Exhibit A

DEFINITIONS AND ACRONYMS

"Addenda/Addendum" means supplemental additions, deletions, and modifications to the provisions of the RFP after the release date of the RFP.

"Alternative Technical Concepts" or **"ATCs"** means the concepts described in ITP Section 3.1.

"BAFO" means Best and Final Offer, and is an element of the Proposal Revision as described in ITP Section 4.0.

"Base Scope 1" has the meaning set forth in Section 1.1.1 of the Technical Provisions.

"Base Scope 1 Concept Plans" has the meaning set forth in Section 1.1.1 of the Technical Provisions.

"Base Scope 1 Design-Build Price Value" has the meaning set forth in ITP Section 5.5.1.

"Base Scope 1 Maintenance Price Value" has the meaning set forth in ITP Section 5.5.3

"Capital Maintenance Agreement" or "CMA" means the agreement to provide capital maintenance services for the Project for 15 years unless terminated as provided therein.

"Commission" has the meaning set forth in ITP Section 1.5.

"Concept Plans" shall mean, for purposes of the Proposal, the Base Scope 1 Cconcept plans.

"Design-Build Agreement" or **"DBA"** means the agreement to develop, design and construct the Project.

"Design-Build Contractor" or **"DB Contractor"** has the meaning set forth in ITP Section 1.1.

"Development Plan Evaluation Subcommittee" or **"DPES"** means the subcommittee that performs the initial review of the Technical Proposal and provides evaluation recommendations to the ESRC as set forth in ITP Section 5.1.

"Design-Build Price" means the Base Scope 1 design-build price.

"Disadvantaged Business Enterprise" or **"DBE"** has the meaning set forth in 49 C.F.R. Part 26.

"Equity Member" means (a) each entity with a direct equity interest in the Proposer (whether as a member, partner, joint venture member or otherwise) and (b) each entity

with a 10% or greater indirect interest in the Proposer. Notwithstanding the foregoing, if the Proposer is a publicly traded company, shareholders with less than a 10% interest in the Proposer shall not be considered Equity Members.

"Evaluation and Selection Recommendation Committee" or **"ESRC"** means the committee that will review and evaluate the Proposals and make a recommendation to the Steering Committee as set forth in ITP Section 5.1.

"FHWA" means the Federal Highway Administration.

"Financial Proposal" means the financial information included in a Proposal submitted by a Proposer providing the information requested in Exhibit C-1 of the ITP.

"Financial Proposal Revision" means the financial information included in a Proposal Revision submitted by a Proposer providing the information requested in Exhibit C-1 of the ITP.

"Instructions to Proposers" or **"ITP"** means the documents, including exhibits and forms, included in the RFP containing directions for the preparation and submittal of information by the Proposers in response to the RFP.

"Key Personnel" means the individuals designated by a Proposer pursuant to Section 3.2.4 of Exhibit B to the ITP.

"Key Subcontractor" means any subcontractor that will (a) fill any of the following key project roles: project management, lead design firm, quality control management and quality assurance management or (b) serve as a key task leader for geotechnical, hydraulics and hydrology, structural, environmental, utility or right-of-way issues. *See* Form Q.

"Maintenance Price" means the Base Scope 1 maintenance price.

"Major Participant" means each Equity Member and each member of the Proposer's organization with: (a) primary responsibility for design; (b) primary responsibility for construction; (c) primary responsibility for capital maintenance; or (d) a proposed subcontract with a value greater than or equal to $10 million (excluding subcontracts with Suppliers).

"Major Professional Services Firm" has the meaning set forth in Section 3.2.2 of Exhibit B to the ITP.

"Option Design-Build Price" has the meaning set forth in ITP Section 5.5.4.

"Option Maintenance Price" has the meaning set forth in ITP Section 5.5.5.

"Original Proposal" has the meaning set forth in ITP Section 1.1 and is the original Proposal submitted by a Proposer in response to the RFP on October 27, 2015.

"Payment for Work Product Agreement" means the agreement between a Proposer and TxDOT set forth as ITP Exhibit H that governs the payment for work product and use of the Proposer's work product, if unsuccessful, in accordance with ITP Section 6.3.

"Person" means, for purposes of Exhibit J to the ITP, any corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or other legal entity.

"Post-Selection Deliverables" has the meaning set forth in ITP Section 5.12.

"Preliminary Project Baseline Schedule" means the Project schedule required to be submitted with the Proposal and meeting the requirements set forth in Section 4.3.2 of Exhibit B to the ITP.

"Pre-Proposal Submittal" has the meaning set forth in ITP Section 2.4.

"Price Proposal" means the price offer included in the Proposal submitted by a Proposer as set forth on the forms requested in Exhibit C-2 to the ITP.

"Price Proposal Revision" means the price offer included in the Proposal Revision submitted by a Proposer as set forth on the forms requested in Exhibit C-2 to the ITP.

"Project" has the meaning set forth in ITP Section 1.1.

"Project Development Plan" means the plan submitted with the Technical Proposal providing the information requested in Section 4.0 of Exhibit B to the ITP.

"Project Management Plan" means the portion of the Project Development Plan providing the information requested in Section 4.1 of Exhibit B to the ITP.

"Project Website" has the meaning set forth in ITP Section 2.2.

"Proposal" has the meaning set forth in ITP Section 1.1, and includes the Original Proposal submitted by a Proposer in response to the RFP, as modified by the Proposal Revision in accordance with ITP Sections 4.0 and 5.8.

"Proposal Due Date" means the deadline for submission of Proposal Revisions identified in ITP Section 1.5.

"Proposal Revision" has the meaning set forth in ITP Sections 4.0 and 5.8, which includes a Technical Proposal Revision, Financial Proposal Revision, and Price Proposal Revision.

"Proposal Security" means the proposal bond as described in Section 3.3.2 of Exhibit B to the ITP.

"Proposer" means the consortium, joint venture or entity, whether or not yet formed, which is intended to act as the DB Contractor of the Project.

"Qualifications Submittal" or **"QS"** means the submission made by a Proposer in response to the RFQ, including all clarifications thereto submitted in response to requests by TxDOT.

"Quality Management Plan" means the portion of the Project Development Plan providing the information requested in Section 4.2 of Exhibit B to the ITP.

"Reference Information Documents" or **"RIDs"** means the documents and information described in ITP Section 1.2.1.

"Request for Qualifications" or **"RFQ"** means TxDOT's Request for Qualifications issued on July 31, 2014, as amended.

"Request for Proposal Revisions" means Addendum # 6 to the RFP, as amended by Addendum # 7.

"Request for Proposals" or **"RFP"** means the set of documents, as amended by Addenda, identifying the Project and the work to be performed and materials to be furnished in response to which a Proposal may be submitted by a Proposer. The RFP includes the ITP, DBA Documents**,** CMA Documents and RIDs. The RFP is issued only to Proposers that have been shortlisted following RFQ review.

"RFP Website" has the meaning set forth in ITP Section 2.2.

"Right of Way" or **"ROW"** means any real property (which term is inclusive of all estates and interests in real property), improvements, and fixtures within the lines delineating the outside boundaries of the Project set forth in the ROW Maps included in the RIDs, as such boundaries may be adjusted from time to time in accordance with the DBA Documents. The term specifically includes all air space, surface rights, and subsurface rights within the boundaries of the ROW.

"Rules" has the meaning set forth in ITP Section 2.1.

"Segment H" means the portion of the Project generally described in Technical Provisions Section 1.2.1.

"Segment I-1" means the portion of the Project generally described in Technical Provisions Section 1.2.2.

"Segment I-2" means the portion of the Project generally described in Technical Provisions Sections 1.2.3 and 1.2.4.

"Stakeholder" means parties that may have a stake in the Project by virtue of their location or funding, including the Chambers County Toll Road Authority ("CCTRA"), Harris County Toll Road Authority ("HCTRA"), Houston-Galveston Area Council, Liberty County Toll Road Authority ("LCTRA"), Montgomery County Toll Road Authority ("MCTRA"), the TxDOT Houston District Southeast Area Office, the TxDOT Beaumont District Liberty Area Office, cities, counties, utilities, USDOT, and FHWA and their

officers, directors, and employees. For purposes of ITP Section 2.2.3(d), the Texas Department of Public Safety and any other public law enforcement agency with jurisdiction to provide traffic patrol, traffic law enforcement and other police and public safety services in accordance with applicable Laws and agreements with State and local agencies will not be considered Stakeholders.

"Steering Committee" has the meaning set forth in ITP Section 5.9.

"Subsurface Utility Engineering" or **"SUE"** means an engineering process for accurately identifying the quality of subsurface utility information needed for highway plans and for acquiring and managing that level of information during the development of a highway project, as more particularly described by the American Society of Civil Engineers ("ASCE") standard, ASCE C-I 38-02, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data."

"Surety" means the individual or entity committing to provide any of the bonds identified in the RFP.

"Technical Proposal" means all of the documents, certifications and information required to be submitted in the Proposal pursuant to Exhibit B to the ITP.

"Technical Proposal Revision" means all of the documents, certifications and information required to be submitted in a Proposal Revision pursuant to Exhibit B to the ITP.

"Technical Solutions" means the portion of the Project Development Plan providing the information requested in Section 4.3 of Exhibit B to the ITP.

"Total Proposal Score" has the meaning set forth in ITP Section 5.2.1.

"TxDOT's Authorized Representative" has the meaning set forth in ITP Section 2.2.1.

"Toll System Integrator Agreement" has the meaning set forth in ITP Section 1.4.4. For the purpose of this definition, "system" means one or more of the toll collection systems that TxDOT wishes to develop, install, test, integrate and maintain pursuant to the Toll System Integrator Agreement.

"USDOT" means the United States Department of Transportation.

For definitions of other initially capitalized terms, *see* the DBA Documents and CMA Documents.

Exhibit B

TECHNICAL PROPOSAL REVISION INSTRUCTIONS

1.0 General Instructions

This Exhibit B describes the submission format for Technical Proposals Revision and outlines the required information that will comprise a Technical Proposal Revision for the Design-Build Agreement ("DBA") and Capital Maintenance Agreement ("CMA").

Proposer shall submit the information required by this Exhibit B in the organization and format specified herein. The Technical Proposal Revision shall be organized in the order listed in Exhibit E, and shall be clearly indexed. Each component of the Technical Proposal Revision shall be clearly titled and identified.

All forms named herein are found in Exhibit D, unless otherwise noted. All blank spaces in the Proposal forms must be filled in as appropriate. No substantive change shall be made in the Proposal forms.

Evidence of signature authority shall be provided for all individuals signing forms on behalf of each Major Participant. Item B of the section entitled "Additional Information to be Provided with Proposal Letter" of Form BAFO A identifies requirements regarding evidence of signature authorization for the Proposal Letter. Similar authorization shall be provided for all other signatories for Major Participants.

No dollar amounts may be included in the Technical Proposal Revision.

2.0 Format

The Technical Proposal Revision shall be limited to an aggregate of 80 pages (if double-sided, 40 sheets), plus the executive summary, resumes, appendices and exhibits containing required forms, graphs, matrices, schedule, drawings and other pertinent data.

3.0 Contents of the Technical Proposal Revision

The required contents and organization of the Technical Proposal Revision are presented in this Exhibit B and summarized in the Proposal Revision checklist provided in Exhibit E. Proposers are to provide all the information set out in this Exhibit B. A copy of the checklist for the Technical Proposal Revision shall be included in the Technical Proposal Revision. Proposer shall not amend the order or change the contents of the checklist except to provide the required cross reference to its Proposal Revision.

The Technical Proposal Revision shall consist of the following major elements:

(a) Executive Summary;

(b) Proposer Information, Certifications and Documents (including required Forms BAFO A, BAFO B-1 through BAFO E, BAFO G through BAFO J, BAFO P through BAFO Q, BAFO S and BAFO U);

(c) Project Development Plan; and

(d) Appendices.

3.1 Executive Summary

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 Proposer's Proposal Revision and Proposer's ability to satisfy the financial and technical requirements of the Project. The Executive Summary shall not exceed ten single-sided pages.

The Executive Summary shall not include any information regarding pricing. It shall, at a minimum, include the following:

(a) An explanation of the organization and contents of the Proposal.

(b) A summary of any changes to Proposer's Qualifications Submittal ("QS").

(c) A summary of any changes in Proposer's organization, Equity Members, other Major Participants and Key Personnel since submission of the QS.

(d) A summary of the proposed management, decision making, and day-to-day operation structure of Proposer, and a statement that each Major Participant has committed to provide the specified people.

(e) A summary of the Project Development Plan including:

- A summary of the Project Management Plan,
- A summary of the Quality Management Plan, and
- A summary of the Technical Solutions.

(f) A summary of the Proposer's approach to satisfying the Disadvantaged Business Enterprise ("DBE") requirements.

3.2 Proposer Information, Certifications and Documents

3.2.1 Technical and Financial Proposal Letter

The Proposal Revision shall include the Proposal Letter (Form BAFO A). Proposer shall attach to the Proposal Letter the documents and information described in the section entitled "Additional Information to be Provided With Proposal Letter" of Form A, provided however, Proposer may attach to the original Form A an envelope including four certified copies of the required organizational documents in lieu of providing organizational documents with each of the copies of the Technical Proposal Revision.

3.2.2 Information About Proposer, Major Participants and Other Subcontractors

The Proposal Revision shall include a completed chart on Form BAFO B-1, including the names, contact information, role in the organization, licensing information, and description of work (if applicable) for Proposer and Equity Members.

The Proposal Revision shall include completed Form BAFO B-2 providing information about Proposer and its team as specified therein.

The Proposal Revision shall include a completed Form BAFO B-3 providing information regarding (i) each Major Participant excluding Equity Members; (ii) each firm that will provide engineering, architectural, surveying, planning, quality assurance and/or other professional services for development of the Project valued at $2 million or more ("Major Professional Services Firm"); and (iii) all other subcontractors identified by Proposer as of the Proposal Due Date identified in Section 1.5 of the Instructions to Proposers ("ITP"). Proposer is advised that all Major Professional Services Firms must be identified at the time of the Proposal Revision, and that, as a condition to final award and execution of the DBA and CMA, the successful Proposer must provide evidence that it and its Major Participants hold all necessary licenses and professional registrations.

The Proposal Revision shall include copies of organizational documentation described in the section entitled "Additional Information to be Provided With Proposal Letter" of Form BAFO A for Proposer and Equity Members, as well as other documentation required by Form B-2. Copies of the certified copies of organizational documents submitted with the Original Proposal may be submitted with the Proposal Revision. If any modification to the organizational documents for such entity is contemplated prior to award, Proposer shall provide a brief description of the proposed legal structure and draft copies of the underlying organizational documents (described in the section entitled "Additional Information to be Provided With Proposal Letter" of Form A) for such proposed entity.

3.2.3 Responsible Proposer Questionnaire

The Proposal Revision shall include Form BAFO C, the "Responsible Proposer Questionnaire", signed by Proposer, each Major Participant and any other team member identified in the Proposal Revision. Form C may be provided by Proposer on its own behalf and on behalf of the Equity Members, or it may be provided by Proposer on its own behalf and the individual Equity Members on their own behalf. The form executed by Proposer shall be signed by the same individual(s) who sign the Proposal Letter. The forms signed by Equity Members shall be signed by an authorized representative of such Equity Members and the Proposal Revision shall include evidence of signature authorization for such individual.

3.2.4 Key Personnel

3.2.4.1 Designation of Key Personnel Prior to Proposal Due Date

Each Proposer shall submit a package that includes an original and five copies of the information specified in this Section 3.2.4.1 to TxDOT, by the date and time for submittal of changes in Key Personnel specified in ITP Section 1.5 for review and written approval by TxDOT, in its sole discretion. The package shall be delivered to the address set forth in ITP Section 2.2.1, and shall include a list of any proposed changes in Key Personnel from those identified in the QS or Original Proposal, as appropriate, along with copies of resumes for each such person (which must contain the individual's qualifications, contact information and relevant work experience) and contact information for three references for each individual (i.e., Maintenance Manager and Maintenance Safety Manager).

TxDOT discourages changes in Key Personnel from the individuals listed in the QS or Original Proposal, as appropriate, and is under no obligation to approve such requests and may disapprove the request at its sole discretion. In addition, if any individual included in the Proposal Revision is also proposed as a Key Personnel or for another position on any other TxDOT procurement, Proposer shall include in the package either: (1) a statement certifying that said individual will be available to assume its designated role on SH 99 Grand Parkway Segments H, I-1 and I-2 if Proposer is the successful Proposer, or (2) the resume of a qualified alternate.

If TxDOT, in its sole discretion, disapproves a proposed Key Personnel or (if applicable) its proposed alternate, Proposer shall submit the information required above for its proposed substitute, for review and approval by TxDOT in accordance with the foregoing process, at least ten Business Days prior to the Proposal Due Date identified in Section 1.5 of the ITP. The Proposal Revision may not include any Key Personnel previously disapproved by TxDOT in writing.

The Proposal Revision shall identify the pre-approved Key Personnel and shall include Form BAFO E identifying personnel work assignments, as well as a statement committing the Proposer to maintain such individual's availability for and

active involvement in the Project. The Proposal Revision also shall include, in an appendix, copies of the resumes and contact information described in this Section 3.2.4.1 on Form BAFO G for each designated Key Personnel position. Refer to the DBA Documents and CMA Documents, as applicable, for information regarding time commitment requirements for Key Personnel and TxDOT's rights if it determines that any such personnel are not devoting sufficient time to the prosecution and performance of the work required for the Project. Proposer may not make any changes in its Key Personnel after receipt of TxDOT approval as specified in this Section 3.2.4.1, except as provided in the DBA Documents and CMA Documents, as applicable.

3.2.4.2 Information Regarding Key Personnel in Proposal Revision

The individuals with direct responsibility for each of the following categories of work are considered Key Personnel:

- overall management of the Project (Project Manager);
- overall responsibility for all safety aspects of the Project (Safety Manager);
- control of quality, and the implementation and operation of the Project's quality systems (Lead Quality Manager as described in Sections 2.2.6 and 2.2.7.4 of the Technical Provisions);
- environmental compliance (Environmental Compliance Manager);
- right-of-way (ROW Acquisition Manager, as described in Section 7.2.7 of the Technical Provisions);
- utility adjustment (Utility Manager as described in Section 6.2.3 of the Technical Provisions);
- design of the Project (Design Manager, Lead Roadway Design Engineer, and Lead Drainage Engineer as described in Section 2.2.7.4 of the Technical Provisions);
- construction, coordination of subcontractors and scheduling (Construction Manager); and
- Project maintenance management and maintenance safety (Maintenance Manager, as described in Section 19.1.2 of the Technical Provisions and Section 1.2.1 of of Exhibit 2 to the CMA and Maintenance Safety Manager as described in Section 4.2 of Exhibit 2 to the CMA).

3.2.5 Letters Approving Key Personnel and Changes in Proposer's Organization

The Proposal Revision shall include a copy of the approval letter(s) issued by TxDOT pursuant to Section 3.2.4.1 approving the Key Personnel. If Proposer's organization has changed since submission of the QS or Original Proposal, as appropriate, Proposer shall specifically describe such changes and, if applicable, include a copy of TxDOT's approval letter provided under ITP Section 2.11.

3.2.6 Certification Regarding Buy America

The Proposal Revision shall include Form BAFO U, regarding Buy America requirements.

3.2.7 DBE Requirements

The Proposal Revision shall include a Certification of DBE Goal Attainment or Good Faith Efforts (Form BAFO H) confirming that Proposer will obtain DBE commitments equal to or exceeding the DBE participation goal or will exercise good faith efforts to substantiate its attempts to meet the goal.

3.2.8 Child Support Statement for State Grants, Loans and Contracts

The Proposal Revision shall include Form I regarding child support obligations, for Proposer and each Major Participant.

3.2.9 Organizational Conflict of Interest Disclosure

Attention is directed to TxDOT's rules on conflicts of interest, which are set forth at 43 Texas Administrative Code § 27.8. The Proposal Revision shall include a certification on Form BAFO J describing potential organizational conflicts of interest, including disclosure of all relevant facts concerning any past, present, or currently planned interest that may present an organizational conflict of interest.

3.2.10 Certification Regarding Equal Employment Opportunity

The Proposal Revision shall include Form BAFO P, regarding participation in contracts or subcontracts subject to the equal employment opportunity clause and the filing of required reports.

3.2.11 Guarantor Letter

The Proposal Revision shall include, (if a guaranty is required): (a) an irrevocable letter signed by the guarantor in the form of Form BAFO T committing to provide a guaranty in the form of Exhibit 13 of the DBA and a guaranty in the form of Exhibit 9 of the CMA, concurrently with execution and delivery of the DBA Documents and CMA

Documents by Proposer; (b) evidence of authorization of the signatory to that letter; (c) Form BAFO B-1 for the guarantor; (d) financial information described in Section 2.0 of Exhibit C-1; and (e) such other information concerning the guarantor as TxDOT may request. A guaranty of DB Contractor's obligations under the DBA is required under the following circumstances: (i) Proposer identified a guarantor in its QS or was advised by TxDOT that a guaranty would be required as a condition to the shortlisting of Proposer; (ii) DB Contractor's organization is a newly formed corporation or a limited liability entity (in which case the Equity Members shall each provide guaranties of the DB Contractor's obligations under the DBA and the CMA); (iii) the combined Tangible Net Worth of DB Contractor and its Equity Members is less than $400,000,000; or (iv) the form of organization of Proposer and/or the financially responsible parties comprising Proposer changes and TxDOT determines, in its sole discretion, to require a guarantor as a condition to approving such change under ITP Section 2.11.

If a guaranty is required, the combined Tangible Net Worth of the guarantor, DB Contractor and its Equity Members must be at least $400,000,000. Tangible Net Worth shall be determined based on audited financial statements for the fiscal year most recently ended.

3.2.12 Surety Information

The Proposal Revision shall include the following information regarding the Surety for the bonds to be provided in accordance with Section 8 of the DBA and Section 7 of the CMA:

(a) Name of bonding company (must be 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) and the name and address of the agent.

(b) Whether or not the listed bonding company defaulted on any obligation within the past ten years, and the details in the event of such default.

3.2.13 Certification Regarding Ineligible Contractors

The Proposal Revision shall include Form BAFO S, certifying that Proposer and its Subcontractors are not declared by the Federal Government or have not voluntarily declared themselves debarred, suspended or ineligible from doing transactions with the Federal Government or any of its agencies, and making other certifications as described on Form BAFO S.

3.2.14 Key Subcontractors

The Proposal Revision shall include a list in the form of Form BAFO Q of the names of all Key Subcontractors that Proposer intends to use to complete the Work under the DBA.

3.2.15 Payment for Work Product Agreement

Proposer, at its option, may submit with the Proposal Revision an executed copy of the Payment for Work Product Agreement in the form of Exhibit H. Although submission of an executed Payment for Work Product Agreement is at the Proposer's election, submission of an executed Payment for Work Product Agreement with the Technical Proposal Revision shall be a condition to eligibility for the payment for work product as provided under Section 6.3 of the ITP. Any failure to submit an executed Payment for Work Product Agreement with the Technical Proposal Revision will constitute a rejection of the payment for work product and render the Proposer ineligible for such payment.

3.2.16 Non-Collusion Affidavit

The Technical Proposal Revision shall include Form BAFO F, certifying that the Proposal Revision is not the result of and has not been influenced by collusion.

3.2.17 Certification Regarding Use of Contract Funds For Lobbying

The Technical Proposal Revision shall include Form BAFO R to be executed by the Proposer, all members or joint venturers of the Proposer and all other Major Participants including Equity Members, certifying that no federal appropriated funds have been or will be paid for lobbying activities and no other funds have been paid or will be paid to influence governmental decisions regarding this Project.

3.3 Proposal Security

The Technical Proposal Revision shall include a proposal bond as specified below.

3.3.1 Forfeiture of Security

Forfeiture of Proposal Security in accordance with Section 4.8 of the ITP will constitute liquidated damages. By submitting its Proposal Revision, Proposer agrees and acknowledges that such liquidated damages are reasonable in order to compensate TxDOT for damages it will incur as a result of Proposer's failure to satisfy the obligations under the Request for Proposals ("RFP") and Request for Proposal Revisions to which Proposer agreed when submitting its Original Proposal and Proposal Revision. Such damages include potential harm to the credibility and reputation of TxDOT's transportation improvement program, including the Comprehensive Development Agreement ("CDA") program, with policy makers and with the general public, delays to the Project and additional costs of administering this or a new procurement (including engineering, legal, accounting, overhead and other administrative costs). By submitting its Proposal Revision, Proposer further acknowledges that these damages would be difficult and impracticable to measure and

prove, are incapable of accurate measurement because of, among other things, the unique nature of the Project and the efforts required to receive and evaluate proposals for it, and the unavailability of a substitute for those efforts. The amounts of liquidated damages stated herein represent good faith estimates and evaluations as to the actual potential damages that TxDOT would incur as a result of Proposer's failure to satisfy the obligations under the RFP and Request for Proposal Revisions to which Proposer agreed when submitting its Proposal and Proposal Revisions, and do not constitute a penalty. By submitting its Proposal Revision, Proposer agrees to such liquidated damages in order to fix and limit Proposer's costs and to avoid later Disputes over what amounts of damages are properly chargeable to Proposer.

3.3.2 Form of Proposal Bond

A proposal bond in the amount of $25 million and in the form of Form BAFO K shall be provided by 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. The proposal bond shall be subject to forfeiture in accordance with ITP Section 4.8. Each proposal bond will be retained until the DBA Documents and CMA Documents have been fully executed, after which the proposal bond for each unsuccessful Proposer, except those proposal bonds which have been forfeited, will be returned to the respective Proposers. The proposal bond for the successful Proposer shall be returned at such time as Proposer has satisfied all conditions of execution and award set forth in ITP Section 6.1. If the next best value Proposer is notified during the 180-day period that it is selected for negotiations, such Proposer shall obtain an extension of the Proposal Bond for the period until 270 days after the Proposal Due Date.

For purposes of the Proposal Revision, the Proposer may either submit (1) a duly authorized and executed new proposal bond on Form BAFO K or (2) a duly authorized and executed rider to the proposal bond, using Form BAFO K-1 evidencing that the term of its original proposal bond has been extended to accommodate a 180-day period from the Proposal Due Date. If the next best value Proposer is notified during the 180-day period that it is selected for negotiations, such Proposer shall obtain an extension of the proposal bond for the period until 270 days after the Proposal Due Date.

4.0 Project Development Plan

Proposer shall submit a Project Development Plan which shall consist of the following three components:

– Project Management Plan (Section 4.1),

– Quality Management Plan (Section 4.2), and

– Technical Solutions (Section 4.3).

For purposes of the Request for Proposal Revisions, Proposers shall submit the three components identified above in their entirety.

The Project Development Plan shall provide the information relevant for developing the Proposer's schematic; the project management philosophy, plan and schedule for executing the Project, including management structure and personnel; and the quality control procedures for any related contract administration, describing how Proposer plans to achieve and satisfy the project requirements.

For each required component of the Project Development Plan, as detailed below, Proposer shall include in its Proposal Revision a response based on Base Scope 1 and the H-West Option.

4.1 Project Management Plan

The Project Management Plan shall set out Proposer's management approach to design, construction, traffic management, maintenance, transition upon completion of the CMA, documentation, testing and auditing/reporting for the Project, risk, community outreach and organizational structure. The minimum information to be provided within the Project Management Plan is detailed in this Section 4.1.

4.1.1 General Project Management

The Project Management Plan shall describe Proposer's overall Project management plan and approach to the work (including design, construction, and maintenance), including at least the following:

(a) A description of the methods to be used to assure necessary communication and documentation within Proposer's team, including communication among the sub-organizations and management personnel.

(b) A description of how Proposer intends to: (i) control and coordinate the various Subcontractors; (ii) interface with TxDOT, its consultants and relevant federal, State and local agencies; (iii) interface with applicable railroads and Utility Owners; and (iv) control Project schedules and minimize Project costs.

(c) A description of Proposer's plan to manage permitting and third-party coordination and approvals.

(d) An organization chart outlining the basic structure of Proposer's Project organization (including the design, construction and maintenance sub-organizations) and a description of the work to be accomplished by each member of the management team and each sub-organization, including identified Subcontractors and Suppliers (at all tiers).

(e) Information describing how each of the Key Personnel will fit into the organization, including a description of each key person's function and responsibility relative to the Project, and indicating the percent of time that the person will devote to the Project.

(f) All major training program(s) to ensure that continuous improvement practices are being implemented.

(g) Information regarding the current and projected workload and backlog of Proposer team (including all Major Participants), including the Proposer's or team member's plan for allocating its resources and personnel among the projects.

(h) A preliminary safety plan meeting the requirements set forth in the Technical Provisions.

4.1.2 Risk Management

The Project Management Plan shall describe the approach to identification, management, mitigation, and allocation of Project-specific risks, including a risk matrix which shall identify the following at a minimum:

(a) Significant risk categories during the design, construction and maintenance of the Project.

(b) The potential consequences of the identified risks.

(c) Risk-mitigation strategies to eliminate or reduce specific risks.

4.1.3 Schedule and Cost Control Management

The Project Management Plan shall provide a description of Proposer's plan and management approach for schedule and cost control on the Project, including at least the following:

(a) Describe Proposer's document, cost control and schedule management system to be used to control and coordinate the cost and schedule of the work during the term of the DBA and the CMA, including during design, construction, and maintenance.

(b) Describe the proposed Project schedule methodology and cost control approach and include at least the following:

- A description of the proposed approach for calculating progress performance on a monthly basis and preparing payment requests.

- A description of how Proposer will approach re-scheduling of its work to achieve schedule recovery objectives and how these objectives will be enforced with its work force and Subcontractors.

4.1.4 Environmental Management

The Project Management Plan shall provide a description of Proposer's plan and management approach to environmental compliance and permitting, including at least the following:

(a) The method Proposer will use to ensure planning commitments are integrated into design, construction and maintenance of the Project.

4.1.5 Mentoring and Job Training

The Project Management Plan shall provide a description of Proposer's plan and management approach for mentoring and job training on the Project, including at least the following:

(a) A description of Proposer's concept to utilize and train DBEs, including:

1. A description of standard subcontracting methods to effectively manage subcontractor performance as it relates to the Technical Provisions.

2. An outline of areas of work where DBEs may be utilized.

3. A description of the training program to be utilized to educate and train employees in various job functions as well as training for environmental and site specific issues.

(b) A description of Proposer's plan to mentor DBEs and other small businesses, including:

1. Eligibility criteria for participation in the program.

2. Program goals for mentoring on public private partnerships, design, construction and maintenance.

3. A mentoring program for educational workshops, including the following:

- A description of targeted technical disciplines;
- Development of a short term plan;
- Development of a long term plan; and

- Frequency of the workshops.

4. Procedures and methodologies for dividing work into economically feasible units to encourage small business participation.

(c) Criteria for evaluating the effectiveness of the small business program.

(d) A description of Proposer's individual job training plan to assist with developing women, Blacks, Hispanics and others (including, American Indian, Alaskan, Native, Asian or Pacific Islander) in the "critical crafts" designated annually by TxDOT. The plan shall include training goals for on-Site and off-Site, and a schedule for training. The schedule for training shall include job classifications, number of trainees per classification and the anticipated start times in each classification.

Proposer's Mentoring and Job Training plan, as approved by TxDOT, shall be incorporated into the DBA Documents as Exhibit 8 and into the CMA Documents as Exhibit 5 following award of the DBA and CMA, and shall be subject to TxDOT review, comment and approval.

4.1.6 Tolling Facility Infrastructure Coordination

The Proposal Revision shall provide a description of its plan to coordinate and interface its work with the Systems Integrator. The information shall include at least the following:

(a) The proposed method for coordinating with the toll systems integrator to ensure on-time opening of the Project.

4.1.7 Maintenance Management Plan

The Proposal Revision shall provide a Maintenance Management Plan which shall describe how Proposer will meet the performance requirements set forth in the CMA. For the Maintenance Management Plan, the Proposal shall address at least the following:

(a) Identification of any maintenance subcontractors known prior to the Proposal Due Date.

(b) The plan and approach to annual capital maintenance and capital maintenance reporting, and how they will be used to meet the requirements of the CMA.

(c) The plan and approach for meeting transition requirements and transfer of capital maintenance responsibility for the Project to TxDOT at the expiration

or termination of the CMA, including a preliminary list of specialized maintenance equipment that will be turned over to TxDOT.

(d) The approach to traffic control and operations during capital maintenance activities, including lane closures and other traffic restrictions.

(e) Inspection and testing of Project items (including pavements, shoulders, bridges, sound and retaining walls, embankments and cut slopes) and the identification and classification of defects and inspection failures.

(f) How defects or faults in any aspect of the Project's infrastructure shall be classified and rectified within appropriate time limits.

(g) The proposed program for the planning, implementation and completion of future capital maintenance repairs, and Renewal Work activities during the term of the CMA. The information shall describe the approach to programming of works.

(h) The plans, policies and procedures for ensuring the health and safety of personnel involved in the Project and the general public affected by the Project for the term of the CMA.

(i) The plan and approach to maintenance of the pavement.

4.2 Quality Management Plan

The Proposal Revision shall include a Quality Management Plan that provides a description of Proposer's plan and approach to quality management during all stages of the Project through mobilization, the design and construction of the Project and the maintenance and transition of the Project at the end of the CMA. The Quality Management Plan will outline the systems that will be employed to ensure that the work is executed with minimal requirement for corrective work. The plan shall detail the systems employed to detect noncompliance, correct the consequences of noncompliance and to prevent the reoccurrence of repeat noncompliance.

The Quality Management Plan shall include at least the following:

(a) Quality control and quality acceptance procedures, including:

- How the quality management staff will be functionally independent so that such individuals will have the authority to effect changes in the event of DB Contractor's failure to comply with the DBA Documents and CMA Documents.

- A description of the process for design submittals, design reviews, design deficiency corrections and change tracking.

- Quality Assurance and Quality Control procedures for design and construction.
- The proposed quality control plan including a description of the processes and procedures to be used in the performance of Maintenance Services and associated activities.
- A description of the approach to acceptance testing and inspection.
- The interface between the design quality, construction quality and maintenance quality processes.
- Proposed quality management documentation procedures.
- The approach to implement TxDOT oversight procedures.
- The approach to ensuring conformance with federal oversight requirements.
- The proposed audit regime.
- The approach to documenting and curing construction deficiencies and noncompliance issues and ensuring that repeat mistakes are avoided.

(b) Organizational structure, including:

- A description of the proposed design, construction and maintenance quality program organization, including the name and resume (on Form BAFO G) of Key Personnel responsible for quality management.
- An organization chart showing the quality management structure, along with a staffing plan by position title.

4.3 Technical Solutions

The Technical Solutions component of the Proposal Revision shall describe the Proposer's solutions demonstrating the technical feasibility of the Project and Proposer's approach to implementing the work and shall include a Design and Construction Plan, a Preliminary Project Baseline Schedule and additional associated information, as described in this Section 4.3. The Technical Solutions shall also include information with respect to approved Alternative Technical Concepts ("ATCs"), perceived added value items and the incorporation of new technologies as follows:

(a) Specifically, for all ATCs, Proposer shall:

- Specifically state whether any approved ATCs are included in the Proposal Revision, with reference to the ATC identification number assigned by TxDOT; and

- Describe how the ATC is used and provide cross-references to other elements of the Proposal Revision that are affected by the ATC.

(b) For perceived added value components of the Proposal Revision, Proposer shall specifically identify characteristics of its Proposal Revision which Proposer considers to improve upon the Project's technical requirements, as set forth in the DBA Documents and the CMA Documents, and which bring additional benefits and/or value to TxDOT and the public.

4.3.1 Design and Construction Plan

The Design and Construction Plan shall include information identified in Section 4.3.1.1 through Section 4.3.1.5 relevant to Proposer's schematic and proposed approach for Base Scope 1 and the H-West Option.

Proposer's schematic shall clearly identify the work to be completed by DB Contractor. Changes in alignments or other elements proposed by Proposer's schematic to the extent they will require an evaluation for compliance with the TxDOT-Provided Approvals and possibly re-evaluations and delays associated with such re-evaluations will be at DB Contractor's risk.

Items which do not apply to Proposer's proposed approach are to be specifically noted as such. For all of the items not required, backup information is to be provided which supports the non-applicability of the items.

4.3.1.1 Construction Staging, Sequencing and Traffic Management

The Proposal Revision shall provide a description of the construction staging, sequencing and traffic control to maintain traffic during the construction of the Project under the DBA and during Maintenance Services under the CMA. The information shall include at least the following:

(a) The overall traffic management and control and sequencing approach.

(b) Concept drawings and description of the proposed construction staging including those at major interchanges and steps that will be taken to minimize disruptions to the traveling public and impacts on the Stakeholders and communities.

(c) Concept drawings that clearly indicate the configuration of the completed Work, including general limits of Work, transitions, temporary construction,

traffic control and construction sequencing, access control, toll facilities, and provisions for future ultimate construction.

4.3.1.2 Right of Way Acquisition Plan

The Proposal Revision shall provide a description of the approach to performing ROW services for the Project. The information shall include at least the following:

(a) The approach describing how the acquisition of ROW and any necessary relocation services will be managed by Proposer in conjunction with TxDOT, local officials and the Office of the Attorney General. The approach must also describe how acquisition of ROW will be incorporated into the Project schedule to avoid delays.

(b) A description of the quality control methods that Proposer will employ to assure that all property owners' rights under the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, are being satisfied, including, without limitation, the safeguards and policies Proposer will implement to ensure, that no coercive actions, as described in 49 C.F.R. § 24.102(h), will result from advancing a portion of ROW to the construction stage or any other actions that may be undertaken that could adversely affect the ROW acquisition process.

4.3.1.3 Utilities

The Proposal Revision shall provide a description of the utility work required for the Project. The information shall include at least the following:

(a) The intended means of communication and planning of construction to keep Utility Owners informed of the construction schedule, the means of construction and changes that may affect their facilities.

(b) The proposed methods of design and construction related to utility relocation and protection.

(c) The proposed methods to minimize utility conflicts during design and construction and the approach for managing conflicts.

(d) The proposed methods to facilitate cooperation from Utility Owners, including, without limitation, the approach to negotiating utility adjustment agreements and resolving betterment issues.

4.3.1.4 Drainage

The Proposal Revision shall provide a description of the drainage for the Project. The information shall include at least the following:

(a) Description of the drainage system including identification of contributing drainage areas, major crossings, mitigation of discharges and detention requirements.

(b) General concept plan drawing(s) showing the preliminary overall surface water collection system along with a general layout of the identified major drainage trunk lines and cross drainage structures, including outfall locations to accommodate the ultimate configuration.

(c) Proposer's concept plan for providing temporary drainage or construction sequencing of portions of the drainage network prior to completion of entire drainage system.

(d) Description of the approach for connecting to existing or proposed drainage system(s), including identification of impacted owners and/or operators.

(e) Description and plan drawing(s) defining the approximate limits of temporary construction and drainage easements necessary for completion of the Project drainage work.

4.3.1.5 Roadway

The Proposal Revision shall provide a description of the roadway components for the Project. The information shall include at least the following:

(a) Preliminary plan and profile schematic sheets for mainlanes, frontage roads, interchanges and crossing roadways for the Concept Plan.

(b) Schematic sheets shall include typical sections and general project roadway information such as ROW and Project limits, design speeds and functional classification(s).

(c) Proposed refinements in the horizontal and vertical geometric configuration of the Concept Plan.

(d) Roadway and interchange geometry to accommodate the ultimate configuration.

(e) A description of all existing roadways and structures to be closed, demolished, left as is, or incorporated into the Project.

(f) The Proposer's proposed pavement designs for the Project and the applicable roadway and approximate station limits for each proposed pavement design, as well as a tabulation of the design k-values, resilient modulus, or other basis for the pavement thickness designs.

(g) A detailed life cycle plan for meeting the objectives of a 30-year pavement design and up to 15-year CMA period, including the Renewal Work and Routine Maintenance for the Project.

4.3.2 Preliminary Project Baseline Schedule

The Proposal Revision shall provide a Preliminary Project Baseline Schedule for Base Scope 1, including the H-West Option (as described in Section 1 of the Technical Provisions) and narrative for all portions of the Project and include at least the following:

(a) Narrative which describes the proposed execution of the work for the term of the DBA.

(b) A description of the approach used for preparing, controlling and updating the Baseline Schedule, for calculating progress performance, and preparing Draw Requests on a monthly basis.

(c) A Preliminary Project Baseline Schedule containing all major work activities or milestones to Work Breakdown Structure ("WBS") Level IV for the design and construction period, as well as for the warranty and CMA periods, as set forth for the respective WBS Level in Attachment 2-2 to the Technical Provisions. This Preliminary Project Baseline Schedule shall be included in an Appendix in Section D of the Technical Proposal Revision.

(d) A description of the approach to integrate subcontract activities into the Proposer's scheduling and reporting system.

(e) A description of the approach to managing resources and activities, both its own and subcontractors, and if necessary to recover schedule slippage.

(f) Achievement of Substantial Completion of the Project by no later than 1,674 days from NTP1.

Proposer's Preliminary Project Baseline Schedule submission shall not limit, modify or alter TxDOT's ability to review and approve the Preliminary Project Baseline Schedule, and selection of a Proposer shall not be deemed to be acceptance or approval of Proposer's Preliminary Project Baseline Schedule.

Exhibit C-1

FINANCIAL PROPOSAL REVISION INSTRUCTIONS

1.0 General Instructions

This Exhibit C-1 describes the submission format for Financial Proposal Revisions and outlines the required information that will comprise the Financial Proposal Revision for the Design-Build Agreement ("DBA") and Capital Maintenance Agreement ("CMA").

Proposer shall submit the information required by this Exhibit C-1 in the organization and format specified herein. The Financial Proposal Revision shall be organized in the order listed in Exhibit E, and shall be clearly indexed. Each component of the Financial Proposal Revision shall be clearly titled and identified.

1.1 Format of Financial Proposal Revision

All financial information provided in the Financial Proposal Revision shall be in U.S. dollar currency only.

If there are any discrepancies between the hard copy and electronic copy of any quantitative information provided in the Financial Proposal Revision, the hard copy version will prevail. If there are any differences between individual line amounts and totals, the individual line amounts will prevail.

1.2 Contents of Financial Proposal Revision

A copy of the checklist for the Financial Proposal Revision set forth in Exhibit E shall be included in the Financial Proposal Revision. Proposer shall not amend the order or change the contents of the checklist except to provide the required cross reference to its Proposal Revision.

Proposers shall include with the Financial Proposal Revision a copy of Forms BAFO B-1 and BAFO B-2 submitted with the Technical Proposal Revision, as described in Exhibit B Section 3.2.2.

2.0 Financial Capacity Information

Proposers shall clearly identify any differences between the financial capacity information submitted in the Proposal Revision, information submitted in the Original Proposal and the information submitted in the Qualifications Submittal ("QS").

The Financial Proposal Revision shall include the following information for Proposer, all Equity Members and any required guarantors:

- Audited financial statements (fiscal year end and quarterly) for all periods subsequent to those included in the QS and the Original Proposal.

- In addition, interim unaudited financial statements for the period since the most recent completed fiscal year or quarter for Proposer, Equity Members and any required guarantors are to be provided.

The financial statements, whether for the most recent completed fiscal year or for the period since the most recent completed fiscal year, must meet the following requirements:

1) Financial statement information must include:

   i. Opinion Letter (Auditor's Report)

   ii. Balance Sheet

   iii. Income Statement

   iv. Statement of Changes in Cash Flow

   v. Footnotes.

2) Financial statements must meet the following requirements:

   a. **GAAP/IFRS –** Financial statements must be prepared in accordance with U.S. Generally Accepted Accounting Principles ("U.S. GAAP") or International Financial Reporting Standards ("IFRS"). If financial statements are prepared in accordance with principles other than U.S. GAAP or IFRS, a letter must be provided from a certified public accountant discussing the areas of the financial statements that would be affected by a conversion to U.S. GAAP or IFRS.

   b. **U.S. Dollars –** Financial statements must be provided in U.S. dollars. If financial statements are not available in U.S. dollars, the Proposer must convert the financial statements to U.S. dollars and provide a summary of the conversion methods and applicable foreign exchange rates used to do so.

   c. **Audited –** Financial statements must be audited by an independent party qualified to render audit opinions (e.g., a certified public accountant). If audited financials are not available for an Equity Member and any required guarantors, the Financial Proposal Revision shall include unaudited financial statements for such Equity Member or guarantor, certified as true, correct and accurate by the chief financial officer ("CFO") or treasurer of the entity.

   d. **English** – Financial statement information must be prepared in English. If audited financial statements are prepared in a language other than English, translations of all financial statement information must be provided with the original financial statement information.

3) Other information and requirements:

a. **Newly Formed Entity** - If Proposer is a newly formed entity and does not have independent financial statements, financial statements for the Equity Members and any required guarantors shall be provided (and Proposer shall expressly state that Proposer is a newly formed entity and does not have independent financial statements).

b. **Guarantor Letter of Support** – One or more guaranties regarding Design-Build Contractor's ("DB Contractor") obligations under the CMA and one or more guaranties regarding DB Contractor obligations under the DBA may be required by ITP Exhibit B, Section 3.2.11. The letter from the guarantor must confirm unequivocally that it will guarantee all the obligations of DB Contractor with respect to the CMA and DBA. Proposers are advised that TxDOT may, in its discretion based upon the review of the information provided, specify that an acceptable guarantor is required as a condition to eligibility for award.

c. **SEC Filings** - If the team or any other entity for which financial information is submitted 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 Form 10K.

d. **Credit Ratings** - Appropriate credit ratings must be supplied for each Proposer and Equity Member, and guarantor to the extent such entities have credit ratings. If no credit ratings exist, include a statement specifying that no credit ratings exist for that entity.

e. **Material Changes in Financial Condition -** A letter from the CFO or treasurer, providing information on any material changes in financial condition since submission of the QS and Original Proposal and those that are pending. Additionally, Proposers shall be required to provide updated information following the Proposal Due Date as long as the dissemination of such information is permitted by law.

The following list identifies certain items that TxDOT would consider 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 shall 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. The affected entity shall also provide a discussion of measures that would be undertaken to insulate the Project from any recent material adverse changes, and those currently in progress or reasonably anticipated in the future. If the financial statements indicate that expenses and losses exceed income in the fiscal periods between submission of the QS and the most recent completed periods (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

A. 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;

B. A downward change in tangible net worth of 10% of shareholder equity;

C. 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;

D. A downward change in credit rating for the affected entity, a related business unit, or parent corporation of the affected entity;

E. 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;

F. The affected entity, a related business unit in the same corporation, or the parent corporation of the affected entity either: (i) incurred a net operating loss; (ii) sustained charges exceeding 5% of the then shareholder equity due to claims, changes in accounting, write-offs or business restructuring; or (iii) implemented a restructuring/reduction in salaried personnel exceeding 200 positions or involving the disposition of assets exceeding 10% of the then shareholder equity; and

G. 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 since submission of the QS and/or Original Proposal or may be pending for the next reporting period.

f. **Off-Balance Sheet Liabilities** - A letter from the chief financial officer, treasurer or certified public accountant for each entity for which financial information is submitted, identifying all material off balance sheet liabilities.

The information required under this Section 2.0 (for Proposer, all Equity Members and any required guarantors) shall be packaged separately for each separate entity with a cover sheet identifying the name of the organization and its role in Proposer's organization (i.e., Equity Members, lead design firm, subcontractor, etc.).

Exhibit C-2

PRICE PROPOSAL REVISION INSTRUCTIONS

1.0 General Instructions

This Exhibit C-2 describes the submission format for Price Proposal Revisions and outlines the required information that will comprise the Price Proposal Revision for the Design-Build Agreement ("DBA") and Capital Maintenance Agreement ("CMA").

Proposer shall submit the information required by this Exhibit C-2 in the organization and format specified herein. Each component of the Price Proposal Revision shall be clearly titled and identified.

All forms named herein are found in Exhibit D, unless otherwise noted. Pricing forms are provided in Word and Excel formats. All blank spaces in the Proposal forms must be filled in as appropriate. No substantive change shall be made in the Proposal forms.

2.0 Format of Price Proposal Revision

All price and cost information provided in the Price Proposal Revision shall be in U.S. dollar currency only and all amounts, except certain amounts on Forms BAFO N-1 (including Forms BAFO N-1.1 and N-1.2) and BAFO N-2 (including Forms BAFO N-2.1 and N-2.2), shall be stated as nominal dollars. Forms BAFO N-1 and BAFO N-2 shall be stated as 2017 dollars as of the Proposal Due Date.

If there are any discrepancies between the hard copy and electronic copy of any quantitative information provided in the Price Proposal Revision, the hard copy version will prevail. If there are any differences between individual line amounts and totals, the individual line amounts will prevail.

3.0 Contents of Price Proposal Revision

All parts of the Proposal Revision that indicate price are to be included in the Price Proposal Revision.

A copy of the checklist for the Price Proposal Revision set forth in Exhibit E shall be included in the Price Proposal Revision. Proposer shall not amend the order or change the contents of the checklist.

The Price Proposal Revision shall consist of the following price and schedule information:

(a) All price information pertaining to the Base Scope 1 Design-Build Price Value and Base Scope 1 Maintenance Price Value (including Forms BAFO M-1, BAFO M-1.1, BAFO M-1.2, BAFO M-1.3, BAFO N-1, BAFO N-1.1, and BAFO N-1.2);

(b) All price information pertaining to the H-West Option (including Forms BAFO M-2, BAFO M-2.1, BAFO M-2.2, BAFO M-2.3, BAFO N-2, BAFO N-2.1, and BAFO N-2.2);

(c) All price information pertaining to the breakdown of the Price under the Design-Build Agreement on a Segment basis, including Work that may be authorized by Limited NTP2 (including Forms BAFO M-3, BAFO M-3.1, BAFO M-3.2, and BAFO M-3.3); and

(d) Information pertaining to the number of days between NTP1 and the Proposer's proposed Substantial Completion Date (including Form BAFO O).

3.1 Price Information

3.1.1 Design-Build Price and Cash Flow Adjustment Table/Maximum Payment Curve

Proposer shall submit a Design-Build Price for the DBA using Form BAFO M-1. The Price Proposal Revision shall include Form BAFO M-1.1 setting forth a breakdown of the Design-Build Price. The Price Proposal Revision shall include Form BAFO M-1.2 which shall set forth any ATC adjustment costs identified by TxDOT in its ATC approval letters for ATCs that are incorporated into the Proposal Revision. The Price Proposal Revision shall include Form BAFO M-1.3 setting forth the cash flow corresponding to the anticipated draw requests (i.e., the Maximum Payment Curve).

The Price Proposal Revision shall include completed Forms BAFO M-2, BAFO M-2.1, and BAFO M-2.2, which set forth the proposed incremental adjustments to the Design-Build Price information if the H-West Option is exercised in accordance with Section 4.1.7 of the DBA. The Price Proposal Revision shall also include Form BAFO M-2.3 setting forth the incremental adjustment to the Base Scope 1 Design-Build Price cash flow for the Project corresponding to the anticipated draw requests for the work required under the H-West Option. The Design-Build Contractor ("DB Contractor") shall not be entitled to any Change Order or increase in the Design-Build Price in the event TxDOT timely exercises such option under the DBA.

The Price Proposal Revision shall include completed Forms BAFO M-3, BAFO M-3.1, BAFO M-3.2, and BAFO M-3.3, which set forth a breakdown of the Design-Build Price by Segment. Forms BAFO M-3, BAFO M-3.1, BAFO M-3.2, and BAFO M-3.3 will not be used to determine the Total Proposal Score. However, these forms will be used to assist in identifying the portions of the Price allocable to items of Work that may be authorized by issuance of a Limited NTP2 (see Sections 4.1.6 and 12.1.7 of the DBA). The sum of the Prices set forth in Forms BAFO M-3.1, BAFO M-3.2, and BAFO M-3.3 shall equal the Design-Build Price set forth in Form BAFO M-1.

The draw requests shall be established by anticipated percentage complete on a monthly basis, and shall be limited to the anticipated cash flow. The total maximum payment to DB Contractor prior to NTP2 or, if a Limited NTP2 is issued, prior to Limited NTP2, regardless of whether TxDOT exercises the H- West Option, shall not exceed

$25 million. For purposes of developing the forms described in this Section 3.1.1, NTP2 is assumed to be 90 days after NTP1.

3.1.2 Maintenance Price and CMA Cumulative Maximum Payment Curve

The Price Proposal Revision shall include Form BAFO N-1 setting forth the annual Maintenance Prices for Base Scope 1 for years 1-15 of the CMA. The Maintenance Prices shall be in year 2017 dollars (as of the Proposal Due Date). The cumulative prices proposed in column D on Form BAFO N-1 for years 1-5 of the CMA shall not exceed the cumulative amounts in the corresponding years in the CMA Cumulative Maximum Payment Curve in column E. The Price Proposal Revision shall also include a breakdown of the Maintenance Price into the categories included on Forms BAFO N-1.1 and BAFO N-1.2 in year 2017 dollars (as of the Proposal Due Date). The services required for each of the major categories are more particularly described in the CMA, including the Maintenance Specifications. The CMA provides for the adjustment procedures and index for annual adjustments in the price for Maintenance Services.

The Price Proposal Revision shall also include Form BAFO N-2 setting forth the proposed incremental adjustments to the Base Scope 1 Maintenance Price for the Option Maintenance Services, in year 2017 dollars (as of the Proposal Due Date), if the H-West Option is exercised under the DBA. The Price Proposal Revision shall also include a breakdown of the incremental Option Maintenance Price into the categories listed on Forms BAFO N-2.1 and BAFO N-2.2.

In developing the Base Scope 1 Maintenance Price and Option Maintenance Price, the Proposers shall consider the limitations on private use under Section 141 of the Internal Revenue Code of 1986, as amended, and the management contract rules under Section 1.141-3(b)(4) of the Regulations of the Treasury Department.

3.2 Schedule Information

The Price Proposal Revision shall include Form BAFO O. Proposer shall indicate the number of calendar days between NTP1 and its proposed Substantial Completion date for the Project from the Preliminary Project Baseline Schedule on Form BAFO O. The number of calendar days between NTP1 and the proposed Substantial Completion date shall not exceed the "TxDOT Last Allowable Date for Substantial Completion for all Segments" set forth on Form BAFO O.

Exhibit D

REQUIRED FORMS

(*see* attached)

Exhibit E

SUMMARY AND ORDER OF PROPOSAL REVISION CONTENTS

Proposal Revision Component	Form (if any)	ITP Section Cross-Reference	Signatory Parties
TECHNICAL PROPOSAL REVISION			
Proposers shall follow the order of this checklist in their submissions. A referenced copy of this document shall be submitted with the Technical Proposal Revision.			
A. Executive Summary			
Executive Summary ***(Exclude price information)***	No forms are provided	Exhibit B, Section 3.1	Proposer
B. Proposer Information, Certifications & Documents			
Proposal Letter	Form BAFO A	Exhibit B, Section 3.2.1	Proposer
Authorization Documents	No forms are provided	Exhibit B, Section 3.2.1	Proposer and Equity Member
Identification of Proposer and Equity Members	Form BAFO B-1	Exhibit B, Section 3.2.2	Proposer
Information About Proposer Organization	Form BAFO B-2	Exhibit B, Section 3.2.2	Proposer
Information About Major Participants, Major Professional Services Firms and Identified Subcontractors	Form BAFO B-3	Exhibit B, Section 3.2.2	Proposer
Responsible Proposer Questionnaire	Form BAFO C	Exhibit B, Section 3.2.3	All team members

Proposal Revision Component	Form (if any)	ITP Section Cross-Reference	Signatory Parties
Personnel Work Assignment Form	Form BAFO E	Exhibit B, Section 3.2.4	Proposer
Key Personnel statement of availability	No forms are provided	Exhibit B, Section 3.2.4	Proposer
Letter(s) Approving Key Personnel	No forms are provided	Exhibit B, Section 3.2.5	Proposer
Letter(s) Approving Changes in Proposer's Organization	No forms are provided	Exhibit B, Section 3.2.5	Proposer
Buy America Certification	Form BAFO U	Exhibit B, Section 3.2.6	Proposer
DBE Certification	Form BAFO H	Exhibit B, Section 3.2.7	Proposer
Child Support Statement for State Grants, Loans and Contracts	Form BAFO I	Exhibit B, Section 3.2.8	Proposer and Major Participants
Conflict of Interest Disclosure Statement	Form BAFO J	Exhibit B, Section 3.2.9	Proposer
Equal Employment Opportunity Certification	Form BAFO P	Exhibit B, Section 3.2.10	Proposer
Guarantor Letter (if required)	Form BAFO T, Form BAFO B-1 is also required for the guarantor.	Exhibit B, Section 3.2.11; Exhibit C-1, Section 2.0(3)(b)	Guarantor
Surety Information	No forms are provided.	Exhibit B, Section 3.2.12	Proposer and Surety
Certification Regarding Ineligible Contractors	Form BAFO S	Exhibit B, Section 3.2.13	Proposer
Key Subcontractors	Form BAFO Q	Exhibit B, Section 3.2.14	Proposer

Proposal Revision Component	Form (if any)	ITP Section Cross-Reference	Signatory Parties
Payment for Work Product Agreement (Optional)	Exhibit H	Exhibit B, Section 3.2.15	Proposer
Non-Collusion Affidavit	Form BAFO F	Exhibit B, Section 3.2.16	Proposer
Certification Regarding Use of Contract Funds for Lobbying	Form BAFO R	Exhibit B, Section 3.2.17	Proposer, Equity Members, and Major Participants
Proposal Bond	Form BAFO K or Form BAFO K-1	Exhibit B, Section 3.3.2	Surety
C. Project Development Plan			
Project Management Plan	No forms are provided	Exhibit B, Section 4.1	Proposer
Quality Management Plan	No forms are provided	Exhibit B, Section 4.2	Proposer
Technical Solutions	No forms are provided	Exhibit B, Section 4.3	Proposer
D. Appendices			
Key Personnel Resumes and References	Form BAFO G	Exhibit B, Section 3.2.4.1	Proposer
Technical Drawings, Graphs and Data	No forms are provided	Exhibit B, Section 4.3	Proposer
Preliminary Project Baseline Schedule	No forms are provided	Exhibit B, Section 4.3.2	Proposer

Proposal Revision Component	Form (if any)	ITP Section Cross-Reference	Signatory Parties
FINANCIAL PROPOSAL REVISION			
Proposers shall follow the order of this checklist in their submissions. A referenced copy of this document shall be submitted with the Financial Proposal Revision.			
Identification of Proposer and Equity Members (copy)	Form BAFO B-1	Exhibit C-1, Section 1.2	Proposer
Information About Proposer Organization (copy)	Form BAFO B-2	Exhibit C-1, Section 1.2	Proposer
Updated Financial Information			
Audited fiscal financial statements for all periods subsequent to the QS Original Proposal and unaudited interim financial statements	No forms are provided	Exhibit C-1, Section 2.0	Proposer, Equity Members, and Guarantor(s)
Audited fiscal financial statements for Equity Members and any required Guarantors (if required)	No forms are provided	Exhibit C-1, Section 2.0(3)(a)	Equity Members and Guarantor(s)
Guarantor Letter of Support (if required)	No forms are provided	Exhibit C-1, Section 2.0(3)(b)	Guarantor(s)
For publicly held companies, most recent SEC Forms 10-K and 10-Q reports and any Form 8-Ks filed since the QS and Original Proposal	No forms are provided	Exhibit C-1, Section 2.0(3)(c)	Proposer, Equity Members, and Guarantor(s)

Proposal Revision Component	Form (if any)	ITP Section Cross-Reference	Signatory Parties
Credit ratings	No forms are provided	Exhibit C-1, Section 2.0(3)(d)	Proposer, Equity Members, and Guarantor(s)
Letter regarding material change in financial condition since submission of the QS and Original Proposal and for next reporting period	No forms are provided	Exhibit C-1, Section 2.0(3)(e)	Proposer
Letter disclosing all material off balance sheet liabilities	No forms are provided	Exhibit C-1, Section 2.0(3)(f)	Proposer, Equity Members, and Guarantor(s)

Proposal Revision Component	Form (if any)	ITP Section Cross-Reference	Signatory Parties
PRICE PROPOSAL REVISION			
Proposers shall follow the order of this checklist in their submissions. A referenced copy of this document shall be submitted with the Price Proposal Revision.			
A. **Base Scope 1 Design-Build Price and Base Scope 1 Maintenance Price**			
Base Scope 1 Design-Build Price	Form BAFO M-1	Exhibit C-2, Section 3.1.1	Proposer
Base Scope 1 Design-Build Price Breakdown	Form BAFO M-1.1	Exhibit C-2, Section 3.1.1	Proposer
Base Scope 1 ATC Adjustments	Form BAFO M-1.2	Exhibit C-2, Section 3.1.1	Proposer
Design-Build Draws/Cash Flow Tables (Contractor Base Scope 1 Design-Build Price)	Form BAFO M-1.3	Exhibit C-2, Section 3.1.1	Proposer
Base Scope 1 Maintenance Price	Form BAFO N-1	Exhibit C-2, Section 3.1.2	Proposer
Base Scope 1 Routine Maintenance Costs	Form BAFO N-1.1	Exhibit C-2, Section 3.1.2	Proposer
Base Scope 1 Renewal Work Costs	Form BAFO N-1.2	Exhibit C-2, Section 3.1.2	Proposer
B. **Option Price**			
Option Design-Build Price	Form BAFO M-2	Exhibit C-2, Section 3.1.1	Proposer

Proposal Revision Component	Form (if any)	ITP Section Cross-Reference	Signatory Parties
Option Design-Build Price Breakdown	Form BAFO M-2.1	Exhibit C-2, Section 3.1.1	Proposer
Option ATC Cost Adjustments	Form BAFO M-2.2	Exhibit C-2, Section 3.1.1	Proposer
DB Contractor Draws/Cash Flow Tables (Option Design-Build Price)	Form BAFO M-2.3	Exhibit C-2, Section 3.1.1	Proposer
Option Maintenance Price	Form BAFO N-2	Exhibit C-2, Section 3.1.2	Proposer
Option Routine Maintenance Costs	Form BAFO N-2.1	Exhibit C-2, Section 3.1.2	Proposer
Option Renewal Work Costs	Form BAFO N-2.2	Exhibit C-2, Section 3.1.2	Proposer
C. **Design-Build Agreement Price Breakdown**			
Limited NTP2 Prices	Form BAFO M-3	Exhibit C-2, Section 3.1.1	Proposer
Segment H Price Breakdown	Form BAFO M-3.1	Exhibit C-2, Section 3.1.1	Proposer
Segment I-1 Price Breakdown	Form BAFO M-3.2	Exhibit C-2, Section 3.1.1	Proposer
Segment I-2 Price	Form BAFO M-3.3	Exhibit C-2, Section 3.1.1	Proposer
D. **Schedule (Form BAFO O)**			
Substantial Completion deadline	Form BAFO O	Exhibit C-2, Section 3.2	Proposer

Exhibit F

RIGHT OF ENTRY PROCESS

Exhibit F-1

RIGHT OF ENTRY PROCESS FOR NON-STATE-OWNED PROPERTY

Proposers desiring to obtain access during the procurement to property that is not owned by the State along SH 99 Grand Parkway Segments H, I-1 and I-2 shall submit a request to TxDOT that includes the parcel numbers and reasons for access. TxDOT shall be responsible for contacting the relevant property owner(s) and negotiating a right of entry for use by all Proposers.

Proposers are advised that the process of obtaining rights of entry from property owners other than TxDOT may take a minimum of 2-4 weeks. Proposers shall be responsible for providing timely requests to TxDOT.

Proposers shall comply with any requirements, conditions and restrictions of the property owner. The form of Right of Entry Agreement to be signed by the respective property owner is attached as Appendix A.

Appendix A to Exhibit F-1

Atkins North America, Inc.
1250 Wood Branch Park Drive, Suite 300
Houston, Texas 77079

Telephone: +1.281.493.5100
Fax: +1.281.493.1047

www.atkinsglobal.com/northamerica

Today's Date

Last Name, First Name
Street Address
City, State Zip
Parcel ID Number: ___ Tax ID Number:
Land Referencing Address: _____

Re: Proposed State Highway 99 (Grand Parkway) Segments H, I-1, and I-2
Property Access for Surveying, Environmental, Geotechnical, and Subsurface Utility Studies

Dear Property Owner:

The Texas Department of Transportation (TxDOT) is investigating the Selected Alternative Alignment for the construction of Grand Parkway Segment H (US 59/IH 69 to US 90) and Segment I-1 (US 90 to IH 10-E) as well as upgrades to Segment I-2 (IH 10-E to SH 146 S). As the project progresses, TxDOT will solicit proposals from private Developers to design and build this transportation facility. TxDOT has obtained the services of Atkins North America, acting on behalf of TxDOT, to secure the permissions necessary for TxDOT's consulting teams and prospective Developer teams to conduct surveying, environmental, geotechnical, and subsurface utility engineering (SUE) field investigations.

Representatives of the TxDOT consulting team and prospective Developers will be conducting environmental investigations to determine potential effects the proposed alignment would have on environmental resources in the area and to comply with regulatory permitting requirements. Additionally, geotechnical and SUE studies consisting of soil borings would be taken to determine the types of soils and utilities below the proposed right-of-way of Grand Parkway Segments H and I-1. The investigations will require that scientists and geotechnical experts obtain entry to areas of private land with the understanding that livestock, fences, buildings, etc., will not be disturbed.

All of the field work will be within the proposed project limits and conducted by walking and/or all-terrain vehicle. In some locations, small shovel holes and/or small borings will be excavated to evaluate soil characteristics. The holes will be filled on the same day as soon as work is completed. Temporary flagging may be placed on your property during the field efforts. You and/or your representative may request to be present during the fieldwork. Field surveyors, scientists, and geotechnical experts may need to access your property at various times within the next three years.

We appreciate your cooperation in this effort. Please review the Right of Entry document, and if acceptable, sign and return the enclosed form as soon as possible using the enclosed postage-paid envelope. Alternatively, you can scan and e-mail the form to James.Lowe@atkinsglobal.com or fax to (281) 493-1047. If you have any questions about the above work, please contact James Lowe at (281) 529-4162 at the Atkins Houston, Texas, office. If you need additional information regarding the proposed project, please contact Terri Dedhia with TxDOT at Terri.Dedhia@txdot.gov.

Sincerely,

Project Manager - Atkins

SH 99 Grand Parkway Segments H, I-1 and I-2

Right of Entry

Parcel ID No. _____ Tax ID No. _____
Land Referencing Address: _____
CSJ No. 3510-07-003, -08-001, -09-002, -10-001
Segment H & I-1

The Owner, or authorized representative known to be _____, hereby grants a Right of Entry to TxDOT, its contractors, consultants, agents, and all others TxDOT deems necessary, including prospective design-builders, to perform work necessary for the completion of the design, surveying, geotechnical evaluation, sounding, environmental studies, utility investigation, and other examination required to be performed in anticipation of the final design of the project and/or prior to the acquisition of property necessary for the Project.

- The Owners reserve all rights, title, and interest in and to the property, and this Right of Entry shall in no way prejudice Owner's right to contest the acquisition of the property or to receive full and just compensation as allowed by law for any interest in and to the property that may be needed by the State of Texas, and damages, if any, to the remainder of the Owner's interest to and in the property.

- This Right of Entry shall not prejudice Owner's rights to any relocation benefits for which the Owner would be eligible.

- The Owner, or authorized representative, grants TxDOT, its contractors, consultants, agents, and all others necessary to perform work required, at its own risk and expense, the right of ingress and egress over and across the property for the purpose of accessing the proposed Right of Way ("ROW").

- TxDOT and all others sharing in the Right of Entry granted hereunder will attempt to utilize only non-destructive testing methods but, if necessary, will restore the property to prior condition for any damage or make reimbursement to the owner for any damage to the property.

- The Right of Entry shall be effective the date this document is executed and shall remain in effect until the sooner of (1) the date that this Right of Entry is revoked in writing by Owner, or (2) the date that the proposed ROW is acquired in the name of the State of Texas.

- The Owner, or authorized representative, shall have the right to accompany any or all operations being performed as a result of the use of this document.

- If there are any tenants or lessees on the property who must be contacted, the Owner, or authorized representative, agrees to contact them or to provide TxDOT, and upon request, any party sharing in this Right of Entry, the names and contact numbers so that TxDOT and others sharing in this Right of Entry may give them proper notice prior to entering the property.

- The Right of Entry, unless revoked or terminated, shall extend to and bind the parties, their heirs, executors, administrators, legal representatives, successors, and assigns, including the contractors, consultants, agents and all others TxDOT has deemed necessary to share in this Right of Entry.

- If Owner is other than an individual, the undersigned representative of the Owner warrants and represents that he or she is duly authorized and empowered to enter into and to execute this Right of Entry on behalf of the Owner.

SH 99 Grand Parkway Segments H, I-1 and I-2 is progressing to the next level. TxDOT appreciates previous Rights of Entry but now requires additional access for highway design activities. If there are any questions, please contact James Lowe at James.Lowe@atkinsglobal.com (telephone: 281.529.4162) (fax: 281.493.1047).

This Right of Entry is in addition to any prior right of entry granted to TxDOT by the Owner in respect of the parcel identified at the top of page one, is for specific purposes described in the introductory paragraph for the benefit of the persons identified in that paragraph and is subject to the terms of the Owner's grant of this Right of Entry. Should the Owner have any concerns or questions regarding the activities of any person sharing or claiming to share in this Right of Entry, the Owner shall be entitled to enlist the assistance of TxDOT through Terri Dedhia at Terri.Dedhia@txdot.gov.

IN WITNESS WHEREFORE, this instrument is executed on and shall be effective as of this

_____ day of _____, 2016.

_____	_____
OWNER	Telephone Number
_____	_____
PRINT NAME	Cell Number

Exhibit F-2

RIGHT OF ENTRY PROCESS FOR STATE-OWNED ROW

Proposers must comply with the following steps in order to obtain a right of entry from TxDOT to SH 99 Grand Parkway Segments H, I-1 and I-2 Right of Way ("ROW") at various locations prior to execution of the Design-Build Agreement ("DBA").

1. The Proposer shall complete the Agreement for Engineering Investigations on State Highway ROW and forward a signed original agreement and Exhibit B, TxDOT Form 1560, Certificate of Insurance, to Dieter Billek, P.E.

2. Exhibit A, DBA Site Investigation on Highway ROW in the Houston and Beaumont Districts, shall be completed by the Proposer for each request for right of entry upon State highway ROW. One Exhibit A can cover a request for multiple days of access. Exhibit A may be turned in with the signed original Agreement for Engineering Investigations on State Highway ROW and Exhibit B, or may be turned in subsequent to the Proposer's receipt of the fully executed copy of the agreement.

3. Dependent upon the location of the ROW for which the Proposer seeks entry, the Proposer shall submit Exhibit A to Dieter Billek, P.E.

4. Prior to a Proposer's entry onto State Highway ROW, the Proposer must receive Approval from the appropriate area office.

5. The Proposer may perform investigations in areas only as requested in each Exhibit A.

*** Note: Exhibit A may be faxed, e-mailed or submitted in hard copy. Approval of Exhibit A shall occur in written format which may include e-mail.

*** Exhibit A preparation:
In addition to location and general description of investigations to be performed, if the investigations require closure of a lane(s) of traffic for any reason, the Proposer shall submit a traffic control plan for TxDOT review and approval with the appropriate Exhibit A.

AGREEMENT FOR
ENGINEERING INVESTIGATIONS
ON STATE HIGHWAY RIGHT OF WAY

STATE OF TEXAS §

COUNTY OF [_____] §

THIS AGREEMENT made this _____day of _____ by the State of Texas, acting by and through the Texas Department of Transportation, referred to as "TxDOT," party of the first part, and _____, hereinafter referred to as the "Requestor," party of the second part.

WITNESSETH

WHEREAS, TxDOT owns and operates a system of highways for public use and benefit, including SH 99 Grand Parkway Segments H, I-1 and I-2, in Chambers, Harris, Liberty, and Montgomery Counties; and

WHEREAS, the Requestor has requested permission from TxDOT to use SH 99 Grand Parkway Segments H, I-1 and I-2 Right of Way ("ROW") at various locations to be determined based on submittal of Exhibit A for each instance of access requested. Exhibit A is attached hereto and made a part of this Agreement, for the purpose of asset assessment, engineering studies and site investigations; and

WHEREAS, in accordance with Tex. Adm. Code, § 27, TxDOT seeks to enter into a DBA with a private sector partner and desires the private sector partner to have access to the proposed Project limits for performance of due diligence work in preparation of its Proposal; and

WHEREAS, this Agreement is intended to encourage and facilitate access to TxDOT highway facilities and their adjacent ROW for the promotion of that goal while protecting the safety of the traveling public and the integrity of state highway facilities and ROW.

AGREEMENT

1. The Requestor's description of the activities, including the placement of people and equipment on TxDOT highway ROW, will be submitted in writing as outlined in Exhibit A and shall be made part of this Agreement upon approval of TxDOT.
2. It is expressly understood that TxDOT does not purport hereby to grant any right, claim, title, or easement in or upon its ROW. Furthermore, approval of this Agreement by TxDOT does not constitute approval by any other Texas State agency.
3. The Requestor agrees to accept full responsibility for coordinating and making arrangements with the local law enforcement personnel to provide adequate and safe traffic control during the above referenced activity. If, during the activity, the local law enforcement personnel determine that the above referenced use of the ROW is creating a traffic hazard, the ROW will be opened to traffic and the activity will be rescheduled to a time agreeable to TxDOT, the Requestor, and the local law enforcement personnel.
4. The Requestor shall provide necessary safeguards to protect the public during the above referenced activity, including adequate insurance for payment of any damages which might result from activities during occupation of the ROW, and

shall save TxDOT and the State of Texas harmless from damages, to the extent of said insurance coverage and insofar as it can legally do so.

5. The Requestor agrees to indemnify and save harmless TxDOT and the State of Texas and its officers, agents, contractors, and employees from all suits, actions, or claims and from all liability and damages for any and all injuries or damages sustained by any person or property as a consequence of any neglect in the performance of the above referenced activity and any related activity by the Requestor and from any claims or amounts arising or recovered under the "Workers' Compensation Laws"; V.T.C.S., Civil Practice & Remedies Code 101.021, 101.051; or any other laws.

6. The Requestor shall further indemnify TxDOT and the State of Texas and accept responsibility for all damages or injury to property of any character occurring during the prosecution of the activity resulting from any act, omission, neglect or misconduct on the part of the Requestor in the manner or method of executing the activity. The Requestor assumes all costs associated with the inspections, investigations and assessments.

7. TxDOT, having the legal right to occupy TxDOT highway ROW, will not be responsible or liable for damages to the Requestor's property or operations. The Requestor's attention is directed to the fact that utility installations owned by others exist in the ROW. The Requestor shall save harmless TxDOT and the State of Texas from any and all suits or claims resulting from damage to any utility installation due to the above referenced activity.

8. The Requestor shall restore the ROW to its original condition, free of any damage to the roadway and drainage structures, signs, and pavement and, to the extent practicable, restore the natural environment, including landscape features. The Requestor will avoid or minimize damage outside the ROW and will, at its own expense, restore or repair damage outside the ROW. The Requestor's performance shall be in compliance with all federal, State and local laws, ordinances, and regulations including:

- the Endangered Species Act of 1973, 16 USC § 1531 et seq. and the regulations there under as amended;
- TxDOT's erosion and sedimentation control standards and TxDOT's Vegetation Management Standards, which may in any way regulate or control the activity;
- all State and federal environmental laws and any conditions required by TxDOT to protect the environment.

Any costs incurred by TxDOT for repairs to highway facilities, for the removal of debris, or for any other necessary restoration work performed by TxDOT as a result of the activity will be billed to the Requestor at cost. The Requestor shall make full and complete payment to TxDOT within thirty (30) days from receipt of TxDOT's written notification.

9. Any action by the Requestor that indicates a commencing of the activity in the ROW will signify that the Requestor agrees to abide by the above requirements.

10. Any changes in the time frame, character, or responsibilities of the parties as outlined on the appropriate previously approved Exhibit A shall be enacted by a written approval by TxDOT.

11. It is mutually agreed and understood that if the above referenced section of paved ROW is to be partially or totally temporarily closed, it will be closed in accordance with a "Traffic Control Plan" provided as part of the appropriate Exhibit A and subject to approval by TxDOT. The Requestor hereby agrees to immediately reopen any partially or totally closed section of ROW to emergency vehicles, law enforcement personnel, or others in case of emergency. The traffic control shall be provided by the Requestor through cooperation with the appropriate law enforcement personnel at no cost to TxDOT. Each Traffic Control Plan shall be provided by the Requestor, at no cost to TxDOT, and approved by TxDOT, and shall be in accordance with the Texas Manual on Uniform Traffic Control Devices, latest edition. The Requestor hereby agrees to accept full responsibility for the complete planning, design and implementation of each Traffic Control Plan. Each Traffic Control Plan shall include a traffic enforcement plan, including a letter by mail or facsimile from the law enforcement agency that will be providing the traffic control for the event or a contact name and telephone number of the responsible law enforcement agency. Law enforcement will be present at all times during a closure unless stated otherwise in the Traffic Control Plan.

12. The Requestor has provided TxDOT with Exhibit B, covering the below listed insurance limits for the duration of the activity. Exhibit B is attached hereto and made a part of this Agreement.

A. Worker's Compensation Insurance Amount – Statutory Endorsed with a Waiver of Subrogation in favor of TxDOT and the State of Texas.

B. Comprehensive General Liability Insurance

Amounts –

Bodily Injury $500,000 each occurrence

Property Damage $100,000 each occurrence

OR

Commercial General Liability Insurance

Amount - $600,000 combined single limit each occurrence and in the aggregate which includes Contractual Coverage; and, endorsed with a Waiver of Subrogation in favor of those parties named in paragraph A above, and endorsed with TxDOT and the State of Texas as an additional insured.

C. Comprehensive Automobile Liability

Amounts –

Bodily Injury $250,000 each person

$500,000 each occurrence

Property Damage $100,000 each occurrence

Endorsed with a Waiver of Subrogation in favor of those parties named in paragraph A above, and endorsed with TxDOT and the State of Texas as an additional insured.

13. This Agreement shall terminate upon execution of a DBA, unless terminated by:

- Mutual agreement and written consent of both parties,
- TxDOT upon written notice to the Requestor as consequence of the Requestor's failure to perform the responsibilities set forth herein (TxDOT may grant allowances for circumstances beyond the control of the Requestor),
- TxDOT for reasons of its own and not subject to mutual consent of the Requestor upon not less that fifteen (15) days written notice to the Requestor, or
- By satisfactory completion of the Requestor's temporary use of the highway ROW.

The termination of this agreement and payment of any amount in settlement as prescribed herein shall extinguish all rights, duties, and obligations of TxDOT and the Requestor. Upon termination of this Agreement, the Requestor shall vacate the highway ROW and restore it to the original condition in a manner described herein within two days from the termination date of this Agreement.

14. Should disputes arise between the parties regarding the obligations and responsibilities established herein, TxDOT's decision shall be final and binding.

15. In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

16. This Agreement constitutes the sole and only agreement between the parties hereto and supersedes any prior understandings and/or written or oral agreements between TxDOT and the Requestor respecting the within subject matter.

17. The undersigned for the Requestor represents and warrants that he or she is an officer of the Requestor for which he or she has executed this Agreement and that he or she has the full and complete authority to enter into this Agreement on behalf of the Requestor.

IN TESTIMONY WHEREOF, the parties hereto have caused these presents to be executed on the dates shown below stated.

REQUESTOR NAME:

_____

By: _____
(Signature)

Name:_____
(Typed)

_____
(Title)

Date:_____

Address:_____
_____
_____
_____

Phone: _____

THE STATE OF TEXAS

Executed by and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission

By: _____
District Engineer
[Houston] [Beaumont] District

Date:_____

LIST OF ATTACHED EXHIBITS

Exhibit	Description
A	Design-Build Agreement Site Investigation on Highway Right of Way in the Beaumont and Houston Districts
B	TxDOT Form 1560, Certificate of Insurance

Exhibit A

DESIGN-BUILD AGREEMENT SITE INVESTIGATION ON HIGHWAY RIGHT OF WAY IN THE BEAUMONT AND HOUSTON DISTRICTS

_____ is giving written notice of proposed Work to take place within the Right of Way ("ROW") of SH 99 Grand Parkway Segments H, I-1 and I-2 in Chambers, Harris, Liberty, and Montgomery Counties, TX as follows:

(Give general written description of location and work to take place- Do not write "See Attached")

The Work listed above **is not to include** the following: The destructive testing of any in place pavement or structure, or other work that may be considered harmful to assets already in place. This Work is limited to Site investigations and Engineering Studies for the purposes of preparing a Proposal for the SH 99 Grand Parkway Segments H, I-1 and I-2 Design-Build Agreement ("DBA") and Capital Maintenance Agreement ("CMA"). This may include reviewing in place Work along the Project ROW, gathering pavement condition score information, subsurface soils investigations and other investigations as required in preparation of a Proposal in response to the TxDOT issued Request for Proposals ("RFP").

At no time shall any Work activity that involves digging take place any closer than three feet from the edge of pavement or back of curb.

The Requestor will use best management practices to minimize erosion and sedimentation resulting from the proposed Work, and will revegetate the Work area as indicated under "Revegetation Special Provisions."

The Requestor will ensure that traffic control measures complying with applicable portions of the *Texas Manual on Uniform Traffic Control Devices* will be installed and maintained for the duration of this Work. (Approval of traffic control plans is required by area/maintenance office.)Refer to attached location map and drawing for a more specific location and a description of the Work activity. The undersigned agrees to comply with the terms and conditions set forth in this notice.

The proposed Work will begin on the _____ day of _____ , 20 ____ .

Requestor Party_____

By (Print) _____

Signature _____

Address _____

_____

Phone _____

Texas Department of Transportation

_____

Director of Strategic Contract Management Division

Signature: _____

_____

Date

COPY OF THIS DOCUMENT MUST BE KEPT ON JOBSITE. If approved via e-mail, retain printed copy of e-mail approval on jobsite as well.

CERTIFICATE OF INSURANCE

Form 1560
(Rev. 07/12)
Previous editions of this form may not be used.
Page 1 of 2

Agents should complete the form providing all requested information then either fax or mail this form directly to the address listed on page two of this form. Copies of endorsements listed below are not required as attachments to this certificate.

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not confer any rights or obligations other than the rights and obligations conveyed by the policies referenced on this certificate. The terms of the policies referenced in this certificate control over the terms of the certificate.

Insured: _____

Street/Mailing Address: _____

City/State/Zip: _____

Phone Number: ( ) -

WORKERS' COMPENSATION INSURANCE COVERAGE:
Endorsed with a Waiver of Subrogation in favor of TxDOT.

Carrier Name:			**Carrier Phone #:** ( ) -	
Address:			**City, State, Zip:**	
Type of Insurance	**Policy Number**	**Effective Date**	**Expiration Date**	**Limits of Liability:**
Workers' Compensation				Not Less Than: Statutory - Texas

COMMERCIAL GENERAL LIABILITY INSURANCE:

Carrier Name:			**Carrier Phone #:** ( ) -	
Address:			**City, State, Zip:**	
Type of Insurance:	**Policy Number:**	**Effective Date:**	**Expiration Date:**	**Limits of Liability:**
Commercial General Liability Insurance				Not Less Than: $ 600,000 each occurrence

BUSINESS AUTOMOBILE POLICY:

Carrier Name:			**Carrier Phone #:** ( ) -	
Address:			**City, State, Zip:**	
Type of Insurance:	**Policy Number:**	**Effective Date:**	**Expiration Date:**	**Limits of Liability:**
Business Automobile Policy				Not Less Than: $ 600,000 combined single limit

UMBRELLA POLICY (if applicable):

Carrier Name:			**Carrier Phone #:** ( ) -	
Address:			**City, State, Zip:**	
Type of Insurance:	**Policy Number:**	**Effective Date:**	**Expiration Date:**	**Limits of Liability:**
Umbrella Policy				

Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

THIS IS TO CERTIFY to the Texas Department of Transportation acting on behalf of the State of Texas that the insurance policies named are in full force and effect. *If this form is sent by facsimile machine (fax), the sender adopts the document received by TxDOT as a duplicate original and adopts the signature produced by the receiving fax machine as the sender's original signature.*

Agency Name **Address** **City, State, Zip Code**

_____

( ) -
Authorized Agent's Phone Number **Authorized Agent Original Signature** **Date**

The Texas Department of Transportation maintains the information collected through this form. With few exceptions, you are entitled on request to be informed about the information that we collect about you. Under §§552.021 and 552.023 of the Texas Government Code, you also are entitled to receive and review the information. Under §559.004 of the Government Code, you are also entitled to have us correct information about you that is incorrect.

Fax completed form to: 512/416-2536

NOTES TO AGENTS:

Agents must provide all requested information then either fax or mail this form directly to the address listed below

Pre printed limits are the minimum required; if higher limits are provided by the policy, enter the higher limit amount ar

To **avoid work suspension** an updated insurance form must reach the address listed below **one business day prio**

Binder numbers are not acceptable for policy numbers.

The certificate of insurance, once on file with the department, is adequate for subsequent department contracts provic

List the contractor's legal company name, including the DBA (doing business as) name as the insured. If a staff leasir

The TxDOT certificate of insurance form is the only acceptable proof of insurance for department contracts.

List the contractor's legal company name, including the DBA (doing business as) name as the insured or list both the

Over-stamping and/or over-typing entries on the certificate of insurance are not acceptable if such entries change the

This form may be reproduced.

**DO NOT COMPLETE THIS FORM UNLESS THE WORKERS' COMPENSATION POLICY IS ENDORSED WITH A **

The **SIGNATURE** of the agent is required.

CERTIFICATE OF INSURANCE REQUIREMENTS:

WORKERS' COMPENSATION INSURANCE:

The contractor is required to have Workers' Compensation Insurance if the contractor has any employees including relatives.

The word STATUTORY under limits of liability, means that the insurer would pay benefits allowed under the Texas Workers' Compensation Law.

GROUP HEALTH or ACCIDENT INSURANCE is not an acceptable substitute for Workers' Compensation.

COMMERCIAL GENERAL LIABILITY INSURANCE:

MANUFACTURERS' or CONTRACTOR LIABILITY INSURANCE is not an acceptable substitute for Comprehensive General Liability Insurance or Commercial General Liability Insurance.

BUSINESS AUTOMOBILE POLICY.

If coverages are specified separately, they must be at least these amounts:

Bodily Injury	$500,000 each occurrence
	$100,000 each occurrence
Property Damage	$100,000 for aggregate

PRIVATE AUTOMOBILE LIABILITY INSURANCE is not an acceptable substitute for a Business Automobile Policy.

MAIL ALL CERTIFICATES TO:

Texas Department of Transportation
CST – Contract Processing Unit (RA/200 1st Fl.)
125 E. 11th Street
Austin, TX 78701-2483
512/416-2540 (Voice), 512/416-2536 (Fax)

Exhibit G

MINUTE ORDER

TEXAS TRANSPORTATION COMMISSION

VARIOUS Counties | **MINUTE ORDER** | Page 1 of 2

BEAUMONT and HOUSTON Districts

Transportation Code, Chapter 223, Subchapter F prescribes the process by which the Texas Department of Transportation (department) may enter into a design-build contract with a private entity that provides for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project. Transportation Code, § 223.242 authorizes the department to enter into, in each fiscal year, up to three design-build contracts for highway projects with estimated construction costs of $50 million or more.

On June 26, 2014, by Minute Order 113979, the Texas Transportation Commission (commission) authorized the department to issue a request for qualifications (RFQ) for the development, design, construction, and potential maintenance of the SH 99 Grand Parkway Segments H, I-1, and I-2 in Chambers, Harris, Liberty and Montgomery counties (SH 99 H&I project). Maintenance of parts of Segment I-2A in Chambers County, currently in operation as a four-lane controlled-access toll facility extending 8.7 miles from I-10 East to FM 1405, may also be included in the project. The project will increase capacity by providing a new two to four lane controlled-access toll facility as Segments H and I-1 from US 59 North to I-10 East, a new four-lane controlled access toll facility as Segment I-2B from FM 1405 to SH 146, and the addition of connection facilities to the existing Segment I-2A facility.

The department issued the RFQ on July 31, 2014. Four (4) proposer teams responded to the RFQ. Following the department's evaluation of the qualifications statements, a short list of teams were determined to be best qualified to be on the short list of proposer teams that will be requested to submit detailed proposals to develop, design, construct, and maintain the project.

Transportation Code §223.246 and 43 TAC §9.153(d) provide that, if authorized by the commission, the department will issue a request for proposals (RFP) from all private entities qualified for the short list. The department intends to issue an RFP for the SH 99 H&I Project and to request detailed proposals from the short-listed teams to develop, design, construct, and maintain the SH 99 H&I project.

Transportation Code § 223.249(a) and 43 TAC § 9.153(f) require the department to pay an unsuccessful private entity that submits a detailed proposal that is responsive to the requirements of the RFP a stipulated amount in exchange for the work product contained in the proposal. The stipend must be a minimum of twenty-five hundredths of one percent of the contract amount, the stipulated amount must be stated in the RFP, and it may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. Payment for this work product would allow the department to use the work product for the benefit of SH 99 H&I Project or other department projects without further payment to the unsuccessful proposer. Transportation Code § 223.249(b) and 43 TAC § 9.153(f) require the department to pay a partial stipend in the event that a procurement is terminated before the execution of a design-build contract.

The SH 99 Segment H runs from US 59 North to US 90 East; Segment I-1 from US 90 East to I-10 East; Segment I-2A from I-10 East to FM 1405; and Segment I-2B from FM 1405) to SH 146. The SH 99 Segments H and I-1 were environmentally cleared through the department's receipt of a record of decision for Segments H and I-1 on June 24, 2014. SH 99 Segments I-2A and I-2B were environmentally cleared through the department's receipt of a record of decision on August 13, 1998

with two re-evaluations, one in 2002 and one in 2012; and two approved categorical exclusions, one in 2006 and one in 2008.

Transportation Code, § 228.051 provides that the commission, by order, may designate one or more lanes of a segment of the state highway system as a toll project or system. Minute Order 111167, dated December 13, 2007, previously designated Segment I-2A from I-10 to Fisher Road as a toll project on the state highway system.

IT IS THEREFORE ORDERED that the department is authorized to issue an RFP to develop, design, construct and, potentially, maintain the SH 99 Grand Parkway Segments H, I-1 and all or part of I-2 in Chambers, Harris, Liberty, and Montgomery counties and, potentially, to maintain the existing Segment I-2A facility in Chambers County.

IT IS FURTHER ORDERED that, after consideration of the criteria in 43 TAC § 9.153(f), the department is authorized to pay each proposer that submits a responsive, but unsuccessful, proposal for the SH 99 H&I Project an amount based upon the value of the work product provided in the proposal that can, as determined by the department, be used by the department in the performance of its functions, up to a maximum amount per proposer of 0.25% of the successful proposer's price for all work under the design-build agreement.

IT IS FURTHER ORDERED that in the event the procurement is terminated prior to the execution of the design-build agreement, and after consideration of the criteria in 43 TAC § 9.153(f), the department is authorized to pay each proposer a partial stipend based upon the value of the work product that can, as determined by the department, be used by the department in the performance of its functions, up to a maximum amount per proposer of $747,000.

IT IS FURTHER ORDERED that payment for work product may only be paid to the extent that the work product submitted meets the minimum criteria and the proposer satisfies the conditions for payment identified by the department in the SH 99 H&I Project procurement documents.

IT IS FURTHER ORDERED that the SH 99 Grand Parkway Segment H from US 59 North to US 90 East; Segment I-1 from US 90 East of I-10 East; and Segment I-2B from FM 1405 to SH 146 in Chambers, Harris, Liberty and Montgomery Counties is designated a toll project on the state highway system.

Submitted and reviewed by:

Director, Strategic Projects Division

Recommended by:

Executive Director

134096 OCT 30 14

Minute Number Date Passed

Exhibit H

FORM OF PAYMENT FOR WORK PRODUCT AGREEMENT

PAYMENT FOR WORK PRODUCT AGREEMENT
(SH 99 Grand Parkway Segments H, I-1 and I-2)

THIS PAYMENT FOR WORK PRODUCT AGREEMENT is made and entered into as of this _____ day of 2017, by and between the Texas Department of Transportation ("TxDOT") and _____, a _____ duly authorized to conduct business in the State of Texas ("Proposer"), with reference to the following facts:

A. Proposer is one of the shortlisted proposers eligible to submit Proposals for the SH 99 Grand Parkway Segments H, I-1 and I-2 (the "Project"), has submitted a Proposal in response to the Request for Proposals for the Project issued by TxDOT on April 30, 2015, as amended (the "RFP") and wishes to submit a Proposal Revision in response to the Request for Proposal Revisions for the Project issued by TxDOT on August 12, 2016, as amended. Initially capitalized terms not otherwise defined herein shall have the meanings set forth in the RFP.

B. The Request for Proposal Revisions requires each shortlisted proposer who elects to receive a stipend to execute and deliver a Payment for Work Product Agreement to TxDOT with the Technical Proposal Revision by the date specified in the Request for Proposal Revisions, as a condition to the proposer's eligibility to receive a payment for work product in accordance with Section 6.3 of the Instructions to Proposers ("ITP").

NOW, THEREFORE, the Proposer hereby agrees as follows:

SECTION 1.0 SERVICES AND PERFORMANCE

(a) The Proposer has prepared a responsive Proposal Revision in response to the Request for Proposal Revisions. A "responsive" Proposal Revision means a Proposal Revision submitted by a shortlisted proposer which conforms in all material respects to the requirements of the Request for Proposal Revisions, as determined by TxDOT, in its sole discretion, and is timely received by TxDOT.

(b) Subject to the provisions of the Request for Proposal Revisions regarding ownership of Escrowed Proposal Documents ("EPDs"), all work performed by Proposer and its team members pursuant to this Payment for Work Product Agreement and in connection with the Proposal, including the Proposal Revision, shall be considered work for hire, and the products of such work shall become the property of TxDOT without restriction or limitation on their use. Neither Proposer nor any of its team members

shall copyright any of the material developed under this Payment for Work Product Agreement.

SECTION 2.0 TERM

Unless otherwise provided herein, the provisions of this Payment for Work Product Agreement shall remain in full force and effect until the earlier to occur of (a) eighteen (18) months from the date of the execution of this Agreement or (b) the date payment is delivered hereunder. The work product is due no later than the Proposal Due Date.

SECTION 3.0 COMPENSATION AND PAYMENT

(a) If, following receipt of Proposal Revisions as requested by the Request for Proposal Revisions, the Design-Build Agreement ("DBA") is awarded by TxDOT to a proposer other than Proposer or the procurement is cancelled, then, subject to the terms of Section 6.3 of the ITP and this Payment for Work Product Agreement (including, without limitation, Proposer's full compliance therewith), TxDOT agrees to pay Proposer for the herein described services a lump sum in an amount equal to the lesser of (i) the value of the work product provided in the Proposal, including the Proposal Revision, that can, as determined by TxDOT, be used by TxDOT in the performance of its functions and (ii) 0.25% of the successful proposer's Price; provided, however, that in the event the procurement is terminated before execution of the DBA, TxDOT shall pay Proposers a partial lump sum in the amount of $747,000. Proposer will not be compensated if the Proposal Revision, including, without limitation, the Financial Proposal Revision, is determined by TxDOT to be non-responsive, and/or fails to achieve a passing score on any of the pass/fail criteria in Section 5.3 of the ITP, or if TxDOT withdraws the RFP prior to the due date for Proposals Revisions.

(b) In no event shall any proposer that is selected for award but fails to satisfy the award conditions set forth in Section 6.1 of the ITP be entitled to receive compensation hereunder, including, without limitation, payments under Section 3(a) above. In addition, if TxDOT awards the DBA to Proposer, Proposer will not be entitled to compensation hereunder, including, without limitation, payments under Section 3(a).

(c) Payment will be made within 30 days after receipt of a proper invoice submitted to TxDOT under this Section 3(c). The invoice may be submitted no earlier than 45 days after notice of final award, including execution of the DBA, is posted on TxDOT's website, or, if final award is not made, not earlier than 30 days after cancellation of the procurement or expiration of the time period for award stated in the Request for Proposal Revisions (as such time period may be extended by mutual agreement of the apparent best value Proposer and TxDOT), as applicable. All proposers eligible to receive a payment for work product shall be required to submit an invoice to TxDOT in a form acceptable to TxDOT in order to receive such payment.

(d) This Payment for Work Product Agreement involves the submission of a Proposal by Proposer that must be received by the due date(s) set forth in the Request for Proposal Revisions and determined responsive by TxDOT as a condition of Proposer's eligibility for the payment set forth in Section 3(a).

SECTION 4.0 INDEMNITIES AND SURETYSHIP

(a) Proposer agrees that it will indemnify, defend, and hold harmless TxDOT and all of TxDOT's commission members, officers, agents, representatives, and employees from any claim, loss, damage, cost, judgment, fee, penalty, charge, or expenses (including attorneys' fees and costs) arising out of any acts, actions, neglect, omissions, fault, willful misconduct, violation of law or breach by Proposer, its agents, employees, or Subcontractors during the performance of this Payment for Work Product Agreement, whether direct or indirect, and whether to any person or property to which TxDOT or said parties may be subject, except that neither Proposer nor any of its Subcontractors will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of TxDOT or any of its commission members, officers, agents, or employees.

(b) Proposer's obligation to indemnify, defend, and pay for the defense or, at TxDOT's option, to participate and associate with TxDOT in defense of any claim and any related settlement negotiations, shall be triggered by TxDOT's notice of claim for indemnification to Proposer. Only a final and unappealable adjudication or judgment specifically finding TxDOT solely negligent shall excuse performance of this provision. Proposer shall pay all costs and fees related to this obligation and its enforcement by TxDOT. TxDOT's failure to notify Proposer of a claim shall not release Proposer of the above duty to defend.

SECTION 5.0 COMPLIANCE WITH LAWS

(a) Proposer acknowledges that all written correspondence, exhibits, photographs, reports, printed material, tapes, electronic disks, and other graphic and visual aids submitted to TxDOT during this procurement process, excluding only the EPDs, are, upon their receipt by TxDOT, the property of TxDOT and are subject to the Public Information Act (Texas Government Code Section 552.001 *et seq.*).

(b) Proposer shall comply with all federal, state, and local laws; ordinances; rules; and regulations applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, national origin, age, or disability in the performance of work under this Payment for Work Product Agreement.

(c) Proposer covenants and agrees that it and its employees shall be bound by the standards of conduct provided in applicable laws, ordinances, rules,

and regulations as they relate to work performed under this Payment for Work Product Agreement. Proposer agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed pursuant to this Payment for Work Product Agreement.

SECTION 6.0 EARLY TERMINATION

This Payment for Work Product Agreement may be terminated by TxDOT, in its sole discretion, in whole or in part, at any time. In the event of such termination, TxDOT will owe no payment except as provided in Section 3(a), above.

SECTION 7.0 ASSIGNMENT

Proposer shall not assign, transfer, pledge, sell, or otherwise convey this Payment for Work Product Agreement without TxDOT's prior written consent, in its sole discretion. Any assignment of this Payment for Work Product Agreement without such consent shall be null and void and may, in TxDOT's sole discretion, disqualify Proposer from further consideration for the procurement and Project.

SECTION 8.0 MISCELLANEOUS

(a) Proposer and TxDOT agree that Proposer, its equity owners, team members, and their respective employees are not agents or representatives of TxDOT as a result of this Payment for Work Product Agreement.

(b) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

(c) This Payment for Work Product Agreement, together with the RFP, including the Request for Proposal Revisions, embodies the entire agreement of the parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein or in the RFP, including the Request for Proposal Revisions, and this Payment for Work Product Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto.

(d) It is understood and agreed by the parties hereto that if any part, term, or provision of this Payment for Work Product Agreement is by the courts held to be illegal or in conflict with any law of the State of Texas, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Payment for Work Product Agreement did not contain the particular part, term, or provisions determined to be invalid.

(e) This Payment for Work Product Agreement shall be governed by and construed in accordance with the laws of the State of Texas. The venue for any proceeding relating to this Payment for Work Product Agreement shall be the courts in Travis County, Texas.

(f) This instrument may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Payment for Work Product Agreement has been executed and delivered as of the day and year first above written.

TEXAS DEPARTMENT OF
TRANSPORTATION

By: _____
Name:_____
Title: _____

_____[insert Proposer's name]

By: _____
Name:_____
Title: _____

Exhibit I

FORM OF ATC PROPOSAL

ATC Proposal No. _____

[Proposer's Name] **SH 99 Grand Parkway Segments H, I-1 and I-2**

***Part A*: Sequentially number your proposed Alternative Technical Concept (ATC). Multi-part or multi-option ATCs must be submitted as separate individual ATCs with unique sequential numbers. Provide the required number of copies of your ATC Proposal as stated in the RFP. Complete Part A and attach to the front cover of your ATC Proposal which should provide the more detailed information as requested in Part B of this Exhibit I.**

1. Please provide a brief written description of the proposed ATC.

2. Proposer is requesting a change affecting the following technical requirements of the Request for Proposals (*check all that apply*):

- ☐ Concept Plan ☐Ultimate Concept Plan ☐Pavement Design
- ☐ Technical Provision #_____
- ☐ Design Standard _____
- ☐ Standard Specification_____
- ☐ Base Scope 1 Work_____
- ☐ Base Scope 2 Work_____
- ☐ Option Work_____

3. Potential ☐ Design-Build Price and/or ☐Maintenance Price savings:

- ☐ None
- ☐ Less than $50,000
- ☐ $50,000 to $100,000
- ☐ $100,000 to $500,000
- ☐ $500,000 to $1,000,000
- ☐ $1,000,000 to $3,000,000
- ☐ $3,000,000 to $5,000,000
- ☐ More than $5,000,000

4. Potential price savings are due to (*check all that apply*):

- ☐ Design modification(s)
- ☐ Reduction of overall quantities
- ☐ Materials fabrication/sourcing
- ☐ Improved constructability
- ☐ Construction sequencing
- ☐ Reduced construction time
- ☐ Other *(Describe):*

_____

5. Potential time savings:

- ☐ None
- ☐ 1 to 10 days
- ☐ 11 to 30 days
- ☐ 31 to 60 days
- ☐ 61 to 100 days
- ☐ More than 100 days

6. Potential time savings are due to *(check all that apply):*

- ☐ Design modification(s)
- ☐ Reduction of overall quantities
- ☐ Materials fabrication/sourcing
- ☐ Improved constructability
- ☐ Construction sequencing
- ☐ Other (*Describe*):

_____

7. How will this ATC be applied to the Project?

- ☐ Location Specific
- ☐ Project Wide

8. Are there any additional risks to TxDOT or third parties associated with implementing the ATC?

☐ No ☐Yes

9. Does the ATC require additional right-of-way?

☐ No ☐Yes

10. Are there any future or delayed costs to TxDOT or third-parties with the implementation of this ATC?

- ☐ No
- ☐ Yes. *Provide an estimate.*

$_____

<u>Part B</u>: Provide the information requested below as part of your ATC analysis and attach to Part A of this Exhibit I. Include conceptual drawings of the configuration and <u>a traffic operational analysis, if appropriate.</u> Proposer's analysis must use the numbering below and address the following:

1. **Purpose**. Describe the proposed ATC in detail, including its purpose; and where and how it would be used on the Project.

2. **Required Deviation(s).** Specify which requirements of the RFP are inconsistent with the proposed ATC. Explain the nature of the inconsistencies, and why a deviation from the RFP provision(s) is required and should be granted. **Explain how the ATC is equal or better in quality and performance than the Design-Build Agreement or COMA Documents, as applicable.**

3. **Overall Analysis.** Provide an analysis of the proposed ATC. How would this ATC change the operation and maintenance of the Project? Include the table below, mark the box as appropriate and include a quantitative discussion of potential changes to the following items:

Assessment of Potential Changes Related to Proposed ATC

Roadway requirements (including ease of operations)	☐ No change	☐ Change
Environmental and Other Permitting	☐ No change	☐ Change
Community Impacts	☐ No change	☐ Change
Vehicular Traffic and Safety	☐ No change	☐ Change
Life-cycle of item/project	☐ No change	☐ Change
Routine maintenance	☐ No change	☐ Change
Capital maintenance	☐ No change	☐ Change
Maintenance transition requirements	☐ No change	☐ Change

4. **Cost Differences.** Provide a detailed statement of the cost differences associated with the ATC implementation (including a detailed estimate of any Option Price and/or Option Maintenance Price adjustment). Include an itemized list of impacted bid items and quantities supporting the cost differences for the ATC. Delineate the cost to TxDOT, the DB Contractor and third parties, if any.

5. **Schedule Impact**. Discuss the impact on the Project completion time including design, construction, right of way, utility relocation, Access Justification Report and/or permitting issues. Describe proposed methods and commitments to minimize or eliminate any related impacts.

6. **Utilities.** Discuss the utility (public and private) impacts, if any, and potential added costs.

7. **Inspections.** Describe and discuss any additional testing and construction inspection requirements.

8. **Risks**. Describe and discuss any added risks to TxDOT and other parties associated with implementing the ATC.
9. **Right-of-way.** Describe any additional right-of-way (temporary or permanent) required and discuss intended acquisition method and schedule. *(Proposers shall (i) be solely responsible for the acquisition of any such right of way and necessary Environmental Approvals, including related costs; (ii) not be entitled to any Change Order for time or money as a result of related Site conditions (i.e., Hazardous Materials, Differing Site Conditions, geotechnical issues, Utilities, etc.); and (iii) not be entitled to any Change Order for time or money as a result of any delays, inabilities or costs associated with the proposed right of way acquisition.)*
10. **Other benefits**. Besides any potential cost and time savings, what other benefits does this ATC provide? Describe and substantiate how the ATC is or will prove to be equal to or better in quality and performance should it be accepted.
11. **Previous Application(s). If previously used,** please provide, in a format as shown below, a detailed description of any previous use of the proposed ATC or similar technical concept and the degree of success or failure of such usage. Include relevant site conditions, basis for and results of its use, schedule and cost impacts, if any, and relative conditions contributing to the success or challenges/limitations of its implementation. Also provide the project name and contact information (name, title, phone number and email) for project owners that can confirm ATC implementation.

Project Name:		**ATC Implementation Year:**
Project Owner:		**Location:**
Contact Name and Title:	**Phone:**	**E-mail Address:**

Description:

Exhibit J

Certificate of Interested Parties

CERTIFICATE OF INTERESTED PARTIES **FORM 1295**

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY

1 **Name of business entity filing form, and the city, state and country of the business entity's place of business.**

2 **Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

3 **Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.**

4

Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 **Check only if there is NO Interested Party.** ☐

6 **AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

_____
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20 _____, to certify which, witness my hand and seal of office.

_____
Signature of officer administering oath | Printed name of officer administering oath | Title of officer administering oath

ADD ADDITIONAL PAGES AS NECESSARY

Form provided by Texas Ethics Commission www.ethics.state.tx.us Adopted 10/5/2015

Appendix A to Exhibit J

Texas Ethics Commission Adopted Rule

Chapter 46. Disclosure of Interested Parties

(effective December 24, 2015)

Text of Adopted Rule

The adopted new language is indicated by underlined text.

Chapter 46. DISCLOSURE OF INTERESTED PARTIES

§46.1. Application

(a) This chapter applies to section 2252.908 of the Government Code.

(b) Section 2252.908 of the Government Code applies only to a contract of a governmental entity or state agency entered into after December 31, 2015, that meets either of the following conditions:

(1) The contract requires an action or vote by the governing body of the entity or agency; or

(2) The value of the contract is at least $1 million.

(c) A contract does not require an action or vote by the governing body of a governmental entity or state agency if:

(1) The governing body has legal authority to delegate to its staff the authority to execute the contract;

(2) The governing body has delegated to its staff the authority to execute the contract; and

(3) The governing body does not participate in the selection of the business entity with which the contract is entered into.

§46.3. Definitions

(a) "Contract" includes an amended, extended, or renewed contract.

(b)"Business entity" includes an entity through which business is conducted with a governmental entity or state agency, regardless of whether the entity is a for-profit or nonprofit entity. The term does not include a governmental entity or state agency.

(c)"Controlling interest" means: (1) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent; (2) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or (3) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers.

(d)"Interested party" means: (1) a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts; or (2) a person who actively participates in

facilitating a contract or negotiating the terms of a contract with a governmental entity or state agency, including a broker, intermediary, adviser, or attorney for the business entity.

(e)"Intermediary," for purposes of this rule, means, a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:

(1) receives compensation from the business entity for the person's participation;

(2) communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and

(3) is not an employee of the business entity.

§46.5. Disclosure of Interested Parties Form

(a) A disclosure of interested parties form required by section 2252.908 of the Government Code must be filed on an electronic form prescribed by the commission that contains the following:

(1) The name of the business entity filing the form and the city, state, and country of the business entity's place of business;

(2) The name of the governmental entity or state agency that is a party to the contract for which the form is being filed;

(3) The name of each interested party and the city, state, and country of the place of business of each interested party;

(4) The identification number used by the governmental entity or state agency to track or identify the contract for which the form is being filed and a short description of the goods or services used by the governmental entity or state agency provided under the contract; and

(5) An indication of whether each interested party has a controlling interest in the business entity, is an intermediary in the contract for which the disclosure is being filed, or both.

(b) The certification of filing and the completed disclosure of interested parties form generated by the commission's electronic filing application must be printed, signed by an authorized agent of the contracting business entity, and submitted to the governmental entity or state agency that is the party to the contract for which the form is being filed

(c) A governmental entity or state agency that receives a completed disclosure of interested parties form and certification of filing shall notify the commission, in an electronic format prescribed by the commission, of the receipt of those documents not later than the 30th day after the date the contract for which the form was filed binds all parties to the contract.

(d) The commission shall make each disclosure of interested parties form filed with the commission under section 2252.908(f) of the Government Code available to the public on the commission's Internet website not later than the seventh business day after the date the commission receives the notice required under subsection (c) of this section.