>CONTRACT OVERVIEW</b>	
<b>Design-Build Contractor &amp; Agreement Date</b>	To be determined
<b>Scope of Work</b>	<p>DBA requires the Design-Build Contractor to design and construct (with quality and durability) the Project. The Design-Build Contractor's Work includes the obligation to furnish a complete design for the Project meeting all DBA requirements, to construct the Project as designed and in accordance with all requirements, and otherwise to comply with all DBA requirements.</p> <p>See <u>Exhibit A</u> for further details regarding the Scope of Work.</p>
<b>Notices to Proceed</b>	<p>TxDOT anticipates issuing NTP1 concurrently with execution of the DBA. Issuance of NTP1 authorizes the Design-Build Contractor to perform the portion of the Work necessary to obtain TxDOT's approval of the Project Management Plan and to enter the Project Right of Way (ROW) TxDOT owns in order to conduct surveys and site investigations, including geotechnical, hazardous materials and utilities investigations.</p> <p>NTP2, authorizing performance of the remainder of the Work, is conditioned upon approval by TxDOT of the Project Management Plan prepared by the Design-Build Contractor. For planning purposes, TxDOT anticipates issuing NTP2 within 90 days after issuance of NTP1.</p> <p>The Price will remain valid without escalation until 120 days after the Proposal Due Date. If NTP1 is not issued within 180 days and the Design-Build Contractor does not, in whole or in part, cause the delay, the Price will be subject to escalation (based on the ENR Construction Cost Index) until issuance of NTP1. If NTP1 is not issued within 365 days from the Proposal Due Date, the Design-Build Contractor may terminate the DBA.</p>
<b>Contract Documents</b>	The Contract Documents include the DBA and exhibits (including federal requirements), Technical Provisions, design documents, specifications, plans, and all amendments to the foregoing and all Change Orders issued.
<b>Contract Documents (Proposal)</b>	The Proposal (to the extent that it is consistent with or exceeds the requirements of the other Contract Documents) will also be a Contract Document, such that commitments made by the Design-Build Contractor in the Proposal relating to the Work will be binding.
<b>PRICE, SECURITY &amp; PAYMENTS</b>	
<b>Price</b>	This is a lump sum contract, to be paid based on progress.



	The only changes to Price are via change order or value engineering.
<b>BONDS: Proposal, Performance, Payment, Retainage &amp; Warranty</b>	<p>Proposal, Retainage and Warranty Bond amounts will be provided in the RFP.</p> <p>A Proposal Bond will remain in place as security for performance of the Design-Build Contractor’s obligations. Upon receipt of the Performance and Payment bonds (and other documents required for NTP1) the Proposal Bond will be released.</p> <p>Payment and Performance Bonds will be required as security for the Design-Build Contractor’s obligations as a condition to issuance of NTP1.</p> <p>A Performance Bond in an amount equal to the Price allocable to Construction Work will be required on or before NTP2 and will be released upon Final Acceptance and the receipt of the Warranty Bond.</p> <p>A Payment Bond in an amount equal to the Price allocable to Construction Work will be required on or before NTP2 and will be released upon: (a) receipt of (i) evidence that all claims against the Payment Bond have been fully paid and (ii) unconditional releases of Liens and stop notices, or (b) expiration of the statutory period for filing a claim against the Payment Bond if no claims have been filed.</p> <p>A Retainage Bond will be required (on or before NTP2) as a guaranty for the protection of any claimants and TxDOT for overpayments, Liquidated Damages, and other deductions or damages owed by the Design-Build Contractor.</p> <p>A Warranty Bond will be required (as a condition to Final Acceptance) to guarantee performance of the Work required to be performed during the Warranty period.</p> <p>If the Price is increased in connection with a Change Order, TxDOT may, in its sole discretion, require a corresponding proportionate increase in the amount of each bond.</p>
<b>Guaranty</b>	A guaranty of the Design-Build Contractor’s obligations from a Guarantor approved by TxDOT will be required if the Design-Build Contractor is a newly formed entity (i.e., the entity has been in existence for one year or less), if the Design-Build Contractor submitted parent company financial statements in response to the RFQ or RFP or if the Design-Build Contractor fails to meet certain net worth requirements.
<b>Value Engineering</b>	TxDOT and the Design-Build Contractor will share equally in any net savings resulting from value engineering proposals by the Design-Build Contractor.
<b>Mobilization</b>	The Design-Build Contractor will be entitled to payment for mobilization in installments, in an amount equal to the bid item price for mobilization,

	not to exceed 10% of the Price.
<b>Payment Obligations &amp; Progress Payment Limitations</b>	TxDOT will make payments based on progress as evidenced by a monthly Draw Request submitted by the Design-Build Contractor. Invoices must conform strictly with the format prescribed by the TxDOT Austin District. The Maximum Payment Schedule establishes the cap on cumulative progress payments at particular times. If the Design-Build Contractor falls behind schedule, no progress payments will be paid until a recovery schedule is approved in writing.
<b>COMPLETION DEADLINES, SCHEDULE AND DELAY</b>	
<b>Completion Deadlines</b>	The deadline for Substantial Completion of the Project is <b>December 2016</b> . The entire Project must be opened to traffic and ready to collect tolls on or before such deadline.  The Final Acceptance deadline is 60 days after Substantial Completion.  Extensions of completion deadlines are allowed only under limited circumstances. (See Change Order section below.)
<b>Schedule</b>	The Design-Build Contractor must perform the Work in accordance with an approved comprehensive critical path schedule. The baseline schedule will be the schedule submitted with the Proposal and any changes must be approved by TxDOT as a condition to NTP2. The schedule will be updated monthly during the Project and used for payment, planning and monitoring progress of the Work. If the Design-Build Contractor falls behind schedule, a recovery schedule to regain lost time is required or TxDOT will withhold payments.
<b>Delay</b>	Liquidated damages will be assessed for delays in meeting the deadlines for Substantial Completion and Final Acceptance. TxDOT will have the right to terminate the DBA if Substantial Completion or Final Acceptance of the Project is delayed for more than a year. (See Liquidated Damages section below.)
<b>CONTRACT RIGHTS &amp; RESPONSIBILITIES</b>	
<b>Right of Way</b>	TxDOT has acquired the right of way, which it has determined to be sufficient for the Project. The Design-Build Contractor may request TxDOT acquire that additional right of way. TxDOT pays the acquisition cost if additional parcels are necessary due to a TxDOT-Directed Change or Force Majeure event. The Design-Build Contractor is responsible for the acquisition cost for parcels acquired for any other reason.  The Design-Build Contractor is responsible for the cost of any temporary construction easements or other temporary property interests.

<b>Design and Construction</b>	The Design-Build Contractor is responsible for design and construction in accordance with the Contract Documents.
<b>Design Liability</b>	The Design-Build Contractor assumes full responsibility and liability with respect to design of the Project, including correction of any errors, omissions, inconsistencies or other defects in the Schematic Design affecting constructability.
<b>QA/QC</b>	The Design-Build Contractor is required to establish and implement a comprehensive, TxDOT-approved quality assurance (QA) and quality control (QC) program. Quality assurance will be provided by independent quality assurance firm(s) retained by the Design-Build Contractor.
<b>Design and Construction Oversight</b>	TxDOT will have the right at all times to monitor, inspect, sample, measure, attend, observe or conduct tests and investigations, and conduct any other oversight respecting any part or aspect of the Project or the Work, to the extent necessary or advisable to: (a) comply with FHWA, U.S. Army Corps of Engineers or other applicable federal agency requirements, and (b) verify the Design-Build Contractor's compliance with the Contract Documents. The Design-Build Contractor at all times will coordinate and cooperate, and require its Subcontractors to coordinate and cooperate, with TxDOT and its Authorized Representative to facilitate TxDOT's oversight activities.
<b>Standards</b>	The Design-Build Contractor must design and construct the Project in general conformity with the Schematic Design, in accordance with all professional engineering principles and construction practices generally accepted in the State as standard in the industry, in a good and workmanlike manner, free from defects and in accordance with the terms and conditions set forth in the Contract Documents, including the Technical Provisions. The Design-Build Contractor will be required to obtain TxDOT approval to make modifications to the specified components of the Basic Configuration.
<b>Warranties</b>	The Warranty Term for the Project will commence upon Substantial Completion. A general warranty of the work will remain in effect until two years after Final Acceptance, except that warranties for elements of the Project that will be owned by Persons other than TxDOT (such as Utility Owners) will commence as of the date of acceptance thereof by such Persons and will end two years thereafter. In addition to the general warranty, performance-specific warranties on certain elements of the Project will extend for up to five years following Final Acceptance, depending on the element. Extended Warranties will apply to repaired, replaced or corrected Work, not to exceed four years after Final Acceptance (with respect to the general warranty) or 10 years after Final

	<p>Acceptance (with respect to performance-specific warranties).</p> <p>The Warranties apply notwithstanding maintenance work performed by TxDOT during the Warranty period.</p>
<b>ENVIRONMENTAL &amp; PERFORMANCE RISKS</b>	
<b>Permits &amp; Approvals</b>	<p>TxDOT will obtain key specified permits and governmental approvals as specified in the Contract Documents. The Design-Build Contractor will be entitled to a Change Order to compensate the Design-Build Contractor for any increased costs due to changes in the final environmental approval from the draft requirements included in the request for proposals. The Design-Build Contractor will be responsible for obtaining all other permits and government approvals.</p>
<b>New Environmental Approvals</b>	<p>The Design-Build Contractor is responsible for obtaining all new environmental approvals or changes to existing approvals. If a new or revised environmental approval becomes necessary for any reason other than for a TxDOT-Directed Change or Force Majeure Event, the Design-Build Contractor will bear full responsibility for all costs and delays.</p>
<b>Environmental Compliance</b>	<p>The Design-Build Contractor shall be responsible for performance of all environmental mitigation measures and compliance with all other conditions and requirements of the Contract Documents and Environmental Approvals, including TxDOT-Provided Approvals and similar Governmental Approvals for the Project.</p>
<b>CONTRACT CHANGES &amp; COSTS OUTSIDE THE CONTRACT</b>	
<b>Change Orders</b>	<p>A TxDOT signed Change Order or Directive Letter is required for any increase to Price or time extension. TxDOT may issue unilateral Change Orders. The Design-Build Contractor will prepare a scope of work, cost estimate, delay analysis and other information for each Request for Change Order. Change Orders requesting a time extension must also provide an alternative Change Order form including an acceleration schedule. Change Orders are subject to strict requirements (including notice &amp; delivery).</p>
<b>Differing Site Conditions</b>	<p>Change Orders for additional costs due to Differing Site Conditions will be allowed for: subsurface or surface physical conditions of an unusual nature, differing materially from those ordinarily encountered in the area.</p>
<b>Deviations</b>	<p>The Design-Build Contractor may deviate from the Schematic Design as it deems advisable, provided that it obtains prior written approval by TxDOT and/or an approved Change Order with respect to any deviation from the Basic Configuration. Changes in the Work which have no net cost effect on the Price may be approved in writing by TxDOT as a</p>

	Deviation without requiring a Change Order.
<b>Nonconforming Work</b>	TxDOT may, but is not obligated to, accept any Nonconforming Work without requiring it to be fully corrected, in which case the Price will be decreased. TxDOT may require Nonconforming Work to be remedied or removed/replaced at the Design-Build Contractor’s cost and without time extension, and may deduct the cost of doing so if the Design-Build Contractor fails to correct the Nonconforming Work as required. Acceptance of Nonconforming Work by TxDOT does not relieve the Design-Build Contractor of any Warranty requirements.
<b>TxDOT-Directed Changes</b>	The Design-Build Contractor will be entitled to a Change Order providing for Price adjustment and/or a time extension for:  Change in the scope of the Work directed by TxDOT.  Suspensions of the Work on the critical path by TxDOT for its convenience for more than 48 hours per suspension.  Any new environmental approvals necessitated by a TxDOT-Directed Change.
<b>Hazardous Materials</b>	Subject to certain conditions identified in the Agreement, the Design-Build Contractor is entitled to a Price increase for direct costs due to discovery of hazmat within the Schematic ROW. The Design-Build Contractor is entitled to an extension of Completion Deadlines if the hazmat discovery results in delays to a Critical Path activity. The Design-Build Contractor is not entitled to an extension of any Completion Deadline for investigation or characterization of hazmat.  The Design-Build Contractor is not entitled to an increase in price for remediation costs resulting from its own acts or omissions, or hazardous materials brought onto the Site by the Design-Build Contractor.  The Design-Build Contractor is not entitled to any increase in price or time with respect to: (a) immaterial quantities, (b) hazmat that could have been avoided by reasonable design modifications or construction techniques, (c) costs that could have been avoided, (d) hazmat on Additional Properties designated by the Design-Build Contractor, or (e) hazmat encountered during the demolition of buildings, fixtures or other improvements within the Site.
<b>Utilities</b>	The Design-Build Contractor is responsible for performing all necessary utility adjustment work and is not entitled to a Change Order for performance of adjustment work that was initially anticipated to be performed by a Utility Owner.  The Design-Build Contractor is not entitled to any time extensions on account of delays attributable to utilities, except for delays affecting the

	<p>Critical Path due to (a) New Utilities requiring adjustment and (b) utility owners that do not enter into adjustment agreements.</p> <p>The Design-Build Contractor is entitled to a price increase for (a) an Unidentified Utility located within the Schematic ROW to the extent that the Design-Build Contractor’s costs increase by more than 25,000 per utility, and (b) a New Utility (i.e., a Utility installed in the Schematic ROW after the proposal due date that was not known by the Design-Build Contractor).</p>
<p><b>Force Majeure Events (Definition)</b></p>	<p>The Design-Build Contractor will be entitled to additional time and/or compensation for <u>specified</u> Force Majeure Events (provided they are beyond the Design-Build Contractor’s control and not due to act or omission by Design-Build Contractor or its contractors, etc.) which materially and adversely affect the Design-Build Contractor’s obligations and which could not have been avoided by the exercise of caution, due diligence, or reasonable efforts by the Design-Build Contractor: <i><b>The following are examples and will be described in more detail in the DBA:</b></i></p> <p>Any earthquake, tornado, hurricane or other natural disaster causing direct physical damage to the Project;</p> <p>Any epidemic in the Project area;</p> <p>Any blockade, rebellion, war, riot, act of sabotage or civil commotion that causes direct physical damage to the Project;</p> <p>Discovery of any archaeological, paleontological or cultural resources not disclosed or discoverable through reasonable investigation prior to the Proposal Due Date;</p> <p>Discovery of any species listed as threatened or endangered if their existence was not disclosed or discoverable through reasonable investigation prior to the Proposal Due Date;</p> <p>Material change in law;</p> <p>Third party hazmat spill;</p> <p>Issuance of a temporary restraining order or other form of injunction by a court that prohibits prosecution of a material portion of the Work;</p> <p>Suspension, termination, denial or failure to obtain or non-renewal of any TxDOT-Provided Approval;</p> <p>The addition of any new condition or requirement in the environmental approval based on the Schematic Design and the Schematic ROW.</p>
<p><b>Matters Not Eligible for Change Orders</b></p>	<p>The Design-Build Contractor is responsible for all risks not specifically accepted by TxDOT; examples of specific exclusions will be identified in the DBA.</p>

<b>BUSINESS RISKS</b>	
<b>Insurance</b>	<p>The Design-Build Contractor is required to provide insurance coverage to be specified in the DBA, which must include at a minimum: commercial general liability, workers’ compensation and employer’s liability; bodily injury/property damage and comprehensive business auto liability, professional liability coverage, builder’s risk, and pollution liability. Subcontractor insurance requirements are also to be specified in the DBA.</p> <p>TxDOT and its members, directors, officers, employees, agents and Project consultants must be additional insured, except on the professional liability policy.</p>
<b>Design-Build Contractor Defaults</b>	<p>The following are examples of Design-Build Contractor Defaults:</p> <p>Failure to begin Work within 30 days following issuance of NTP1, or failure to commence and diligently perform the Construction Work;</p> <p>Failure to complete the Work by the applicable Completion Deadline;</p> <p>Failure to perform the Work in accordance with the Contract Documents, Suspending or ceasing the Work or failure to continuously and diligently prosecute the Work;</p> <p>Failure to obtain or maintain any insurance, bonds, guarantees, letters of credit or other performance security as and when required under the DBA;</p> <p>Voluntary or involuntary assignment or transfer of all or any portion of the DBA; without TxDOT’s prior written consent;</p> <p>Failure to make payment when due for labor or equipment or failure to make payment to TxDOT when due of any amounts owing to TxDOT;</p> <p>Failure to timely observe or perform any other material obligation, term or condition under the DBA;</p> <p>Material misrepresentation by the Design-Build Contractor; and</p> <p>Voluntary or involuntary bankruptcy or insolvency.</p>
<b>Cure of Design-Build Contractor Defaults</b>	<p>The Design-Build Contractor will have an opportunity to cure certain Design-Build Contractor Defaults, as described in the DBA documents.</p>
<b>TxDOT Remedies for Design-Build Contractor Default</b>	<p>TxDOT will have the right to exercise one or more of the following remedies in the event of an uncured Design-Build Contractor Default:</p> <p>Right to terminate;</p> <p>Right to deduct amounts (including interest) payable to TxDOT from amounts owing to the Design-Build Contractor;</p>

	<p>Right to recover damages;</p> <p>Right to take immediate action in the event of emergency or danger;</p> <p>Right to draw on, enforce and collect any bonds, letters of credit, guaranty, or other performance security available to TxDOT for Design-Build Contractor Default; and</p> <p>Other remedies as provided by Law.</p>
<b>Design-Build Contractor's Right to Stop Work</b>	<p>The Design-Build Contractor has the right to stop Work if TxDOT fails to make an undisputed payment due within 15 business days after TxDOT's receipt of written notice of nonpayment from the Design-Build Contractor. If such nonpayment continues for more than 180 days, upon written notice from the Design-Build Contractor to TxDOT, the nonpayment may be deemed a Termination for Convenience.</p>
<b>Suspension</b>	<p>TxDOT may order the Design-Build Contractor to suspend all or any part of the Work for the period of time that TxDOT deems appropriate. Such suspension for convenience will be considered a TxDOT-Directed Change, except for brief suspensions (less than 48 hours each), for which the Design-Build Contractor will be entitled to a time extension but not compensation.</p>
<b>Termination</b>	<p>The Design-Build Contractor may terminate the DBA if NTP1 is not issued by TxDOT on or before 365 days after the Proposal Date. After issuance of NTP1, the Design-Build Contractor has no unilateral right to terminate, except in the event of non-payment after a specified period, or a suspension of work for more than one year.</p> <p>TxDOT may terminate the DBA for convenience or for the Design-Build Contractor's default.</p>
<b>Liquidated Damages</b>	<p><u>Delay:</u> Per day Liquidated Damages in the amount specified in the DBA will be assessed for delay in reaching Substantial Completion by the Completion Deadline, for up to 180 days of delay. Per day Liquidated Damages in an amount as specified in the DBA will be assessed for delay in Final Acceptance beyond the Acceptance Deadline.</p> <p><u>Key Personnel:</u> Liquidated Damages will be assessed for unavailability of the Project Manager and other Key Personnel.</p>
<b>Indemnification</b>	<p>The Design-Build Contractor shall indemnify, defend and hold harmless TxDOT, State of Texas and their agents/employees for the Design-Build Contractor errors, omissions, negligence, or willful misconduct, breach of the DBA, the Design-Build Contractor release of hazmat, and failure to comply with applicable laws or Governmental Approvals, among other things.</p>



<b>OTHER CONTRACT PROVISIONS</b>	
<b>Dispute Resolution</b>	<p>Partnering meetings, for dispute resolution, conducted by a mutually agreed upon facilitator are to include Key Personnel and executives of both parties. Costs of partnering are to be shared equally by the parties.</p> <p>Informal and voluntary dispute resolution alternatives are encouraged and preferred in lieu of the more formal process described in detail in the DBA.</p> <p>If partnering and informal dispute resolution fails to resolve an issue and the Design-Build Contractor elects to pursue a formal Dispute with TxDOT, the Dispute shall be resolved pursuant to Texas Transportation Code Section 201.112 and the dispute resolution procedures established thereunder, as the same may be amended from time to time.</p>
<b>Records and Documentation</b>	<p>The Design-Build Contractor must maintain all records and documents in accordance with Texas State Records Retention Schedule.</p>
<b>Escrow Proposal Documents (EPD's)</b>	<p>The Design-Build Contractor's detailed Proposal pricing information will be kept at TxDOT's Procurement office as EPDs. EPDs shall be available for review by and any dispute resolver(s). Change Order documentation will be added to EPDs. EPDs will be maintained until all of the following shall have occurred: (a) 180 days from the later of Final Acceptance or termination of the DBA; (b) all Claims or Disputes regarding the Work have been settled; and (c) Final Payment has been made and accepted.</p>
<b>DBE Provisions; Subcontractors</b>	<p>TxDOT's DBE Program for design-build contracts is based on TxDOT's standard DBE Program with certain modifications to accommodate the design-build approach.</p> <p>After execution of the DBA, the Design-Build Contractor must select subcontractors based on procedures approved by TxDOT. The Design-Build Contractor shall be required to flow down required terms into subcontracts. Subcontracts must be fully assignable to TxDOT. Dispute procedures involving Subcontractors shall contain additional requirements.</p>
<b>Key Personnel</b>	<p>Certain job categories of Key Personnel for the Project are identified. Key Personnel may not be substituted without TxDOT's prior written consent. Liquidated Damages may be assessed for unavailability of certain Key Personnel.</p>
<b>Assignment</b>	<p>The Design-Build Contractor may not assign its interests in the DBA without TxDOT's prior written consent. TxDOT may assign its interests in the DBA: (a) without the Design-Build Contractor's consent, to any to any other Person that succeeds to the governmental powers and authority of TxDOT; and (b) to others with prior written consent of the Design-Build Contractor.</p>

**FORM A**  
**TRANSMITTAL LETTER**

PROPOSER: \_\_\_\_\_

QS Date:      [*Insert date*]

Frank Holzmann, P.E.  
Texas Department of Transportation  
7600 Chevy Chase Drive, Building 2, Suite 400  
Austin, Texas 78752

The undersigned ("Proposer") submits this qualification statement (this "QS") in response to that certain Request for Qualifications dated as of November 15, 2013 (as amended, the "RFQ"), issued by the Texas Department of Transportation ("TxDOT") to design and construct SH 71 Toll Lanes from Presidential Blvd to a point just east of SH 130, along with the realignment of FM 973 from just south of the Colorado River to a point approximately 0.5 mile south of the current SH 71/FM 973 intersection, (referred to herein as the "Project"), pursuant to a Design-Build Agreement ("DBA"). Initially capitalized terms not otherwise defined herein shall have the meanings set forth in the RFQ.

Enclosed, and by this reference incorporated herein and made a part of this QS, are the following:

- Volume 1:                   Transmittal Letter (this Form A), Executive Summary, Confidential Information List, Entity Qualifications, Legal Qualifications, Statement of Technical Approach;
- Volume 1 Appendix:   Forms B and C, Surety Letter, Personnel Qualifications, Project Descriptions; and
- Volume 2:                   Financial Qualifications.

Proposer acknowledges receipt, understanding and full consideration of all materials posted on TxDOT's website with respect to the Project

<http://www.txdot.gov/inside-txdot/projects/studies/austin/sh71-east.html>

and the following addenda and sets of questions and answers to the RFQ:

*[Proposer to list any addenda to this RFQ and sets of questions and answers by dates and numbers prior to executing Form A]*

Proposer represents and warrants that it has read the RFQ and agrees to abide by the contents and terms of the RFQ and the QS.

Proposer understands that TxDOT is not bound to short-list any Proposer and may reject each QS TxDOT may receive.

Proposer further understands that all costs and expenses incurred by it in preparing this QS and participating in the Project procurement process will be borne solely by the Proposer, except, to the extent of any payment made by TxDOT for work product.

Proposer agrees that TxDOT will not be responsible for any errors, omissions, inaccuracies or incomplete statements in this QS.

This QS shall be governed by and construed in all respects according to the laws of the State of Texas.

Proposer's business address:

\_\_\_\_\_  
(No.) (Street) (Floor or Suite)  
\_\_\_\_\_  
(City) (State or Province) (ZIP or Postal Code) (Country)

State or Country of Incorporation/Formation/Organization: \_\_\_\_\_

*[Insert appropriate signature block from following]*

1. Sample signature block for corporation or limited liability company:

*[Insert Proposer's name]*

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

2. Sample signature block for partnership or joint venture:

*[Insert Proposer's name]*

By: *[Insert general partner's or member's name]*

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

*[Add signatures of additional general partners or members as appropriate]*

3. Sample signature block for attorney in fact:

*[Insert Proposer's name]*

By: \_\_\_\_\_

Print Name: \_\_\_\_\_  
Attorney in Fact

4. Sample signature block for a Proposer not yet formed as a legal entity:

*[Insert lead team member entity name]*, on behalf of itself and the other team members expected to be a part of *[Insert Proposer's expected name]*

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**FORM B**

**INFORMATION REGARDING  
PROPOSER, EQUITY MEMBERS, MAJOR NON-EQUITY MEMBERS,  
GUARANTORS AND CONSTRUCTION TEAM MEMBERS**

**(for Public Release)**

Name of Proposer: \_\_\_\_\_

Entity (check all applicable boxes for the entity completing this Form B):

- Proposer;    Equity Member;    Major Non-Equity Member;    Guarantor;  
 Construction Team Member;    or    Other \_\_\_\_\_

Name of Entity Completing Form B:  
\_\_\_\_\_

Year Established: \_\_\_\_\_ State of Organization: \_\_\_\_\_

Federal Tax ID No. (if applicable): \_\_\_\_\_ Telephone No.: \_\_\_\_\_

North American Industry Classification Code: \_\_\_\_\_

Name of Official Representative Executing Form B: \_\_\_\_\_

Individual's Title: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Type of Business Organization (check one):

- Corporation
- Partnership
- Joint Venture
- Limited Liability Company
- Other (describe)

A. Business Address: \_\_\_\_\_  
Headquarters: \_\_\_\_\_  
Office Performing Work: \_\_\_\_\_  
Contact Telephone Number: \_\_\_\_\_

B. Indicate the role of the entity in the space below.

\_\_\_\_\_  
\_\_\_\_\_

- C. If the entity completing this Form B is a joint venture or newly formed entity (formed within the past two years), complete a separate Form B and, if such entity is the Proposer, an Equity Member, Major Non-Equity Member or Guarantor, a separate Form C for each member of or partner in the joint venture or newly formed entity and attach them to the QS. In addition, identify the name of such members or partners in the space below.

Name

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Under penalty of perjury, I certify that the foregoing is true and correct, and that I am the firm's Official Representative:

By: \_\_\_\_\_ Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_

*[Please make additional copies of this form as needed.]*

**FORM C**  
**CERTIFICATION**

**Proposer:** \_\_\_\_\_

**Name of Firm:** \_\_\_\_\_

Entity (check one box for entity completing this Form C as applicable):

- Proposer;   Equity Member;   Major Non-Equity Member;   Guarantor; or  
  Other \_\_\_\_\_

1. Has the firm or any affiliate\* or any **current** officer thereof, been indicted or convicted of bid (i.e., fraud, bribery, collusion, conspiracy, antitrust, etc.) or other contract related crimes or violations or any other felony or serious misdemeanor within the past five years?

Yes   No

If yes, please explain:

2. Has the firm or any affiliate\* ever sought protection under any provision of any bankruptcy act?

Yes  No

If yes, please explain:

3. Has the firm or any affiliate\* ever been disqualified, removed, debarred or suspended from performing work for the federal government, any state or local government, or any foreign governmental entity within the past ten years?

Yes  No

If yes, please explain:

4. Has the firm or any affiliate\* ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or other material misrepresentation to a public entity within the past ten years?

Yes  No

If yes, as to each such inquiry, state the name of the public agency, the date of the inquiry, the grounds on which the public agency based the inquiry, and the result of the inquiry.

5. Has any construction project performed or managed by the firm or, to the knowledge of the undersigned, any affiliate\* involved repeated or multiple failures to comply with safety rules, regulations, or requirements?

Yes  No

If yes, please identify the team members and the projects, provide an explanation of the circumstances, and provide owner contact information including telephone numbers.

6. Has the firm or any affiliate\* been found, adjudicated or determined by any federal or state court or agency (including, but not limited to, the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance Programs and any applicable Texas governmental agency) to have violated any laws or Executive Orders relating to employment discrimination or affirmative action, including but not limited to Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. Sections 2000 *et seq.*); the Equal Pay Act (29 U.S.C. Section 206(d)); and any applicable or similar Texas law?

Yes  No

If yes, please explain:

7. Has the firm or any affiliate\* been found, adjudicated, or determined by any state court, state administrative agency, including, but not limited to, the Texas Department of Labor (or its equivalent), federal court or federal agency, to have violated or failed to comply with any law or regulation of the United States or any state governing prevailing wages (including but not limited to payment for health and welfare, pension, vacation, travel time, subsistence, apprenticeship or other training, or other fringe benefits) or overtime compensation?

Yes  No

If yes, please explain:

8. With respect to each of Questions 1-7 above, if not previously answered or included in a prior response on this form, is any proceeding, claim, matter, suit, indictment, etc. currently pending against the firm that could result in the firm being found liable, guilty or in violation of the matters referenced in Questions 1-7 above and/or subject to debarment, suspension, removal or disqualification by the federal government, any state or local government, or any foreign governmental entity?



Yes            No     

If yes, please explain and provide the information requested as to such similar items set forth in Questions 1-7 above.

9. With respect to legal liabilities, provide a list and a brief description of all instances during the last five years involving transportation projects in which the firm or any affiliate\* was (i) determined, pursuant to a final determination in a court of law, arbitration proceeding or other dispute resolution proceeding, to be liable for a material breach of contract or (ii) terminated for cause. For each instance, identify an owner's representative with a current phone and e-mail address.

10. With respect to legal proceedings, provide a list and a brief description (including the resolution) of each arbitration, litigation, dispute review board and other dispute resolution proceeding occurring during the last five years between the public owner and the firm or any affiliate\* and involving an amount in excess of \$300,000 related to performance in capital transportation projects with a contract value in excess of \$10 million.

\_\_\_\_\_

\* The term "Affiliates" includes parent companies, subsidiary companies, joint venture members and partners, and partners in which the entity has more than a 15% interest.

Under penalty of perjury, I certify that the foregoing is true and correct, and that I am the firm's Official Representative:

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FORM D-1 - TECHNICAL EXPERIENCE – DESIGN**

**EXPERIENCE OF THE LEAD ENGINEERING FIRM IN THE DESIGN AND ENGINEERING OF REFERENCE PROJECTS**

<b>COMPANY NAME (1)</b>	<b>PROJECT NAME AND LOCATION (2), (3)</b>	<b>PROJECT COST (4) &amp; (5)</b>	<b>START/END DATES</b>	<b>% OF WORK COMPLETED BY DECEMBER 31, 2013</b>	<b>LEVEL OF COMPANY'S PARTICIPATION (7)</b>	<b>ROLE OF COMPANY FOR THE PROJECT (6)</b>

Notes:

- (1) A maximum of two projects may be included.
- (2) Only list projects on which the Lead Engineering Firm worked within the past ten years.
- (3) Only list projects where the Lead Engineering Firm held a minimum 30% of the ultimate responsibility for the design and engineering experience. If the Lead Engineering Firm is a joint venture, only list projects from members of the joint venture that will perform at least 30% of the Lead Engineering Firm's potential design and engineering work for the Project.
- (4) In thousands of United States Dollars. Identify exchange rates of amounts in other currencies using the exchange rate as of December 31, 2012, including the benchmark on which the exchange rate is based.
- (5) Project Cost means the total construction cost budgeted or, if the project is complete, the total design cost of the completed project.
- (6) Show company's participation in terms of money and percentage of the work and provide a brief summary of the role the company played in the listed project (scope of work).
- (7) For projects/contracts listed for design firms that were traditional consultant/engineering services contracts (as opposed to, for example, design-build contracts), the information sought above shall be limited only to the consultant/engineering services contract, rather than any ensuing construction contract where such entity had limited or no involvement.

**FORM D-2 - TECHNICAL EXPERIENCE - CONSTRUCTION**

**EXPERIENCE OF THE LEAD CONTRACTOR IN THE CONSTRUCTION OF REFERENCE PROJECTS**

<b>COMPANY NAME (1)</b>	<b>PROJECT NAME AND LOCATION (2), (3)</b>	<b>PROJECT COST (4) &amp; (5)</b>	<b>START/END DATES</b>	<b>% OF WORKS COMPLETED BY DECEMBER 31, 2013</b>	<b>LEVEL OF COMPANY'S PARTICIPATION (6)</b>	<b>ROLE OF COMPANY FOR THE PROJECT (7)</b>

Notes:

- (1) A maximum of three projects may be included.
- (2) Only list projects on which the Lead Contractor worked within the past ten years.
- (3) Only list projects where the Lead Contractor held a minimum 30% of the ultimate responsibility for the construction experience. If the Lead Contractor is a joint venture, only list projects from joint-venture members that will perform at least 30% of the Lead Contractor's potential construction work for the Project.
- (4) In thousands of United States Dollars. Identify exchange rates of amounts in other currencies using the exchange rate as of December 31, 2013, and identify the benchmark on which the exchange rate is based.
- (5) Project Cost means the total construction cost budgeted or, if the project is complete, the total construction cost of the completed project.
- (6) Show company's participation in terms of money and percentage of the work.
- (7) For projects/contracts listed for construction firms using the traditional design/bid/build delivery method, the information sought above shall be limited only to the construction contract, rather than any design contract where such entity had limited or no involvement.

**FORM E**

**PROJECT DESCRIPTION FORM**

- A. TITLE AND LOCATION (*City and State*):**
- B. YEAR COMPLETED (*If applicable*):**
- 1. PROJECT OWNER'S INFORMATION - PROJECT OWNER:**
- 2. PROJECT OWNER'S INFORMATION - POINT OF CONTACT NAME:**
- 3. PROJECT OWNER'S INFORMATION - POINT OF CONTACT TELEPHONE NUMBER:**
- C. BRIEF DESCRIPTION OF PROJECT AND RELEVANCE TO THIS CONTRACT (*Include scope, size, and cost*):**
- D. FIRMS INVOLVED WITH THIS PROJECT**

**FORM F**  
**SAFETY QUESTIONNAIRE**

Name of Proposer: \_\_\_\_\_

Name of entity completing this Form F: \_\_\_\_\_

Role of entity completing this Form F:  Lead Contractor; or  Construction Team Member

**Instructions for completion:** Should additional lines or space be needed to address the subject areas below, the entity completing this Form F may add additional lines within each subject area as appropriate. Form F has no QS page limitation.

**Part A**

1. Please provide the **total number of fatalities** and **fatal injury rates** for the past three years for all projects in the United States. Please provide the **incidence rates** of nonfatal occupation injuries and illnesses for Heavy and Civil Engineering Construction, as defined by the North American Industry Classification System (NAICS 237), for each of the cases listed below for the past three years for all projects nationwide.

Please note that the fatal injury rate is calculated as follows: Rate = (Number of fatal work injuries / total hours worked by all employees during the calendar year) x 200,000,000. The 200,000,000 in the formula represents the equivalent of 100,000 employees working 40 hours per week, 50 weeks per year and provides the standard base for the fatal injury rates.

Please note that the incidence rate is calculated as follows: Rate = (Number of cases / total employee hours worked during the calendar year) x 200,000. The 200,000 hours in the formula represents the equivalent of 100 employees working 40 hours per week, 50 weeks per year and provides the standard base for the incidence rates.

Additional information on how to calculate the fatal injury rates and the incidence rates is available at the United States Department of Labor, Bureau of Labor Statistics website: <http://www.bls.gov/iif/oshcfoi1.htm#rates>. Additional instructions on how to calculate the incidence rates are available in the instructions on completing "OSHA Forms for Recording Work-Related Injuries and Illnesses" (OSHA Forms 300, 300A, 301). Further information regarding Heavy and Civil Engineering Construction (NAICS 237) industry data may be found via the United States Department of Labor website: <http://www.bls.gov/iag/tgs/iag237.htm>.

Data Series	2010	2011	2012
<b>Fatalities</b>			
Number of Fatalities			
<b>Fatal Injury Rate per 100,000 full-time workers</b>			
Hour-Based Construction Fatal Injury Rate			
<b>Incidence Rate of Injury and Illness Cases per 100 Full-Time Workers</b>			
Total Recordable Cases			
Cases with Days Away from Work, Job Transfer or Restriction			
Cases with Days Away from Work			
Cases with Job Transfer or Restriction			
Other Recordable Cases			

2. Please provide the firm's National Council on Compensation Insurance (NCCI) Experience Modifier for the past three years for all projects in the United States. Additionally, you must include with this Form F, an NCCI letter or a letter from an insurance agent identifying the firm's NCCI Experience Modifier.

Item	2011	2012	2013
NCCI Experience Modifier			

**Part B**

For purposes of this Part B, describe your firm's *standard or typical* safety program or practices.

1. To whom and how often are internal accident reports and report summaries sent to your firm's management?

Position	Monthly	Quarterly	Annually	Other (specify)

2. Do you hold site meetings for supervisors? Yes \_\_\_\_\_ No \_\_\_\_\_  
 How often? Weekly \_\_\_ Biweekly \_\_\_ Monthly \_\_\_ Less often, as needed \_\_\_

3. Do you conduct Project Safety Inspections? Yes \_\_\_\_\_ No \_\_\_\_\_  
 If yes, who conducts them? \_\_\_\_\_

How often? Weekly \_\_\_ Biweekly \_\_\_ Monthly \_\_\_

4. Does the firm have a written Safety Program? Yes \_\_\_\_\_ No \_\_\_\_\_

5. Does the firm have an orientation program for new hires? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, what safety items are included? \_\_\_\_\_

6. Does the firm have a program for newly hired or promoted foremen?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, does it include instruction of the following?

Topic	Yes	No
<b>Safety Work Practices</b>		
<b>Safety Supervision</b>		
<b>On-site Meetings</b>		
<b>Emergency Procedures</b>		
<b>Accident Investigation</b>		
<b>Fire Protection and Prevention</b>		
<b>New Worker Orientation</b>		

7. Does the firm hold safety meetings, which extend to the laborer level?

Yes \_\_\_\_\_ No \_\_\_\_\_  
 How often? Daily \_\_\_\_ Weekly \_\_\_\_ Bi-Weekly \_\_\_\_ Less often, as needed \_\_\_\_

8. Does the firm have a program or written practices that expressly address the safety of the traveling public?

Yes \_\_\_\_\_ No \_\_\_\_\_  
 If yes, describe such programs or practices. \_\_\_\_\_  
 \_\_\_\_\_

**Part C**

Identify any differences between the firm’s standard or typical safety program or practices, as described above, and the firm’s safety program or practices on projects similar to this Project in size and scope. \_\_\_\_\_  
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