

May 5, 2006

To whom it may concern:

The Texas Department of Transportation ("TxDOT") is pleased to present a Request for Competing Proposals and Qualifications ("RFQ") to teams interested in submitting competing proposals and qualifications submittals (a "PQS") to develop, design, construct, finance, operate and maintain tolled main lanes and associated facilities along an extension of SH 161 from SH 183, south to I-20 through the Cities of Irving and Grand Prairie, as well as other potential facilities to the extent necessary for connectivity and financing, through a Comprehensive Development Agreement pursuant to Chapter 223 of the Texas Transportation Code and Title 43, Texas Administrative Code, Sections 27.1-27.6.

TxDOT will make the RFQ available to any party at the following address:

Texas Department of Transportation
Attn: Ms. Diana Vargas
125 East 11th Street, Fifth Floor
Austin, Texas 78701

It will also be published on the following website: <http://www.dot.state.tx.us> by linking through e-Business/Consultant Services/Texas Turnpike Authority to and through the Notice of Intent to Issue a Request for Proposals/Qualifications to the web page: <http://www.dot.state.tx.us/tta/contract/request.htm>.

The RFQ is based on an unsolicited proposal for the SH 161 Toll Road Project that TxDOT received on August 11, 2005 from DFW Southern Gateway Consortium, a consortium established by AECOM Enterprises. Having reviewed the unsolicited proposal, TxDOT believes that it merits further evaluation in accordance with Section 223.203 of the Texas Transportation Code and Title 43, Texas Administrative Code, Sections 27.1-27.6.

TxDOT looks forward to receiving and reviewing your PQS.

Sincerely,



Phillip E. Russell, P.E.
Director, Texas Turnpike Authority Division

**REQUEST FOR COMPETING PROPOSALS AND
QUALIFICATIONS
TO DEVELOP, DESIGN, CONSTRUCT, FINANCE,
OPERATE AND MAINTAIN
THE
SH 161 TOLL ROAD PROJECT
THROUGH A
COMPREHENSIVE DEVELOPMENT AGREEMENT**

TEXAS DEPARTMENT OF TRANSPORTATION

ISSUED May 5, 2006

**Texas Department of Transportation
125 East 11th Street—Fifth Floor
Austin, Texas 78701**

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PART A

BACKGROUND AND INSTRUCTIONS

1. INTRODUCTION

The Texas Department of Transportation ("TxDOT"), an agency of the State of Texas, hereby requests the sealed submittal of competing proposals and qualifications ("PQSs") from entities ("Proposers") desiring to develop, design, construct, finance, operate and maintain tolled main lanes and associated facilities along an extension of SH 161 from SH 183, south to I-20 through the Cities of Irving and Grand Prairie, as well as other potential facilities to the extent necessary for connectivity and financing (referred to herein as the "SH 161 Toll Road Project" or the "Project"), pursuant to a Comprehensive Development Agreement ("CDA"). Development of the Project is a crucial element in responding to severe traffic congestion that exists in the Dallas/Fort Worth area.

TxDOT is issuing this RFQ in accordance with the provisions of Chapter 223 of the Texas Transportation Code (the "Code") (which can be found at <http://www.capitol.state.tx.us/statutes/tn.toc.htm>); Sections 27.1-27.6 of Title 43, Texas Administrative Code (the "Rules") (available at: [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.viewtac](http://info.sos.state.tx.us/pls/pub/readtac$ext.viewtac)); and other applicable provisions of law. Proposers short listed in response to this Request for Competing Proposals and Qualifications ("RFQ") will be invited to submit detailed proposals ("Proposals") in response to a request for detailed proposals ("RFP").

TxDOT received an unsolicited proposal on August 11, 2005 from DFW Southern Gateway Consortium, a consortium established by AECOM Enterprises, to develop, design, construct, finance, operate and maintain the SH 161 Toll Road Project as a concession project. TxDOT has reviewed the unsolicited proposal, intends to evaluate the unsolicited proposal, may negotiate a CDA based on the unsolicited proposal, and will accept for simultaneous consideration any competing proposals and qualifications submittals that TxDOT receives in accordance with the Rules and this RFQ. A copy of the Texas Transportation Commission's (the "Commission") Minute Order 110234 dated September 29, 2005, authorizing further evaluation can be reviewed at <http://www.dot.state.tx.us/transcom/default.htm?pg=meet05>. In accordance with the Rules, the unsolicited proposer is required to submit a PQS in response to this RFQ in order to be considered for short listing.

TxDOT has assembled a set of documents relating to the Project, as listed in Exhibit A hereto (the "Project Documents"). With the exception of the PS&E, the Project

Documents will be made available to prospective Proposers upon issuance of this RFQ. CDs containing the PS&E will be provided at the pre-PQS workshop in June. Proposers may request electronic copies on compact disks of available documents by contacting TxDOT at the following address:

Texas Department of Transportation
125 East 11th Street, Fifth Floor
Austin, Texas 78701
Attn: Ms. Diana Vargas

TxDOT will charge for the costs of providing electronic copies at its standard rates.

2. DESCRIPTION OF SH 161 TOLL ROAD PROJECT OPPORTUNITY

The CDA may (a) obligate the Developer to (i) develop, design and construct portions of the SH 161 Toll Road Project, (ii) invest equity and provide financing for such improvements, and (iii) operate and maintain the Project and associated frontage roads and (b) may grant the Developer the right to toll revenues from users of the Project for a maximum period to be specified in the RFP, subject to any revenue sharing or upfront concession payment payable to TxDOT.

The SH-161 Toll Road Project has been developed as a facility that would relieve the severe congestion currently being experienced in the Dallas/Fort Worth area, particularly along the roads connecting IH-20 and IH-30, which are the primary roads heading east into Downtown Dallas. It was originally contemplated as a non-tolled facility and preliminary engineering, design and supporting analysis had been undertaken under that premise. The Project includes a proposed north-south tollway that extends existing SH-161 from SH-183 to IH-20 through the cities of Irving and Grand Prairie, Texas. The proposed tollway is an 11.5 mile four- and six-lane limited access tollway project. Four lanes are proposed between IH-20 and IH-30 and six lanes between IH-30 and SH-183.

Proposers are advised to review the environmental approvals for the Project. TxDOT intends to allow Proposers flexibility to propose deviations from the scope of the facilities identified in the environmental approvals and in this RFQ, including additional and/or differing facilities to the tollway, to the extent Proposers are willing to accept the risks associated with such deviations, including risks associated with environmental approvals and schedule risks. In addition, TxDOT is in the process of determining to what extent the RFP and the CDA will require full build-out of the Project. The RFP may request that Proposer teams propose phasing of the Project or build-out scenarios other than full build-out of the Project, taking into account the Project's plan of finance. The CDA may require the developer to fully build-out the

Project, build the Project in phases or undertake less than full build-out of the Project. TxDOT anticipates that a baseline Project description for purposes of the RFP and CDA will be provided in the RFP and that Proposers will be allowed to submit alternative technical concepts for TxDOT's consideration.

Certain portions of the SH 161 Toll Road Project are currently under construction and other portions will be designed and constructed by the Developer. All major elements of the facility would be operated and maintained by the Developer. The design for those portions of the Project already under construction and the conceptual design for certain portions of the Project to be constructed by the Developer are available for review as described herein.

2.1 Status of SH 161 Toll Road Project Construction

Interchanges and frontage roads for the Project are currently being constructed under a series of design-bid-build contracts with projected completion dates starting in September 2006 and ending in October 2008. The SH 161 frontage roads are not intended to be tolled.

Along SH 161, the following is the status of on-going construction (as of April 6, 2006):

Project 1

PROJECT: NH2005(148)
CONTROL: 2964 **SECT:** 01 **JOB:** 029
LIMITS: IH 20 TO SPUR 303

COUNTY: DALLAS
LENGTH: 4.320 MI
DAYS ALLOWED: 873
ADD'L DAYS: 0
CONTRACT COST: \$43,132,516.11

CONTRACTOR:

J.D. ABRAMS, L.P.

CLASS OF WORK:

CONSTRUCT 6 LANE FRONTAGE ROAD

SECTIONS (PHASE I) AND INTERCHANGE WITH IH 20
(PHASE I)

LETTING DATE: 06/08/2005
WORK AUTHORIZATION DATE: 08/08/2005
TIME STARTS: 08/25/2005
WORK BEGAN: 10/17/2005
ESTIMATED COMPLETION: 9/30/2008

Phase I construction consists of construction of SH 161 frontage roads from IH 20 to Spur 303. The project also includes the SH 161 frontage roads transitioning north of the IH 20 interchange where the SH 161 frontage roads are proposed to transition into Lake Ridge Parkway. Four additional entrance and exit ramps and frontage road modifications along IH 20 are also included.

Project 2

PROJECT: NH2005(747)
CONTROL: 2964 **SECT:** 01 **JOB:** 030
LIMITS: SPUR 303 TO DALWORTH ROAD

COUNTY: DALLAS
LENGTH: 2.694 MI
DAYS ALLOWED: 528
ADD'L DAYS: 0
CONTRACT COST: \$24,960,709.36

CONTRACTOR:
J.D. ABRAMS, L.P.
CLASS OF WORK:

CONSTRUCT 6 LANE FRONTAGE ROAD SECT (PHASE I))

LETTING DATE: 07/07/2005
WORK AUTHORIZATION DATE: 09/21/2005
ESTIMATED COMPLETION: 10/31/2008

Phase I construction consists of construction of SH 161 frontage roads from Spur 303 to Dalworth Road.

Project 3

PROJECT: NH2000(208)
CONTROL: 1068 **SECT:** 04 **JOB:** 115
LIMITS: DALWORTH ROAD TO CARRIER PARKWAY

COUNTY: DALLAS
LENGTH: 1.837 MI
DAYS ALLOWED: 592
ADD'L DAYS: 0
CONTRACT COST: \$28,061,073.42

CONTRACTOR:
TEXAS STERLING CONSTRUCTION, L.P.
CLASS OF WORK:

CONSTRUCT 5 LEVEL INTERCHANGE PHASE I

LETTING DATE: 03/08/2006
WORK AUTHORIZATION DATE:
TIME STARTS:
ESTIMATED COMPLETION: 3/31/2008

Phase I construction consists of construction of SH 161 frontage roads from Dalworth Road to Carrier Parkway, including the southbound Frontage Road SH 161 overpass over IH 30 mainlanes. The project forms a "frontage road box" intersection at the SH 161/IH 30 interchange. The project also includes construction of the Egyptian Way Overpass over the future SH 161 mainlanes, as well as the SH 161 southbound Frontage Road overpass over Carrier Parkway.

Project 4

PROJECT: NH2005(255)
CONTROL: 2964 **SECT:** 01 **JOB:** 034
LIMITS: SPUR 303 TO DALWORTH ROAD

COUNTY: DALLAS
LENGTH: 5.506 MI
DAYS ALLOWED: 255
ADD'L DAYS: 0
CONTRACT COST: \$9,432,432.03

CONTRACTOR:
AUI CONTRACTORS, L.P.
CLASS OF WORK:

LETTING DATE: 03/08/2005

NEW PARK FACILITIES & CONNECTING TRAIL

WORK
AUTHORIZATION 05/18/2005
DATE:
TIME STARTS: 06/03/2005
ESTIMATED
COMPLETION: 9/31/2006

This project provides for park mitigation in compliance with an Environmental Mitigation agreement required by the SH 161 Supplemental EIS. The park and all its features will be maintained by the City of Grand Prairie at the City's expense.

Project 5

PROJECT: NH2004(524)
CONTROL: 2964 **SECT:** 01 **JOB:** 024
LIMITS: CONFLANS DRIVE TO N. OF SH 183

COUNTY: DALLAS
LENGTH: 1.610 MI
DAYS ALLOWED: 854
ADD'L DAYS: 0
CONTRACT COST: \$44,921,148.20

CONTRACTOR:
J.D. ABRAMS, L.P.
CLASS OF WORK:

CONSTRUCT SH 183 INTERCHANGE PHASE II

LETTING DATE: 07/09/2004
WORK
AUTHORIZATION 09/08/2004
DATE:
TIME STARTS: 09/24/2004
ESTIMATED
COMPLETION: 9/30/2007

Phase II construction consists of construction of the SH 161 main lanes, beginning of the north side of SH 183, then overpassing SH 183, and terminating at the interchange of Conflans Drive. This project also includes four direct connection ramps to/from SH 183 to/from SH 161 South of SH 183, and ramps to/from Conflans Drive to/from SH 161 North of Conflans.

Project 6

PROJECT: HP266(100)
CONTROL: 1068 **SECT:** 04 **JOB:** 110
LIMITS: TARRANT COUNTY LINE TO NW 7TH

HWY: IH 30
COUNTY: DALLAS
LENGTH: 2.920 KM
DAYS ALLOWED: 965
ADD'L DAYS: 18
CONTRACT COST: \$35,540,701.06

CONTRACTOR:
ED BELL CONSTRUCTION COMPANY
CLASS OF WORK:

WIDEN 6 TO 10 LANES & ADD INTERCHANGES &
NOISE WALL

LETTING DATE: 08/07/2002
WORK
AUTHORIZATION 10/08/2002
DATE:
TIME STARTS: 10/24/2002
WORK BEGAN: 11/13/2002

ESTIMATED COMPLETION: 11/30/2006

Project consists of reconstruction of IH 30 main lanes and ramps to/from NW 19th Street to IH 30. This project also includes the construction of the proposed Northbound SH 161 frontage road overpass over the IH 30 mainlanes, as well as an at-grade IH 30 main lane overpass over the future (yet to be excavated) SH 161 main lanes.

A previous project, completed in 2000, provided for the SH 161– SH 183 Interchange Phase I, consisting of construction of four direct connection ramps:

PROJECT: DB-NH98(107)
CONTROL: 2964 **SECT:** 01 **JOB:** 014
LIMITS: S. of SH 183 to N. OF SH 183

COUNTY: DALLAS
LENGTH: 0.718 MI
DAYS ALLOWED: 552
ADD'L DAYS: 0
CONTRACT COST: \$18,911,549.42

CONTRACTOR:
INTERSTATE CONTRACTING CORPORATION

CLASS OF WORK:

CONSTRUCT SH 183 INTERCHANGE PHASE I

LETTING DATE: 02/03/1998
WORK
AUTHORIZATION DATE: 03/24/1998
DATE:
TIME STARTS: 4/09/1998
COMPLETION: 06/06/2001

Phase I construction completed four direction connection ramps to/from SH 183 to/from SH 161 North of SH 183.

A previous project, completed in 1993, provided for the construction of SH 161 main lanes and frontage roads for SH 161 from SH 183 north to Beltline Road:

PROJECT: F1125(3)
CONTROL: 2964 **SECT:** 01 **JOB:** 05
LIMITS: N. OF SH 183 TO N. OF BELTLINE ROAD

COUNTY: DALLAS
LENGTH: 3.768 MI
DAYS ALLOWED: 630
ADD'L DAYS: 0
CONTRACT COST: \$43,602,995.44

CONTRACTOR:
H. B. ZACHRY COMPANY

CLASS OF WORK:

CONSTRUCT SH 161 MAIN LANES AND FRONTAGE ROADS

LETTING DATE: 01/01/1991
WORK
AUTHORIZATION DATE: 03/05/1991
DATE:
TIME STARTS: 3/14/1991
COMPLETION: 08/16/1994

This project constructed four main lanes and six lane frontage roads from the north side of SH 183 to North of Beltline Road.

A future project, the Lake Ridge Parkway Extension, is being developed jointly by TxDOT and the City of Grand Prairie. As of April 6, 2006, the status of this project is as follows:

PROJECT: C 918-45-747
CONTROL: 0918 **SECT:** 45 **JOB:** 747

COUNTY: DALLAS
LENGTH: 1.360 MI
DAYS ALLOWED: TBD
ADD'L DAYS: 0
ESTIMATED COST: \$13,560,000

CONTRACTOR:

To Be Determined

CLASS OF WORK:

CONSTRUCT 4 LANE LAKE RIDGE PARKWAY
EXTENSION

LETTING DATE: 9/2007
WORK
AUTHORIZATION TBD
DATE:
TIME STARTS: TBD
COMPLETION: TBD

All of the above project documents (construction plans, specifications and contract documents) are included in the list of Project Documents available for review as specified in Exhibit A.

2.2 Improvements to be Completed by Developer

TxDOT anticipates that the improvements to be completed by Developer will include: improvements to the SH 161 Toll Road Project, including design and construction of tolled main lanes on SH 161, from IH 20, north to SH 183, through the Cities of Irving and Grand Prairie. This will include design and construction of the following:

- From IH-20 to IH-30, a minimum of two (2) continuous and unobstructed tolled mainlanes per direction plus required operational, merge, acceleration and deceleration lanes as identified in the TxDOT SH 161 reference schematic. This section may be required to be expanded by the Developer to as many as five (5) continuous and unobstructed toll mainlanes per direction plus required operational, merge, acceleration and deceleration lanes upon the mainlanes reaching a Level of Service (LOS) milestone to be determined in the RFP. In addition, all required overpasses/underpasses will be designed and constructed by the Developer to support these mainlanes. The developer will also be responsible for constructing the Union Pacific Rail Road underpass in accordance with TxDOT design (see 2.7.6).
- From IH-30 to Conflans Drive, a minimum of three (3) continuous and unobstructed toll mainlanes per direction plus required operational, merge, acceleration and deceleration lanes as identified in the TxDOT

SH 161 reference schematic. This section may be required to be expanded by the Developer to five (5) continuous and unobstructed toll mainlanes per direction plus required operational, merge, acceleration and deceleration lanes upon the mainlanes reaching a LOS milestone to be determined in the RFP. In addition, all required roadway overpasses/underpasses and the DART Railroad overpass will be designed and constructed by the Developer to support these mainlanes.

- Design and construction of SH 161 interchanges including the following:
 - SH 161-IH 20 Interchange – Design and construction of four direct connections as depicted in the SH 161 reference schematic.
 - SH 161-IH 30 Interchange – Design and construction of eight direct connection ramps as depicted in the SH 161 reference schematic. Also required is design and construction of IH 30 frontage road overpasses over SH 161 mainlanes.
- Design and construction of certain identified on and off ramps along SH 161 as depicted in the SH 161 reference schematic. These on and off ramps will include design and construction of all approaches and departures of the connectors to ensure existing connectors are preserved.
- Design and installation of an open-road electronic toll collection system as necessary to allow collection of tolls from Project users as depicted in the conceptual toll schematic.
- Other potential facilities that may be identified in the RFP or the Proposal, to the extent necessary for connectivity and financing.

2.3 Project Environmental Status

A Record of Decision was issued April 7, 1997 for the Project as a non-tolled facility. The MPO has revised the Metropolitan Transportation Plan to depict the project as a tolled facility. The Project is also depicted as a tolled facility in the 2005 air conformity update run approved by FHWA in June of 2005. TxDOT is in the process of undertaking an environmental re-evaluation for tolling. These documents were submitted to the FHWA and were found to be satisfactory for further processing in April, 2006. Final public hearings for the tolling element will be scheduled in mid 2006. Environmental approval is projected to be received in the third quarter of 2006.

Copies of the Supplemental Final Environmental Impact Statement and the Environmental Reevaluation for Tolling documents are included in the list of Project Documents available for review as specified in [Section 1](#).

2.4 Construction Cost Estimates

TxDOT's current construction cost estimates for the improvements to be developed under the CDA are approximately \$525 million based on the minimum improvements described in Section 2.2.

Estimated construction costs reflect the currently developed schematic and environmentally studied project segments at current construction prices. In addition, the estimates do not include design, ROW, toll collection system integration, utility adjustment, operations and maintenance costs.

2.5 Funding Available for Development Costs

Proposers are advised that minimal or no TxDOT funding will be available for the development of the Project. TxDOT expects significant private participation as a key element of the Conceptual Project Financing Plan required to be provided hereunder. The transportation Infrastructure Finance and Innovation (TIFIA) Program and Private Activity Bonds (PABs) are other potential sources of funding and are subject to federal requirements and availability. The RFP will provide further details regarding TxDOT's expectations relating to Project financing.

2.6 ROW Acquisition

Existing and proposed ROW maps based on the current approved schematics are included in the list of Project Documents available to Proposers for review as provided in Section 1. Proposers are advised that TxDOT has acquired all right of way required to construct the Project in accordance with the current approved schematics. The Developer will be responsible for the costs of acquiring any additional right of way to be acquired due to the Developer's design. In addition, the Developer will be responsible for providing right of way acquisition services in connection with the acquisition of any such additional parcels. TxDOT shall assist the Developer in the necessary acquisition of any additional right of way as prescribed in Transportation Code Section 206.066-.069. The RFP will provide further details regarding the acquisition process and the responsibilities of the Developer in that process.

2.7 Geotechnical, Utility Relocation, Hazardous Materials Investigations, Detention Plan, Aesthetic Treatment and Railroad Coordination

2.7.1 Geotechnical Investigation Program

TxDOT has performed certain geotechnical investigation work regarding the site. In addition, TxDOT is currently undertaking further geotechnical investigation work. The Project Documents include any geotechnical information collected by TxDOT to date, as well as the scope of work for the further geotechnical investigation TxDOT is currently undertaking. Such documents are available to Proposers for Review as

provided in Section 1. Any additional geotechnical investigation activity on TxDOT ROW, during the procurement, by the Proposer, will require the appropriate coordination with TxDOT (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 is currently assessing what, if any, additional geotechnical investigation information will be collected and short listed Proposers may, during the industry review process, be asked to provide input on this topic.

2.7.2 Utility Investigation

Available Subsurface Utility Engineering (SUE) data and utility adjustment plans for any completed relocations performed within the right of way since the date of the SUE report is included in the Project Documents available to Proposers for review as provided in Section 1.

As it relates to eligible utility adjustment/relocation expenses, Developers should assume toll project designation for the Project unless otherwise noted. The CDA is expected to require the Developer to be responsible for performing or causing necessary utility relocations/adjustments to be performed in accordance with applicable standards and for the costs associated with utility relocations/adjustments, except to the extent the utilities are legally responsible for such costs.

2.7.3 Hazardous Materials Investigation

The Environmental Reports listed in the Project Documents include studies showing the results of hazardous materials investigation relating to the Project and are available for review as provided in Exhibit A. Three documents are provided, including 1) Phase II Subsurface Environmental and Preliminary Geotechnical Investigation for Parcel #4 on SH 161 north of the West Fork Trinity River; 2) Soil, Groundwater and Trash Management Plan for Parcel #4 on SH 161 north of the West Fork Trinity River; and 3) Plans Specifications and Estimates (PS&E) for CSJ 2964-01-030 (the specifications include provisions for containing ground water and treating / removing groundwater and control of spoils from drilled shafts intersecting ground water). TxDOT is currently assessing what, if any, additional hazardous materials investigation information will be collected and short listed Proposers may, during the industry review process, be asked to provide input on this topic.

2.7.4 Detention Plan

The current stormwater design prepared for the Phase I (frontage road) projects have been reviewed by the Cities of Grand Prairie and Irving and no stormwater detention is anticipated for the Phase II (mainlane) projects.

2.7.5 Aesthetic Treatment

TxDOT is currently working with the Cities of Grand Prairie and Irving regarding aesthetic requirements for the Project. The Developer shall follow the Baseline Aesthetics Guideline that will be developed by TxDOT and the Cities of Grand Prairie and Irving. This Guideline is anticipated to be developed and finalized during 2006. Additional details and requirements shall be set forth in the RFP.

2.7.6 Railroad Coordination

The SH 161 corridor crosses two railroads: 1) the Union Pacific Railroad between Jefferson and Main Street (with SH 161 main lanes underpassing the Union Pacific Railroad on a railway bridge structure to be constructed by the Developer); this facility has a double track Union Pacific Railroad freight line operation; and 2) the Dallas Area Rapid Transit (DART) Railroad just north of Rock Island Road; this facility has freight operations plus the Trinity Railway Express (TRE) commuter line. SH 161 main lanes will overpass the DART Railroad on a highway bridge structure to be constructed by the developer.

TxDOT anticipates performing final design for the Union Pacific Railroad underpass and entering into an Agreement with the Union Pacific Railroad prior to the issuance of a final RFP.

TxDOT anticipates performing geometric design and bridge layouts and entering into an Agreement with the DART prior to issuance of the final RFP.

2.7.7 Other Due Diligence Activities

TxDOT is currently assessing what, if any, additional site and due diligence information beyond that which is specified in Sections 2.7.1 – 2.7.6 will be provided. The short listed Proposers may, during the industry review process, be asked to provide input on this topic.

2.8 Traffic and Revenue Forecast

In June 2005, Wilbur Smith and Associates completed a Level II preliminary traffic and revenue study for the Project, which is available to Proposers for review as provided in Section 1. TxDOT is in the process of performing an updated Level II Traffic and Revenue Study as well as enhanced traffic and revenue data collection that will include origin and destination surveys, traffic counts, speed and delay information, stated preference surveys, and additional data which is anticipated to be made available to short listed Proposers in mid 2006. Responsibility for additional traffic and revenue studies shall be set forth in the RFP and discussed during industry review.

2.9 Toll Collection System Development

Design and installation of the toll collection system for the SH-161 Toll Road Project in the Dallas/Fort Worth area will be included in the Developer's scope of work. The Developer will be required to coordinate system design and toll collection operations with local authorities, including statewide interoperability. It is anticipated that the tollway will be tolled through an 100% electronic barrier-free system requiring no reduction in speed. A preliminary Toll Design Schematic is available to Proposers for review as provided in [Section 1](#).

2.9.1 NTTA MOU

TxDOT and the North Texas Tollway Authority ("NTTA") have entered into a Memorandum of Understanding ("MOU"), which has been approved by NTTA's Board of Directors. A draft of the MOU is included in the Project Documents available for review as provided in [Section 1](#). Under the MOU, NTTA may design, install, operate and maintain open-road toll collection systems, and provide road operation and maintenance services on CDA projects within NTTA's service area, potentially including the Project, as a subcontract to the Developer. If offered on this Project, these services will be offered for the Proposers' convenience and at each Proposer's election. Proposers are free to use any other service provider.

The MOU contemplates that for Projects which TxDOT and NTTA agree that NTTA may offer services, TxDOT will provide Proposers with a "Project Services Sheet" for the Project, which will include, among other things, pricing, schedule and a scope of work for the services NTTA is offering to Proposers relating to the Project and a standardized form of contract that NTTA proposes to use if it is retained by the Developer to provide such services for the Project. NTTA is subject to the obligation to equitably treat all interested Proposers, as set forth in the MOU. Furthermore, the MOU includes certain requirements relating to communications with NTTA. At this time, NTTA and TxDOT have not yet determined whether NTTA will be eligible to provide services on the Project. Until such time as a Project Services Sheet is provided to Proposers, Proposers are prohibited from communicating with NTTA about the Project. Further information concerning the role of NTTA will be made available to short listed Proposers.

2.9.2 Toll Systems Integrator CDA

TxDOT has entered into a comprehensive development agreement (the "Raytheon CDA") with Raytheon Company ("Raytheon"), under which Raytheon may design, install, operate and maintain open-road toll collection systems on projects designated by TxDOT, which may include the Project. The Raytheon CDA is included in the Project Documents available for review by Proposers as provided in [Section 1](#). Pursuant to the Raytheon CDA, Raytheon may provide such services to Proposers

under a "Project Segment Supplement," which would include, among other things, pricing, an implementation schedule and a scope of work for Raytheon's services relating to the Project. The Raytheon CDA obligates Raytheon to treat all Proposers equitably, and prohibits Raytheon from entering into any exclusive arrangement with any Proposer. Furthermore, the Raytheon CDA includes certain requirements relating to communications with Raytheon. At this time, Raytheon and TxDOT have not yet determined whether Raytheon will be eligible to provide services to all Proposers on the Project. Until such time as a Project Segment Supplement is provided to Proposers, Proposers are prohibited from communicating with Raytheon about the Project. If offered on this Project, these services will be offered for the Proposers' convenience and at each Proposer's election. Proposers are free to use any other service provider. Further information concerning the role of Raytheon will be made available to short listed Proposers.

3. DESCRIPTION OF PROCUREMENT PROCESS

3.1 Overall Process

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

TxDOT will evaluate the proposals and qualifications submittals ("PQSs") it receives in response to this RFQ and will establish, according to criteria generally outlined herein, a shortlist of Proposers eligible to receive the RFP.

If only one responsive PQS is received, TxDOT may either (a) proceed with the procurement and request a Proposal from the sole Proposer or (b) terminate this procurement. Following the short listing of Proposers, TxDOT anticipates releasing for industry review and comment a draft RFP, including scope of work, the pro forma finance plan to be used by TxDOT in drafting the TIFIA application and contract documents or summaries/term sheets. Following receipt of written comments, TxDOT may schedule one-on-one and/or group meetings to discuss issues and comments identified by the short listed Proposer teams. Specific details concerning the industry review process will be made available to the short listed Proposer teams following the short listing announcement.

After consideration of industry input, and if authorized by the Commission, TxDOT plans to issue a RFP to the short listed Proposers, which, to the extent then complete and available, will include USDOT's conditional commitment to provide TIFIA credit assistance for the Project. It is anticipated that USDOT's conditional commitment would include a term sheet and form of credit agreement, if available.

About the time of the issuance of a draft RFP and to facilitate the availability and potential use of TIFIA and Private Activity Bonds ("PABs") proceeds for the Project,

TxDOT will be soliciting input from short listed Proposers regarding whether (i) they intend to seek credit assistance from TIFIA and the type of credit assistance (i.e., secured loan, loan guaranty, and/or standby line of credit) they would prefer and (ii) whether they are interested in using PABs. As part of the application process for TIFIA credit assistance and an allocation from USDOT for PABs, TxDOT intends to prepare and submit to FHWA and USDOT, respectively, a pro forma finance plan for the Project. To assist TxDOT in the preparation of the pro forma finance plan, TxDOT may solicit additional information from short listed Proposers, including comments concerning the Level II traffic and revenue study prepared by Wilbur Smith and Associates, copies of financial plans, as well as a preliminary rating opinion letter from a rating agency. TxDOT may also schedule one-on-one meetings with short listed Proposers to discuss the TIFIA and PABs application process.

It is anticipated that, to the extent that TxDOT obtains a conditional commitment from USDOT to provide TIFIA credit assistance to the Project and/or an allocation of PABs, Proposers would be able to, in its discretion, include the same in the plan of finance for the Project that would be submitted with their Proposals. The foregoing approach is not intended to mandate the use of TIFIA credit assistance or PABs for the Project, but rather to enhance their availability and potential application for use on the Project should a Proposer wish to do so.

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 CDA 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 terminate the procurement.

3.2 Payment for Work Product

As contemplated by Texas Transportation Code Section 223.203(m), TxDOT intends to pay each unsuccessful Proposer that submits a Proposal responsive to the RFP a maximum stipulated amount 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 amount shall be included in the RFP. There will be no payment to Proposers who are not short listed.

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	May 5, 2006
Pre-PQS workshop	10 a.m. Central Time

	June 14, 2006
Deadline for questions regarding the RFQ	July 6, 2006
Requests relating to any addendum issued after July 6, 2006	three days after the addendum is issued (but no later than the PQS Due Date)
PQS Due Date	5:00 p.m. Central Time August 3, 2006

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 short listed Proposers and to prosecute the procurement to a CDA award thereafter. TxDOT anticipates awarding and executing a CDA for the Project in Summer/Fall 2007.

3.4 Pre-PQS Workshop

TxDOT intends to hold a pre-PQS workshop at TxDOT's offices at Texas Department of Transportation 125 E. 11th Street, Commission Hearing Room Austin, Texas 78701, on the date and time specified in Section 3.3. Attendance at this workshop is not mandatory and interested parties shall remain eligible to submit a PQS if they do not attend the workshop.

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 in writing to Ms. Diana Vargas as follows:

Texas Department of Transportation
 125 East 11th Street, Fifth Floor
 Austin, Texas 78701
 Attn: Ms. Diana Vargas
 Email: dvargas@dot.state.tx.us
 Fax:(512) 936-0970

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 SH-161 Toll Project. TxDOT will provide responses to Proposer clarification requests within a reasonable time following receipt, subject to the cut-off dates set forth in Section 3.3. TxDOT will post responses to those questions of general application and requests for clarifications which TxDOT deems to be material and not adequately addressed in previously provided documents on the following website:

<http://www.dot.state.tx.us> (the "Website") by linking through **e-Business / Consultant Services / Texas Turnpike Authority** to and through the [Notice of Intent to Issue a Request for Proposals / Qualifications](#) to the web page: <http://www.dot.state.tx.us/tta/contract/request.htm>.

TxDOT reserves the right to revise this RFQ by issuing addenda to this RFQ at any time before the PQS Due Date. TxDOT will post any addenda to this RFQ on the Website.

Proposers are responsible for monitoring the Website identified above 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 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 and therefore that the procurement documents and CDA must conform to requirements of applicable federal law and FHWA regulations, including but not limited to Title VI of the Civil Rights Act of 1964, as amended, regarding Equal Employment Opportunity (EEO) and Title 49 Code of Federal Regulations Prk 26, as amended, regarding Disadvantaged Business Enterprises (DBEs). TxDOT has applied for a waiver of certain federal procurement requirements through FHWA's SEP-15 program. TxDOT reserves the right to modify the procurement process described herein to address any concerns, conditions or requirements of the FHWA. Proposers shall be notified in writing via an addendum of any such modifications.

3.7 Liability, Insurance, Bonds and Letters of Credit

TxDOT anticipates that the CDA will require the Developer to assume liabilities, to provide bonds or letters of credit (or both) and insurance coverage and to indemnify and defend TxDOT against third party claims as specified in the CDA. 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, insurance and indemnity will be set forth in the RFP and the CDA.

3.8 DBE Requirements

TxDOT has determined that adopted rules to provide Disadvantaged Business Enterprises ("DBEs") requirements apply to design and construction of the Project, and has adopted rules to provide DBEs opportunities to participate in the business

activities of TxDOT as service providers, vendors, contractors, subcontractors, advisors, and consultants (see 43 Texas Administrative Code Section 9.50 et seq.). TxDOT has adopted the definition of DBEs set forth in 49 CFR § 26.5. The DBE policy of TxDOT applies to all TxDOT contracts and purchases paid with any funds received from the U.S. Department of Transportation through the Federal Highway Administration, the Federal Transit Administration, and the Federal Aviation Administration. Information regarding DBE requirements and goals will be included in the RFP.

In responding to this RFQ, a Proposer team need not include team members to satisfy DBE goals. However, 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.

3.9 Development

Proposers are advised that TxDOT is currently undertaking construction of certain portions of the Project as stated under 2.1. It is anticipated that the CDA will require the Developer, upon receiving a notice to proceed from TxDOT, to assume substantially all development obligations from TxDOT and its consultants arising from and after execution of the CDA, except for completion of such existing construction, and to cause the Project to be completed in accordance with certain standards and specifications agreed by TxDOT and the Developer to apply to the Project. The Developer will be responsible for coordinating with existing contractors on the Project.

TxDOT anticipates including in the RFP a proposed set of Project-specific standards and specifications, as well as a baseline Project definition. The RFP may permit Proposers to propose, for TxDOT's consideration, exceptions and deviations from certain of these standards and requirements. All requests for deviations shall follow the requirements set forth in the RFP. Proposers should note, however, that there may be restrictions on deviations from federally-mandated design and construction standards.

3.10 Project Financing

TxDOT anticipates that the CDA will grant a franchise or concession to the Developer. The Developer will be solely responsible for Project financing; provided, however, that TxDOT will facilitate the potential availability and use of federal assistance programs, including TIFIA credit assistance and the issuance of PABs.

TxDOT has applied for and received a waiver under FHWA's SEP-15 program of certain federal requirements associated with USDOT's TIFIA program in order to facilitate the potential use of TIFIA in a Proposer's plan of finance. The Developer will

have the option of utilizing the TIFIA conditional credit approval in connection with its final Project finance plan and will be solely responsible for execution of a final TIFIA credit agreement and satisfaction of USDOT requirements in connection therewith. This will include, among other things, obtaining an investment grade rating of debt senior to TIFIA and a credit opinion regarding the risks associated with the repayment of the TIFIA loan. Use of a conditional TIFIA credit commitment by a Proposer in its Proposal or plan of finance is not mandatory and is within the sole discretion of the Proposer.

In addition to potential TIFIA credit assistance, TxDOT will apply for an allocation for PABs for potential use by a Proposer in its plan of finance. As with TIFIA, use of PABs allocation by a Proposer in its Proposal or plan of finance is not mandatory and is within the sole discretion of the Proposer. Further information regarding the process for obtaining a TIFIA commitment and a PABs allocation will be provided to short listed Proposers.

TxDOT is interested in the Proposers' approach to payment of a concession fee and/or other revenue sharing arrangements. TxDOT intends to solicit industry ideas concerning optimal compensation structures during the industry review process. To the extent that payments under the CDA come from State and/or federal grant funds (as opposed to any Project revenues, revenue bond proceeds, loans, etc.), Proposers should be aware that such state and federal funds may be subject to legislative appropriation by the State of Texas.

4. PQS CONTENT AND SUBMITTAL REQUIREMENTS

4.1 General

TxDOT expects PQSs 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 short list the Proposers based on the criteria set forth herein.

PQSs shall be submitted exclusively in the English language inclusive of English units of measure, and cost terms in United States of America dollar denominations.

4.2 Format

Each responding Proposer shall submit one original and 15 copies (for a total of **16**) of its PQS in three (each PQS consists of three volumes) loose-leaf three ring binders, contained in sealed packages. The original must be clearly marked "Original" on its face and spine. Each copy must be numbered 1 through 15 on its spine. The Proposer's name and volume number must also be clearly marked on the spine.

Submittals must be prepared on 8-1/2" x 11" sized, white paper and bound. Volume 1 (as described in Part B) shall have all pages sequentially numbered and not exceed 60 pages. Double-sided printing is encouraged. Each printed side shall be considered one page. The font size in Volume 1 shall be no smaller than twelve-point. Volumes 2 and 3 (as described in Part B) do not have page numbering, page limitation or type font size requirements. 11" x 17" pages are allowed (including in the page count contained in Volume 1) for schematics, organizational charts, other drawings or schedules, but not for narrative text. Printed lines may be single-spaced. Insofar as is practical or economical, all paper stock used shall be composed of recycled materials.

Standard corporate brochures, awards, licenses and marketing materials should not be included in a PQS, 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 PQS in the order set forth in **Part B**. If a Proposer is compelled to include material in addition to the information specifically requested, the Proposer shall append that material to the end of the most appropriate defined section of the outline. Additional material is subject to the page limitation. Each volume may be subdivided as needed.

4.4 PQS Submittal Requirements

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

Response to the
Request for Competing Proposals and Qualifications
for the SH 161 Toll Road Project
through a Comprehensive Development Agreement

PQSs shall be delivered by hand or courier to:

Texas Department of Transportation
125 East 11th Street, Fifth Floor
Austin, Texas 78701
Attn: Phillip E. Russell, P.E.

TxDOT will not accept facsimile or other electronically submitted PQSs.

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

PQSs will be accepted and must be received by TxDOT during normal business hours before 5:00 p.m. (Central Time) on the PQS Due Date specified in Section 3.3. Any PQSs received after that date and time will be rejected and returned to the sending party unopened.

Proposers are solely responsible for assuring that TxDOT receives their PQSs 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 PQS will be reviewed for (a) minor informalities, irregularities and apparent clerical mistakes which are unrelated to the substantive content of the PQS, (b) conformance to the RFQ instructions regarding organization and format, and (c) the responsiveness of the Proposer to the requirements set forth in this RFQ. Those PQSs 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 PQS contains a material misrepresentation.

5.2 Pass/Fail Review

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

(a) The Proposal contains an original executed transmittal letter as required in Part B, Volume 1, General.

(b) The Proposer is capable of obtaining payment and performance bonds in the amount of \$250 million from a surety rated in the top two categories by two nationally recognized rating agencies or at least A minus (A-) or better and Class VIII or better by A.M. Best and Company.

(c) Neither the Proposer nor any other entity that has submitted **Form C** as required by this RFQ has been disqualified, removed, debarred or suspended from performing or bidding on work for the federal government or any state or local government where such disqualification, removal, debarment or suspension would preclude selection and award under TxDOT's Contractor Sanction Rules (43 Texas

Administrative Code Sections 9.100 *et seq.*).

(d) The Proposer has the financial capability to carry out the Project responsibilities potentially allocated to it as demonstrated by the materials provided in Part B, Volume 2 of the QS.

The evaluation will take into account the following considerations

- Profitability
- Ability to manage existing debt
- Ability to invest equity
- Other commitments and contingencies

(e) The information disclosed in **Form C** and/or in response to Part B, Volume 1, Section 1.8 does not materially adversely affect the Proposer's ability to carry out the Project responsibilities potentially allocated to it.

(f) The Proposer makes the express, written commitments as required in Part B, Volume 3, Section C.

5.3 Qualifications Evaluation Criteria and Weighting

Each responsive PQS passing all of the "pass/fail" qualification requirements set forth above will be evaluated and scored according to the criteria set forth below. The order in which the evaluation criteria appear within each category (i.e., General/Experience, Conceptual Project Development Plan and Conceptual Project Financing Plan) is not an indication of weighting or importance.

5.3.1 General/Experience (30% Weighting)

The Proposer's General/Experience will be evaluated in accordance with the following criteria:

- The extent and depth of the Proposer's and its individual team members' experience with comparable projects;
- The Proposer's and its individual team members' success in carrying out comparable projects and responsibilities, independently, with each other and in combination with other firms;
- The stability and likelihood of success of the proposed management structure and team; and
- The extent and depth of experience of the management team and key personnel listed as required by Part B, Volume 3, Section C.

Project and personnel references, as well as the information provided in Part B, Volume 1, Sections 1.8, 1.8.1, 1.8.2 and 1.8.3 and Part B, Volume 3, Section A, will be used, as deemed appropriate by TxDOT, to assist in the evaluation of the General/Experience category.

5.3.2 Conceptual Project Development Plan (30% Weighting)

The Conceptual Project Development Plan will be evaluated in accordance with the following criteria:

- The extent to which the Conceptual Project Development Plan is technically feasible, including a scheduling approach for project development delineating any proposed phasing of the work and important milestone activities;
- The extent to which the Conceptual Project Development Plan demonstrates Proposer's understanding of the Project, TxDOT's needs, risk associated with the design, construction, management of the Project, and the commitment of materials, equipment, and qualified personnel resources necessary to develop the Project;
- The extent to which the Conceptual Project Development Plan demonstrates Proposer's understanding of operations, maintenance, and total life cycle costs; and
- The efficiency and effectiveness of the Conceptual Project Development Plan in presenting an approach to integrating TxDOT into Project development and in structuring the roles and relationships of TxDOT/Proposer/third parties.

5.3.3 Conceptual Project Financing Plan (40% Weighting)

The Conceptual Project Financing Plan will be evaluated in accordance with the following criteria, taking into account the level of currently available Project information, the wide variety of potential financial and funding solutions and options available for the Project and the time period provided in this RFQ for submission of a PQS:

- The reasonableness of the estimated revenues, operating and maintenance costs and capital costs and the approach in developing these estimates;
- The effectiveness and feasibility of the Conceptual Financing Plan including use of various types of financing, and timing of proposed financing;

- The extent to which the Conceptual Project Financing Plan relies upon private equity and debt and minimizes state funding and economic contributions and commitments toward Project development through optimization of project economics without changes in toll rate (optimization of cash flows, etc.);
- The extent to which the Conceptual Project Financing Plan sets forth a realistic and feasible schedule for Project financing;
- The extent to which the Sources and Uses of Funds statement links the proposed timing of the revenues, proceeds from financing, and costs expended on an annual basis and presents an effective, efficient and desirable approach to financing of the Project;
- The extent to which the submission discusses and addresses appropriate risk sharing with TxDOT; and
- The extent to which the Conceptual Project Financing Plan provides a logical approach to balancing the sharing of revenues with the provision of concession fees to TxDOT.

5.4 PQS Evaluation Procedure

TxDOT anticipates utilizing one or more committees to review and evaluate the PQSs in accordance with the above criteria and to make recommendations to the Commission based upon such analysis. At various times during the deliberations, TxDOT may issue one or more requests for written clarification to the individual Proposers. TxDOT may also schedule interviews with one or more Proposers on a one-on-one basis, for the purpose of enhancing TxDOT's understanding of the PQSs and obtaining clarifications of the terms contained in the PQSs.

TxDOT may at any time request additional information or clarification from the Proposer or may request the Proposer to verify or certify certain aspects of its PQS. The scope, length and topics to be addressed shall be prescribed by, and subject to the discretion of, TxDOT. At the conclusion of this process, Proposers may be required to submit written confirmation of any new information and clarifications provided during an interview. If required, interviews shall be scheduled at a later date. Upon receipt of requested clarifications and additional information as described above, if any, the PQSs will be re-evaluated to factor in the clarifications and additional information.

Evaluations and rankings of PQSs are subject to the sole discretion of TxDOT, TxDOT staff and such professional and other advisors as TxDOT may designate. TxDOT will make the final determinations of the Proposers to be short listed, as it deems appropriate, in its sole discretion, and in the best interests of the State of Texas.

5.5 Changes in the Conceptual Project Development Plan and the Conceptual Project Financing Plan

TxDOT understands that as Proposers and TxDOT continue their individual and collective efforts to analyze and develop optimal development and financing plans for the Project, it is likely that the Conceptual Project Development Plans and the Conceptual Project Financing Plans proposed by Proposers will change and evolve. TxDOT wishes to encourage that evolution and continued focus by Proposers. Accordingly, it is TxDOT's intention to use the Conceptual Project Development Plans and the Conceptual Project Financing Plans only for purposes of evaluating the PQSs. Proposers may modify, alter and enhance their respective Project development plans and Project funding plans in conjunction with their Proposals, including changing, adding and deleting, sources of funds, financing structures and conceptual cost estimates. However, changes should not cast doubt on the validity of plans and concepts presented in the PQS and render the PQS a misrepresentation of the Proposer's intentions and capabilities.

5.6 Changes in Proposer Organization

TxDOT wants to ensure that Proposers are able to develop and attract the broad and worldwide expertise as may be necessary to participate in this procurement and acquire, develop, design, construct, finance, operate and/or optimally maintain the Project in an innovative, effective and efficient manner. Accordingly, TxDOT shall permit Proposers to add team members and reorganize the Proposer entity through the procurement process until submittal of the Proposals, except in the event of potential organizational conflicts of interest and/or deficiencies in qualifications and experience for the proposed role. Notwithstanding the foregoing, following submittal of the PQSs, the following actions may not be undertaken without TxDOT's prior written consent:

- deletion or substitution of a Proposer team member identified in its PQS;
- deletion or substitution of an equity owner of Proposer, a guarantor of Proposer or any other entity that will bear financial responsibility or liability for the performance of the Proposer; and
- other changes in the equity ownership or team membership of a Proposer.

5.7 RFP Procedure and Evaluation

The Commission has given its staff broad direction on the content and methodology for the solicitation of Proposals from short listed Proposers, the selection of a Proposer whose Proposal offers the apparent best value to TxDOT and the terms and conditions a CDA must contain to be deemed satisfactory. TxDOT staff and consultants intend to

work with the Commission during the RFQ process to define the RFP and negotiation process with specificity, which may include, at an appropriate time, industry review of a draft RFP and contract documents, among other information. Proposers are advised that the evaluation criteria and weightings for the calculations of the Proposals may differ from the criteria set forth herein to evaluate PQSs.

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 CDA. 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 PQSs, 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 Proposal, except that subcontractors 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 CDA, (ii) rejection of all Proposals by TxDOT or (iii) cancellation of the procurement, no Proposer or representative thereof shall have any ex parte communications regarding the RFQ, RFP or the procurement described herein with any member of the Texas Transportation Commission or with any TxDOT staff, advisors, contractors or consultants involved with the procurement, except for communications expressly permitted by the RFQ or RFP or except as approved in advance by the Director of the Texas Turnpike Division, in his/her sole discretion. The foregoing restriction shall not, however, preclude or restrict communications with regard to matters unrelated to the RFQ, 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. Any Proposer engaging in such prohibited communications may be disqualified at the sole discretion of TxDOT;

(D) The Proposers shall not contact stakeholders regarding the Project, including employees, representatives and members of the entities listed below:

- North Texas Transportation Authority, except for communications expressly permitted under the RFP;
- City of Dallas;
- City of Grand Prairie;
- City of Irving;
- Regional Transportation Commission; and
- Dallas Area Rapid Transit.

(E) Any communications determined to be improper, at the sole discretion of TxDOT, may result in disqualification;

(F) Any official information regarding the Project will be disseminated from TxDOT's office on Department letterhead. Any official correspondence will be in writing and signed by TxDOT's Authorized Representative or designee;

(G) TxDOT will not be responsible for any oral exchange or any other information or exchange that occurs outside the official process specified herein; and

(H) Proposers should not to contact any TIFIA Joint Projects office representative or consultant regarding the TIFIA application process, credit decisions, form of term sheet, form of credit agreement or any other matter relating TxDOT's application for TIFIA credit assistance for the Project. Similarly, Proposers should not contact any USDOT representative or consultant regarding the PABs allocation for the Project.

6.2 Public Information Act

Subject to the requirements of Texas Transportation Code Section 223.204, Texas Government Code Chapter 552 (the Public Information Act or the "Act") and the terms of this RFQ, PQSs will *not* be publicly opened or evaluated.

All written correspondence, exhibits, reports, printed material, photographs, tapes, electronic disks, and other graphic and visual aids submitted to TxDOT during this procurement process, including as part of the response to this RFQ, become the property of the State of Texas upon their receipt by TxDOT and will not be returned to the submitting parties. Except as provided by Section 223.204 of the Code, these materials are subject to the Act. Proposers shall familiarize themselves with the

provisions of the Act and Section 223.204 of the Code. In no event shall the State of Texas, TxDOT, or any of their agents, representatives, consultants, directors, officers or employees be liable to a Proposer or Proposer team member for the disclosure of all or a portion of a PQS submitted under this RFQ.

If TxDOT receives a request for public disclosure of all or any portion of a PQS, TxDOT will use reasonable efforts to notify the applicable responding Proposer team of the request and give such responding Proposer team an opportunity to assert, in writing and at its sole expense, a claimed exception under the Act or other applicable law within the time period specified in the notice issued by TxDOT and allowed under the Act.

If a Proposer has special concerns about information which it desires to make available to TxDOT but which it believes constitutes a trade secret, proprietary information, or other information excepted from disclosure, such responding Proposer team shall specifically and conspicuously designate that information **by placing "CONFIDENTIAL" in the header or footer of each such page affected.**

Nothing contained in this provision shall modify or amend requirements and obligations imposed on TxDOT by the Act or other applicable law. The provisions of the Act or other laws shall control in the event of a conflict between the procedures described above and the applicable law.

All prospective Proposers should obtain and thoroughly familiarize themselves with the Code and any applicable Rules. All PQSs shall conform to and contain the detailed information required by the Code and the Rules. Questions on the content and meaning of the Rules shall be submitted in writing as provided herein. Information submitted by Proposers may be made available to TIFIA representatives. TxDOT intends to follow procedures established by FHWA to avoid disclosure of such information under the Freedom of Information Act.

6.3 Organizational Conflicts of Interest

TxDOT is currently developing a policy regarding organizational conflicts of interest that will apply to all CDA projects, including the SH 161 Toll Road Project. The policy is undergoing an industry review process before it is finalized; however TxDOT will apply the draft policy when reviewing PQSs and subsequent Proposer requests to add new team members. As such, it provides guidance to firms interested in participating on Proposer teams for the Project. Prior to finalizing teaming arrangements, Proposers are advised to carefully review the draft policy, which may be found on TxDOT's website at <http://www.dot.state.tx.us/business/turnpikeconsultinfo.htm>. The draft policy may preclude certain firms and their entities from participating on a Proposer team.

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

- Wilbur Smith and Associates
- KPMG
- Goldman Sachs
- HNTB
- Nossaman, Guthner, Knox & Elliott, LLP
- Affiliates of any of the above

By submitting its PQS, each Proposer agrees that, if an organizational conflict of interest is thereafter discovered, the Proposer must make an immediate and full written disclosure to TxDOT that includes a description of the action that the Proposer has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest that the Proposer knew or should have known about but did not disclose is determined to exist during the procurement process, TxDOT may, at its discretion, disqualify the Proposer. If an organizational conflict of interest that the Proposer knew or should have known about but did not disclose exists and the Proposer has entered into a CDA as the Developer, TxDOT will cancel the CDA. In either case, TxDOT shall avail itself of any remedies it may have at law.

Proposers are also advised that TxDOT's policy is intended to augment applicable federal and state law. Such applicable law will also apply to Proposer teams and teaming and may preclude certain firms and their entities from participating on a Proposer team.

7. PROTEST PROCEDURES

7.1 Applicability

This Section 7.0 and Section 27.6 of the Texas Administrative Code set forth the exclusive protest remedies available with respect to this RFQ and prescribe exclusive procedures for protests regarding:

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

- (3) short listing determinations.

7.2 Required Early Communication for Certain Protests

Protests concerning the issues described in Section 7.1(1) may be filed only after the Proposer has informally discussed the nature and basis of the protest with TxDOT, following the procedures prescribed in this Section 7.2. Informal discussions shall be initiated by a written request for a one-on-one meeting delivered to the address specified in Section 3.3. The written request should include an agenda for the proposed one-on-one meeting. TxDOT will meet with the Proposer as soon as practicable to discuss the nature of the allegations. If necessary to address the issues raised in a protest, TxDOT may, in its sole discretion, make appropriate revisions to the RFQ documents by issuing addenda.

7.3 Deadlines for Protests

(1) Protests concerning the issues described in Section 7.1(1) must be filed as soon as the basis for the protest is known, but no later than 20 calendar days prior to the PQS Due Date, unless the protest relates to an Addendum to the RFQ, in which case the protest must be filed no later than 5 business days after the Addendum is issued.

(2) Protests concerning the issues described in Section 7.1(2) must be filed no later than 5 business days after receipt of the notification of non-responsiveness.

(3) Protests concerning the issues described in Section 7.1(3) must be filed no later than 10 days after the earliest of the notification of the shortlist and the public announcement of the shortlist.

7.4 Content of Protest

Protests shall completely and succinctly state the grounds for protest, its legal authority, and its factual basis, and shall include all factual and legal documentation in sufficient detail to establish the merits of the protest. Statements shall be sworn and submitted under penalty of perjury.

7.5 Filing of Protest

Protests shall be filed by hand delivery on or before the applicable deadline to the Assistant Executive Director for Engineering Operations, with a copy to the Office of General Counsel, Texas Department of Transportation, 125 E. 11th Street, Suite 702, Austin, TX 78701-2483, as soon as the basis for protest is known to the Proposer. The Proposer filing the protest shall concurrently file a copy of the protest with the other Proposers whose addresses may be obtained from TxDOT's website.

7.6 Comments from other Proposers

Other Proposers may file statements in support of or in opposition to the protest within 7 days of the filing of the protest. TxDOT shall promptly forward copies of all such statements to the protestant. Any statements shall be sworn and submitted under penalty of perjury.

7.7 Burden of Proof

The protestant shall have the burden of proving its protest. TxDOT may, in its sole discretion, discuss the protest with the protestant and other Proposers. No hearing will be held on the protest. The protest shall be decided on the basis of written submissions.

7.8 Decision on Protest

The Assistant Executive Director for Engineering Operations or his designee shall issue a written decision regarding the protest within 30 days after the filing of the detailed statement of protest. If necessary to address the issues raised in a protest, TxDOT may, in its sole discretion, make appropriate revisions to this RFQ by issuing Addenda.

7.9 Protestant's Payment of Costs

If a protest is denied, the Proposer filing the protest shall be liable for TxDOT's costs reasonably incurred to defend against or resolve the protest, including legal and consultant fees and costs, and any unavoidable damages sustained by TxDOT as a consequence of the protest.

7.10 Rights and Obligations of Proposers

Each Proposer, by submitting its PQS, expressly recognizes the limitation on its rights to protest provided in this Section 7.0, and expressly waives all other rights and remedies and agrees that the decision on the protest is final and conclusive. If a proposer disregards, disputes, or does not follow the exclusive protest remedies provided in this section, it shall indemnify and hold TxDOT and its officers, employees, agents, and consultants harmless from and against all liabilities, fees and costs, including legal and consultant fees and costs, and damages incurred or suffered as a result of such Proposer's actions. Each Proposer, by submitting a PQS, shall be deemed to have irrevocably and unconditionally agreed to this indemnity obligation.

8. TxDOT RESERVED RIGHTS

In connection with this procurement, TxDOT reserves to itself all rights (which rights shall be exercisable by TxDOT in its sole discretion) available to it under the Code, the

Rules and applicable law, including without limitation, with or without cause and with or without notice, the right to:

- Develop the Project in any manner that it, in its sole discretion, deems necessary. If TxDOT is unable to negotiate a CDA to its satisfaction with a Proposer, it may negotiate with the next highest rated Proposer, terminate this procurement and pursue other development or solicitations relating to the Project or exercise such other rights under the Code and other provisions of Texas law as it deems appropriate.
- Cancel this RFQ or the subsequent RFP in whole or in part at any time prior to the execution by TxDOT of a CDA, without incurring any cost obligations or liabilities.
- Issue a new request for qualifications after withdrawal of this RFQ or a subsequent RFP.
- Not issue an RFP.
- Reject any and all submittals, responses and PQSs received at any time.
- Modify all dates set or projected in this RFQ.
- Terminate evaluations of responses received at any time.
- Suspend and terminate CDA negotiations at any time, elect not to commence CDA negotiations with any responding Proposer and engage in negotiations with other than the highest ranked Proposer.
- Issue addenda, supplements and modifications to this RFQ.
- Appoint evaluation committees to review PQSs, make recommendations to the Commission and seek the assistance of outside technical experts and consultants in PQS evaluation.
- Require confirmation of information furnished by a Proposer, require additional information from a Proposer concerning its PQS and require additional evidence of qualifications to perform the work described in this RFQ.
- Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to this RFQ.
- Add or delete Proposer responsibilities from the information contained in this RFQ or any subsequent RFP.

- Negotiate with a Proposer without being bound by any provision in its proposal.
- Waive deficiencies in a PQS, accept and review a non-conforming PQS or permit clarifications or supplements to a PQS.
- Disqualify any Proposer that changes its submittal without TxDOT approval.
- Not issue a notice to proceed after execution of the CDA.
- Not pursue the TIFIA credit approval on behalf of the Proposers.
- Not seek an allocation for PABs on behalf of the Proposers.
- Exercise any other right reserved or afforded to TxDOT under this RFQ.

This RFQ does not commit TxDOT to enter into a contract or proceed with the procurement described herein. Except as expressly set forth in Section 3, TxDOT and the State of Texas assume no obligations, responsibilities, and 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 CDA, 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

Qualification Submittal

Proposers are required to assemble their PQS in the order prescribed and following the outline form contained in this Part. Italics indicate explanations or instructions to the Proposer as opposed to a request for information.

VOLUME 1

Volume 1 of the PQS shall contain the following:

General

(a) **Form A** (transmittal letter). A duly authorized official of the Proposer or lead firm must execute the transmittal letter in blue ink. For Proposers that are joint ventures, partnerships, limited liability companies or other associations, the transmittal shall have appended to it letters on the letterhead stationery of each entity holding an equity interest in the Proposer, 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, are correct, and accurately represent the role of the equity member's firm in the Proposer team.

(b) **Executive Summary:** An Executive Summary, not exceeding 10 pages. 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 PQS and its ability to satisfy the financial and technical requirements of the Project.

(c) **Confidential Contents Index:** A page executed by the Proposer that sets forth the specific items (and the section and page numbers within the PQS at which such items are located) that the Proposer deems confidential, trade secret or proprietary information protected by Section 223.204 of the Code or the Act (as defined below). Blanket designations that do not identify the specific information shall not be acceptable and may be cause for TxDOT to treat the entire PQS as public information. Notwithstanding the foregoing, the list required under this Subsection (b) is intended to provide input to TxDOT as to the confidential nature of a Proposer's PQS, but in no event shall such list be binding on TxDOT, determinative of any issue relating to confidentiality or a request under the Act (as defined below) or override or modify the provisions of Section 223.204 of the Code or TxDOT's responsibilities thereunder.

1. General/Experience

The following information relevant to qualifications of the Proposer, its equity owners, the lead or managing entity member of the Proposer team, all Major Non-Equity Members and any other team members that the Proposer wishes to identify in its PQS. The term "Major Non-Equity Members" shall mean the following team members, if such team members do not hold an equity interest in the Proposer: (i) the lead engineering firm, (ii) the lead contractor, (iii) the primary firms providing financial and investment services to the Proposer, and (iv) the firm responsible for traffic and revenue studies. The Proposer must identify all Major Non-Equity Members as defined above.

1.1 The Proposer

Identify the legal name of the Proposer. If the name is a DBA, identify underlying names. Identify a sole point of contact (a real person) and include the following information: name, title, address, telephone and fax numbers and electronic mail address. Identify the legal name and nature of the Proposer and the state of its organization.

1.2 Equity Members

For each equity member of the Proposer, identify the entity's role and the entity's legal nature and state of organization.

1.3 Major Identified Non-Equity Members

Identify each Major Non-Equity Members and any other team members that the Proposer wishes to identify in its PQS at this time ("Major Identified Non-Equity Member"). For each Major Identified Non-Equity Member of the Proposer, identify the entity's role and the entity's legal nature and state of organization.

1.4 Management Structure

Describe the Proposer's management structure, including its teaming arrangements and how the Proposer will institutionally operate, particularly in light of the complexity and phasing of Project development.

1.5.1 through 1.5.n Relevant Experience

Describe relevant experience held by the Proposer, each equity member of the Proposer and each Major Identified Non-Equity Member with:

- i. operation and maintenance of toll roads with a construction value of \$75 million or more.

- ii. operation and maintenance of public-private transportation projects.
- iii. design and construction of turnpike/highway improvements, including interchanges, with a construction value of \$75 million or more.
- iv. design-build, joint owner/contractor development, public-private partnership, comprehensive development and exclusive development agreements for transportation projects to which such entity has been party with a contract value of \$75 million or more.
- v. preparation of traffic and revenue studies for comparable projects.
- vi. successful financing of comparable projects as a principal, financial advisor and/or lead arranger/underwriter.
- vii. project and risk management.

All such projects in which the entity played a significant role during the past five years shall be included.

1.6.1 through 1.6.n Project References

With respect to each project identified pursuant to Section 1.5, include the project name and contract number, owner's name, address, contact name and current email address, phone and fax numbers, dates of work performed (if applicable), project description, description of work and percentage actually performed by such member entity, and project outcome or current status. If lengthy, project description may be expanded in Volume 3, Section C of the PQS.

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. For any entity identified in the PQS for which experience and qualifications have not been provided pursuant to Section 1.5, the Proposer may, but is not required to, briefly describe their qualifications and experience in performing the role that Proposer proposes to allocate to them. The description need not be lengthy or go into the level of detail sought in Section 1.5.

1.7 Public Entity O&M Services

Proposers are not required to designate in the PQS team members providing operations and maintenance services. If the Proposer chooses to designate a public entity to provide any operations and maintenance services, (i) as of the PQS Due Date, such entity may not be an equity member of the Proposer, a Major Non-Equity Member or otherwise have an unconditional agreement to perform such services as a subcontractor to the Proposer and (ii) the Proposer shall identify the public entity, describe the role it anticipates for the public entity and describe the public entity's relevant qualifications and experience in performing that role.

1.8 Legal Qualifications

The following information regarding legal issues affecting the Proposer and its team members shall be submitted:

1.8.1 Legal Issues

Identify and explain any significant anticipated legal issues which the Proposer must resolve in order to carry out the Project and its obligations under a CDA.

1.8.2 Legal Liabilities

Provide a list and a brief description of all instances during the last five years involving transportation projects in which the Proposer (or any other organization that is under common ownership with the Proposer), any equity member, or any Major Non-Equity Member 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 fax number (and e-mail address if available).

1.8.3 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 involving Proposer (or any other organization that is under common ownership with the Proposer), any equity member or any Major Non-Equity Member and involving an amount in excess of \$500,000 related to performance in capital transportation projects with a contract value in excess of \$25 million.

Include a similar list for all projects included in the response to Section 1.5, regardless of whether the dispute occurred during the past five years or involved the same organization that is on the Proposer's team. For each instance, identify an owner's representative with a current phone and fax number (and e-mail address if available).

With respect to the information solicited in Section 1.8.1, 1.8.2 and 1.8.3, failure to provide this information, conditional or qualified submissions (i.e., "to our knowledge", "to the extent of available information", "such information is not readily available", "such information is not maintained in the manner requested", etc.) to requests or questions posed, incomplete or inaccurate submissions or non-responsive submissions, or failure to provide information enabling TxDOT to contact owner representatives may, in the sole discretion of TxDOT, lead to a lower evaluation score and/or a "fail" rating for the team or disqualification from the procurement process.

2. Conceptual Project Development Plan

The Proposer's conceptual plan for development of the improvements and operation and maintenance of the Project shall be submitted, including:

2.1 General Approach

(a) A description of the Proposer's general approach to advancing Project development, assignment of risk, the results expected from implementation of the Proposer's Project development plan and the critical factors for the Project's success.

(b) A synopsis of the Proposer's plan to develop, design and construct the improvements described herein and to operate and maintain the Project, including discussion of life cycle costs for alternatives, commitment of resources, and use of subcontractors and suppliers.

(c) Conceptual development and implementation schedule based upon current levels of information, including close of finance, start of construction, substantial completion, revenue service, final acceptance, project phasing (as applicable) and other major milestones.

(d) Approach for other key Project functions, including safety, permit procurement, utility relocation and adjustment services, environmental protection, connecting facilities, ITS capabilities and public relations.

2.2 Key Assumptions

Description of key assumptions used in developing the Conceptual Project Development Plan shall be submitted.

2.3 Relationships, Roles and Responsibilities

The Proposer's view of the roles and responsibilities of TxDOT, the Proposer and third parties in connection with the Project (in terms of allocation of work, facility implementation/delivery, and long-term operations and maintenance) must be stated. Describe the optimal TxDOT/Proposer relationship and the nature of TxDOT participation sought by the Proposer in connection with Project development and how that will achieve success. Activities relating to the plan of finance may be identified as the Proposer deems appropriate to allow the reader to understand the interconnections between the finance process and Project development, but should also be addressed in the Conceptual Project Financing Plan. The Proposer may wish, but is not required, to address some or all of the following areas:

- Environmental Clearance/Planning/Permitting;
- Design and engineering;
- Geotechnical, utility and hazardous materials investigations;
- Utility relocations;
- Feasibility studies;
- Construction, sequence of construction, traffic control plan and project incentives and disincentives;
- Design and construction quality control/quality assurance;
- Community involvement;
- Local government interaction;
- Facility warranties, maintenance and preservation, handback procedures;
- Operations and maintenance;
- Capital improvements;
- Toll collections and system interoperability; and
- Any other role or area not described above that the Proposer believes is key to

successful Project development.

2.4 Environmental Approvals

Submit a statement whether the proposed development plan would require any environmental approvals to be obtained and description of the process for obtaining such approvals, including how compliance with Title 43, Texas Administrative Code, §§27.3(h) and (i) will be ensured.

2.5 Availability of Resources

Describe materials, equipment, and qualified personnel resources available to the Proposer which it can and will commit to development of the Project.

2.6 Previous Studies

Submit a list, if any, of all studies previously completed by Proposer with respect to the Project.

2.7 Opposition

Submit a list of any anticipated Project opponents, and a description of potential social, economic and environmental impacts and potentially competing facilities and projects.

3. Conceptual Project Financing Plan

The Conceptual Project Financing Plan is expected to be consistent with the Conceptual Project Development Plan, including the phasing/schedule milestones presented. Proposers are encouraged to creatively explore possible private contributions towards financing the Project.

Proposers are to use the following assumptions in developing the different elements of the Conceptual Project Financing Plan:

- The CDA is awarded and notice to proceed is issued January 2008;
- Term of the Concession – 50 year operating period;
- Toll rates assumed to be \$0.15 per mile in starting operating year;
- Toll rates are inflated every five years to reflect the effect of annual inflation;
- Full diamond interchange at Conflans Road will be constructed and tolled;

- Appropriate traffic ramp-up will be applied to forecasts; and
- Unless otherwise indicated, all terms in the Programmatic Term Sheet will apply.

Proposers are to include the following elements in the Conceptual Project Financing Plan:

3.1 Conceptual Revenue and Cost Estimates

Proposers shall provide cost estimates broken down into design, construction, operations, maintenance, major rehabilitation and financing on an annual basis over the entire term of the concession. Proposers are encouraged to provide additional subcategories (such as utility adjustments, property relocation expenses, etc.) to the extent they are available. The conceptual cost estimate must be expressed both in 2006 dollars and on a nominal annual basis and indicate the inflation and cost escalation assumptions used.

These estimates shall be accompanied by an explanation of the methodology of how the revenue and cost estimates were developed (or will be further developed) and all supporting assumptions. Proposers shall address at minimum, the following:

- Anticipated traffic levels;
- The estimated cost per mile for routine inspection and maintenance activities;
- The estimated cost of toll collection and enforcement activities;
- The timing, cost and scope of major refurbishment of toll technology and civil works;
- Any operating and maintenance cost that would be provided by TxDOT;
- The basis for the capital cost estimate; and
- Other potential sources of revenue, including any connecting facilities that might enhance revenue streams.

3.2 Conceptual Financing Strategy

Proposers shall provide a discussion of their proposed financing strategy and indicate the types of financing (including equity) that will be used over the entire term of the concession. For each type of financing, the Proposer shall include the following information:

- Anticipated proceeds
- Term including details of grace periods, repayment or redemption schedules
- Fees, Interest rate, and margins
- Repayment terms
- Significant financial covenants
- Description of anticipated security, bonding, insurance or guarantee requirements
- Other requirements or conditions that materially impact the Proposer's ability to raise financing or draw down on committed financing after financial close

Proposers are encouraged to identify potential financing approaches that they have considered, the advantages of the approach they have selected and include a justification as to why the proposed financing strategy presents the most efficient and effective way to finance the transaction.

3.3 Statements of Proposed Sources and Uses of Funds

Proposers shall provide a separate statement of proposed sources and uses of funds on an annual basis for the entire term of the concession (including both the development phase and for the operating phase, identifying all anticipated sources and uses of funds for the Project. Proposers shall also provide a discussion of the assumptions supporting this statement.

The sources and uses of funds statement and related discussion for the development phase portion should clearly describe any proposed concession fee and/or other revenue sharing mechanisms that would come into affect prior to tolling. Additionally, it should identify the capital structure, detailing all sources of financing, the timing and the amount of each class of debt, equity and any other source of funds.

The sources and uses of funds statement and related discussion for the operating phase portion should include toll revenue and any proposed revenue sharing arrangements that relate to the operating phase. It should identify anticipated operating and maintenance costs, and the anticipated repayment schedule for debt and equity. Additionally the source and uses of funds statement for the operating phase should reflect the final capital structure, if take out financing is contemplated, detailing all sources of financing, the timing and the amount of each class of debt, equity and any other source of funds.

The statements are expected to be consistent with the Conceptual Project Development Plan, the Conceptual Revenue and Cost Estimates.

3.4 Approach to Achieve Financial Close

Proposers shall describe the overall approach that they would implement to achieve financial close. The approach should describe the participating firms, key personnel and supplementary resources that will be responsible for managing all financing activities. Additionally, the approach should identify the proposed timeframes and key activities for implementation of the financing plan, including the timeframe for:

- Execution of CDA and any commitment letters from identified financial sources (debt and equity),
- Completion of traffic and revenue studies,
- Completion of credit ratings (where appropriate),
- Agreements with financing entities, and
- Any other major activities associated with securing Project financing.

The timeframe should clearly indicate which activities would be completed prior to the submission of the detailed proposal, between selection of the Developer and execution of the CDA and following execution of the CDA.

3.5 Project Risks

The Conceptual Project Financing Plan shall contain a discussion of the risk transfer proposed in the Programmatic Term Sheet as it relates to the SH 161. Proposers are encouraged to address at least the following categories of risk:

- Toll revenues
- Financing
- Competing Facilities
- Existing Improvements
- Third party construction
- Site conditions
- Hazardous materials
- Utility Relocations
- Technology Enhancements

- Insurance (Design and Construction)
- Insurance (O&M)
- Compensation Events
- Relief Events

3.6 Alternate Scenarios

Proposers are encouraged but not required to provide a discussion and an analysis of alternate scenarios (separate and apart from the base case addressed in Section 3.1 to Section 3.3) that could be contemplated in structuring the SH 161 project. Some of the areas that could be addressed include:

- An alternate term of the CDA, taking into account appropriate considerations such as expansion of the facility, life cycle costing and handback standards;
- Other potential sources of revenues, including any connecting facilities that might enhance revenue streams;
- Accelerated dates or phased implementation of the SH 161 facility; and
- Different initial toll rates and escalation.

VOLUME 2

Volume 2 of the PQS shall contain the following:

Section A Financial Statements and Credit Ratings

Financial statements for the Proposer and equity members of Proposer for the three most recent completed fiscal years, audited by a certified public accountant in accordance with generally accepted accounting principles (GAAP). If the Proposer is a newly formed entity and does not have independent financial statements, financial statements for the equity owners shall be sufficient (and the Proposer shall expressly state that the Proposer is a newly formed entity and does not have independent financial statements). Financial statements must be provided in **U.S. dollars**. If financial statements are not available in U.S. dollars, the Proposer 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. If audited financials are not available for an equity owner, the PQS shall include unaudited financials for such member, certified as true, correct and accurate by the chief financial officer or treasurer of the entity.

Proposers are advised that if any equity member of the selected Proposer's team does not have audited financials, chooses to provide audited financials statements of a parent company, or if it fails to meet the financial capability criteria stated in the RFQ, TxDOT may require a guarantee of the CDA to be provided by a parent company or separate entity acceptable to TxDOT.

The PQS shall identify the proposed guarantor for each equity member that does not have audited financials and shall include audited financials for each proposed guarantor. Proposers shall also note that TxDOT may, in its discretion based upon the review of the information provided under this Section A, also specify that an acceptable guarantor is required as a condition of short listing.

If the team or any other entity for whom financial information is submitted as required hereby files reports with the Securities and Exchange Commission, then such financial statements shall be provided through a copy of their annual report on Form 10K. For all subsequent quarters, provide a copy of any report filed on Form 10Q or Form 8-K which has been filed since the latest filed 10K.

The Proposer shall identify any information which it believes is entitled to confidentiality under Section 223.204 of the Code and the Act, by placing the word "confidential" on each page as described in Part A, Section 6.

Required financial statements:

- i. Opinion Letter (Auditor's Report)
- ii. Balance Sheet
- iii. Income Statement
- iv. Statement of Changes in Cash Flow
- v. Footnotes

If financial statements are prepared in accordance with principles other than U.S. GAAP, a letter from the certified public accountant of the applicable entity, discussing the areas of the financial statements that would be affected by a conversion to U.S. GAAP.

In addition appropriate credit ratings must be supplied for each Proposer and equity member to the extent such entities have credit ratings.

Section B Material Changes in Financial Condition

Information regarding any material changes in financial condition for Proposer and each equity owner for the past three years and anticipated for the next reporting period. If no material change has occurred and none is pending, the Proposer and/or equity owner, as applicable, shall provide a letter from its chief financial officer or treasurer so certifying. Set forth below is a representative list of events intended to provide examples of what TxDOT considers a material change in financial condition. This list is intended to be indicative only. At the discretion of TxDOT, any failure to disclose a prior or pending material change may result in disqualification from further participation in the selection process. In instances where a material change has occurred, or is anticipated, the affected entity shall provide a statement describing each material change in detail, the likelihood that the developments will continue during the period of performance of the Project development, and the projected full extent of the changes likely to be experienced in the periods ahead. Estimates of the impact on revenues, expenses and the change in equity will be provided separately for each material change as certified by the CFO or treasurer. References to the notes in the financial statements are not sufficient to address the requirement to discuss the impact of material changes. Where a material change will have a negative financial impact, the affected entity shall also provide a discussion of measures that would be undertaken to insulate the Project from any recent material changes, and those currently in progress or reasonably anticipated in the future. If the financial statements indicate that expenses and losses exceed income in each of the 3 completed fiscal years (even if there has not been a material change), the affected entity shall provide a discussion of measures that will be undertaken to make the entity profitable in the future and an estimate of when the entity will be profitable.

List of Representative Material Changes

- An event of default or bankruptcy involving the affected entity, a related business unit within the same corporation, or the parent corporation of the affected entity;
- A change in tangible net worth of 10% of shareholder equity;
- A sale, merger or acquisition exceeding 10% of the value of shareholder equity prior to the sale, merger or acquisition which in any way involves the affected entity, a related business unit, or parent corporation of the affected entity;
- A change in credit rating for the affected entity, a related business unit, or parent corporation of the affected entity;
- Inability to meet conditions of loan or debt covenants by the affected entity, a related business unit or parent corporation of the affected entity which has required or will require a waiver or modification of agreed financial ratios, coverage factors or other loan stipulations, or additional credit support from shareholders or other third parties;
- In the current and three most recent completed fiscal years, the affected entity, a related business unit in the same corporation, or the parent corporation of the affected entity either: (i) incurs a net operating loss; (ii) sustains charges exceeding 5% of the then shareholder equity due to claims, changes in accounting, write-offs or business restructuring; or (iii) implements a restructuring/reduction in labor force exceeding 200 positions or involves the disposition of assets exceeding 10% of the then shareholder equity;
- Other events known to the affected entity, a related business unit or parent corporation of the affected entity which represents a material change in financial condition over the past three years or may be pending for the next reporting period.

Section C Off-balance Sheet Liabilities

A letter from the chief financial officer or treasurer of the entity or the certified public accountant for each entity for which financial information is submitted, identifying all off balance sheet liabilities.

Package the information separately for each separate entity with a cover sheet identifying the name of the organization and its role in the Proposer's organization (i.e., equity member, lead design firm, subcontractor, etc.).

VOLUME 3

Volume 3 of the PQS shall contain the following:

Section A Forms B and C

Executed originals of **Form B** and **Form C** for the Proposer, each equity member of Proposer and each Major Non-Equity Member. **Proposers are advised that Form Bs may be released to the public and media.**

Section B Surety Letter

Evidence from a surety or an insurance company indicating that the Proposer team is capable of obtaining a Performance Bond and Payment Bond in an amount of at least \$250 million. The evidence regarding bonding capacity shall take the form of a letter from a surety or insurance company indicating that such capacity exists for the Proposer or the team member with the primary responsibility for construction. Letters indicating "unlimited" bonding capability are not acceptable. The surety or insurance company providing such letter must be rated in one of the two top categories by two nationally recognized rating agencies of at least A- (A-minus) or better or Class VIII or better by "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. In instances where the response to Part B, Volume 2, Section B contains descriptions of proposed or anticipated changes in the financial condition of the Proposer or any other entity for which financial information is submitted as required hereby for the next reporting period, a certification that the surety's analysis specifically incorporates a review of the factors surrounding such changes and identifying any special conditions which may be imposed before issuance of surety bonds for the Project.

If a Proposer is a joint venture, partnership, limited liability company or other association, separate letters for one or more of the individual equity participants are acceptable, as is a single letter covering all equity participants.

TxDOT has not yet determined the specific amount or form of payment and performance bonds and guarantees that it will require for the Project. Proposers are advised that the RFP may require performance and/or guaranty amounts in excess of the \$250 million amount referenced above. TxDOT shall delineate such requirements, which will be consistent with applicable law, in the RFP.

Section C Personnel Qualifications

Separate resumes for the following key personnel and management staff:

- i. Proposed project manager;
- ii. Proposed deputy project manager;
- iii. Proposed lead individual from each equity team member;
- iv. Proposed lead individual from each Major Non-Equity Member;
- v. Any other key members of the Proposer's management team; and
- vi. Any other individuals that the Proposer wishes to identify at this time.

Three references for each of the project manager and the deputy project manager. References shall be previous owners or clients with whom the project manager and the deputy project manager have worked within the past five years and shall include the name, position, company or agency and current addresses and phone and fax numbers.

An express, written statement committing that the individuals designated in the PQS for the positions or roles described in clauses (i)-(vi) of this Section C shall be available to serve the role so identified in connection with the Project. While TxDOT recognizes personnel availability and scheduling issues impact the Proposers, Proposers are urged only to identify and proffer personnel that they believe will be available for, and intend to assign to work on, the Project for the positions identified. Procedures concerning changes of such personnel will be set forth in the RFP; however, requests to implement such changes will be reviewed very carefully by TxDOT and shall be subject to prior TxDOT approval. Failure to obtain TxDOT approval for such changes may result in disqualification of the Proposer by TxDOT.

Section D Project Descriptions

Volume 3 of the PQS may include the project descriptions discussed in Part B, Volume 1, Sections 1.1 through 1.6.n.

Part C

Exhibits and Forms

EXHIBIT A LIST OF PROJECT DOCUMENTS

1. Regional Transportation Council Resolution Approving the Texas Metropolitan Mobility Plan and Unified Transportation Program Projects for the Dallas-Fort Worth Metropolitan Area – R4-05;
2. Regional Transportation Council Resolution Requesting the NTTA Compete for Toll Collection Services on TxDOT-Related Toll Roads in North Central Texas – R5-01;
3. Regional Transportation Council Resolution Approving Comprehensive Development Agreement on SH 161 – R6-04;
4. Supplemental Final Environmental Impact Statement (SFEIS) Re-evaluation;
5. Draft Supplemental Final Environmental Impact Statement (SFEIS) Re-evaluation for Tolling;
6. Level II traffic and Revenue Study for SH 161;
7. SH 161 Preliminary Design Schematic*;
8. SH 161 Conceptual Tolling Schematic;
9. Geotechnical Investigation Boring Logs;
10. Phase II Subsurface Environmental and Preliminary Geotechnical Investigation for Parcel #4 on SH 161 north of the West Fork Trinity River;
11. Soil, Groundwater and Trash Management Plan for Parcel #4 on SH 161 north of the West Fork Trinity River;
12. PS&E for the following projects will be available on the date of the Pre-PQS workshop:

PROJECT: NH2005(148)
CONTROL: 2964 **SECT:** 01 **JOB:** 029
LIMITS: IH 20 TO SPUR 303

PROJECT: NH2005(747)
CONTROL: 2964 **SECT:** 01 **JOB:** 030
LIMITS: SPUR 303 TO DALWORTH ROAD

PROJECT: NH2000(208)
CONTROL: 1068 **SECT:** 04 **JOB:** 115
LIMITS: DALWORTH ROAD TO CARRIER PARKWAY

PROJECT: NH2005(255)
CONTROL: 2964 **SECT:** 01 **JOB:** 034
LIMITS: SPUR 303 TO DALWORTH ROAD

PROJECT: NH2004(524)
CONTROL: 2964 **SECT:** 01 **JOB:** 024
LIMITS: CONFLANS DRIVE TO N. OF SH 183

PROJECT: HP266(100)
CONTROL: 1068 **SECT:** 04 **JOB:** 110
LIMITS: ON IH 30 FROM TARRANT COUNTY LINE TO NW 7TH

PROJECT: DB-NH98(107)
CONTROL: 2964 **SECT:** 01 **JOB:** 014
LIMITS: S. of SH 183 to N. OF SH 183

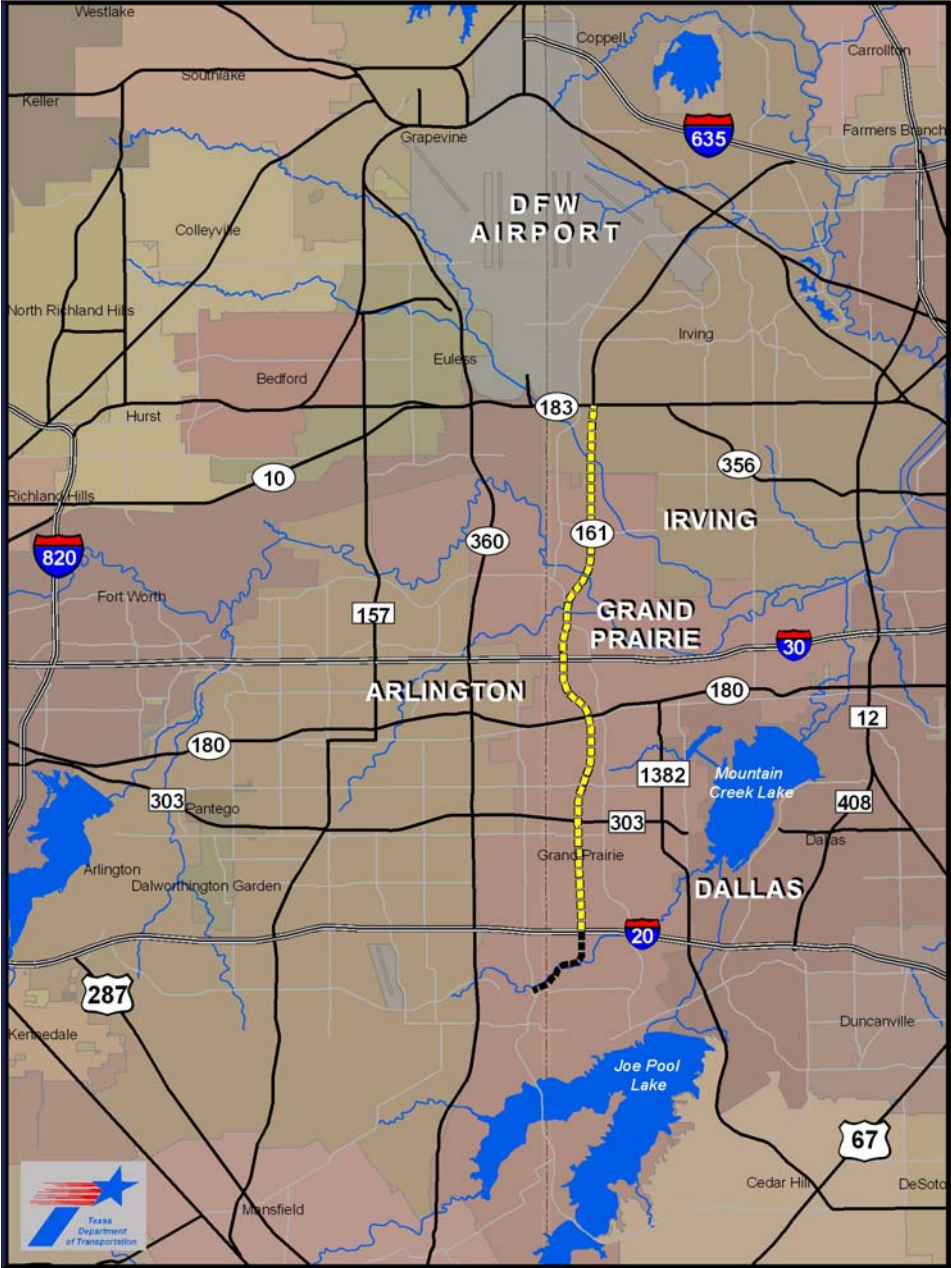
PROJECT: F1125(3)
CONTROL: 2964 **SECT:** 01 **JOB:** 05
LIMITS: N. OF SH 183 TO N. OF BELTLINE ROAD

PROJECT: N/A
CONTROL: 2964 **SECT:** 01 **JOB:** 031
LIMITS: CARRIER PARKWAY TO ROCK ISLAND ROAD

13. Lake Ridge Parkway Preliminary Design Schematic;
14. Costing;
15. NTTA MOU; and
16. Ratheon CDA.

*Indicates not available in electronic media. Interested parties may acquire through the TxDOT Dallas District Office Library.

EXHIBIT B PROJECT MAP



FORM A
TRANSMITTAL LETTER

PROPOSER: _____

PQS Date: [Insert Date]

Texas Department of Transportation
125 East 11th Street, Fifth Floor
Austin, Texas 78701
Attn: Mr. Phil Russell, P.E.

The undersigned ("Proposer") submits this proposal and qualification submittal (this "PQS") in response to that certain Request for Competing Proposals and Qualifications dated as of May __, 2006 (as amended, the "RFQ"), issued by the Texas Department of Transportation ("TxDOT") to develop, design, construct, finance, operate and maintain tolled main lanes and related facilities along an extension of SH 161 from SH 163, south to I-20 through the cities of Irving and Grand Prairie, as well as other potential facilities to the extent necessary for connectivity and financing, through a Comprehensive Development Agreement ("CDA"). 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 PQS, are the following:

- Volume 1: Transmittal Letter (this Form A), Executive Summary, Confidential Information List, Entity Qualifications, Legal Qualifications, Conceptual Project Development Plan, Conceptual Project Financing Plan;
- Volume 2: Financial Qualifications; and
- Volume 3: Forms B and C, Surety Letter, Personnel Qualifications, Project Descriptions.

Proposer acknowledges receipt, understanding and full consideration of all materials posted on TxDOT's website with respect to the Project (<http://www.dot.state.tx.us>) by linking through **e-Business / Consultant Services / Texas Turnpike Authority** to and through the [Notice of Intent to Issue a Request for Proposals / Qualifications](http://www.dot.state.tx.us/tta/contract/request.htm) to the web page: <http://www.dot.state.tx.us/tta/contract/request.htm> 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 PQS.

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

Proposer further understands that all costs and expenses incurred by it in preparing this PQS 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, as described in Part A, Section 3.2 of the RFQ.

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

This PQS 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 pages]

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

FORM B

**INFORMATION REGARDING
PROPOSER, EQUITY MEMBERS AND MAJOR NON-EQUITY MEMBERS**

(for Public Release)

Name of Proposer: _____

Name of Firm:

Year Established: _____ Individual Contact: _____

Individual's Title: _____

Federal Tax ID No. (if applicable): _____ Telephone No.: _____

North American Industry Classification Code: _____ Fax No.: _____

Name of Official Representative (if applicable): _____

Business Organization (check one):

- Corporation (If yes, then indicate the State and Year of Incorporation.)
- Partnership (If yes, complete Sections A-C and the Certification form (Form C) for each member.)
- Joint Venture (If yes, complete Sections A-C and the Certification form (Form C) for each member.)
- Limited Liability Company (If yes, complete Sections A-C and the Certification form (Form C) for each member.)
- Other (describe)

A. Business Name: _____

B. Business Address: _____

Headquarters: _____

Office Performing Work: _____

Contact Telephone Number: _____

C. If the entity is a Joint Venture, Partnership or Limited Liability Company, indicate the name and role of each member firm in the space below. Complete a separate Information form (Form B) for each member firm and attach it to the PQS. Also indicate the name and role of each other financially liable party and attach a separate form.

Name of Firm

Role

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

By: _____
Title: _____

Print Name: _____
Date: _____

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

FORM C
CERTIFICATION

Proposer: _____

Name of Firm: _____

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?

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?

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.

* The term "Affiliates" includes parent companies, subsidiary companies, joint venture members and partners, and other financially liable parties for that entity.

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: _____