



**Virginia Department of
Transportation**

**REQUEST FOR DETAILED
PROPOSALS**

U.S. Route 460 Corridor Improvements Project

through the

Public-Private Transportation Act

December 31, 2008

TABLE OF CONTENTS

1.0	INTRODUCTION	1
2.0	BACKGROUND INFORMATION	2
2.1	Legislative Authority for the Project	2
2.2	Procurement Process	3
2.3	Schedule	4
2.4	VDOT’s POC and Project References	5
2.5	RFDP Documents	6
3.0	PROJECT DESCRIPTION AND CORRIDOR INFORMATION	7
3.1	Project Description	7
3.2	Project History	7
4.0	GENERAL PROCEDURES AND REQUIREMENTS	8
4.1	Relationship of the SFP and RFDP	8
4.2	Changes in Offeror’s Organization	8
4.3	Data Room	10
4.4	Preliminary Information Submittal	11
4.5	Pre-Submittal Responsibilities	12
4.6	Proprietary Meetings	12
4.7	Procedures for Alternative Technical Concepts (“ATC”)	13
4.8	No Exclusive Teaming Arrangements	15
4.9	Independent Engineer	15
4.10	Information to be Provided by VDOT	15
4.11	DBE/SWAM Requirements	15
5.0	DETAILED PROPOSAL SUBMITTAL REQUIREMENTS	15
5.1	General Information and Delivery Requirements	15
5.2	Format and Organization of Detailed Proposal	16
5.3	Technical Proposal Submittal Requirements	17
5.4	Financial Proposal Submittal Requirements	17
6.0	EVALUATION AND SELECTION PROCESS	18
6.1	Summary of Evaluation Process	18
6.2	Responsiveness Review	19
6.3	“Pass-Fail” Evaluation Factors	19
6.4	Proposal Evaluation Criteria and Weighting	21
6.5	Clarifications Regarding Detailed Proposals	36
6.6	Approval of Comprehensive Agreement	36
6.7	Actions Following Approval Date	38

7.0 QUESTIONS AND REQUESTS FOR CLARIFICATION REGARDING RFDP41

8.0 RIGHTS AND OBLIGATIONS OF VDOT41

 8.1 Specific Rights and Obligations of VDOT41

 8.2 No Assumption of Liability by VDOT43

9.0 MISCELLANEOUS43

 9.1 Virginia Freedom of Information Act.....43

 9.2 Changes Prior to Execution of the Comprehensive Agreement44

 9.3 Administrative Requirements44

 9.4 eVA Business-to-Government Vendor System45

10.0 CONFLICT OF INTEREST46

 10.1 Conflict of Interest Determination46

 10.2 Ethics in Public Contracting Act.....46

ATTACHMENTS

- A Definitions
- B Technical Proposal Submittal Requirements
- C Pre-Proposal and Financial Proposal Submittal Requirements
- D Applicability of ATC Procedure to Offeror Concepts
- E Required Contents of an ATC Submittal Package
- F Detailed Proposal Checklist and Contents
- G Detailed Proposal Forms
 - 1 Submittal Letter
 - 2 Non-Collusion Affidavit
 - 3 Conflict of Interest Disclosure Statement
 - 4 Equal Employment Opportunity Certification
 - 5 Use of Contract Funds for Lobbying Certification
 - 6 Debarment and Suspension Certification
 - 7 Detailed Proposal Security
 - Form 7-A Detailed Proposal Bond
 - Form 7-B Detailed Proposal Letter of Credit
 - 8 Financial Proposal Forms
 - 8-A Maximum PVR (Present Value of Gross Revenues) Form
 - 8-B Initial Toll Rates & Illustrative Toll Rate Adjustment Policy
 - 8-C Financial Statements Summary Table
 - 8-D Financial Plan Tables
 - 8-E Schedule of Values Form
- H Other Forms
 - A Confidentiality Agreement
 - B Critical Infrastructure Information/Sensitive Security Information (CII/SSI)
Multi-Purpose Non Disclosure Agreement
 - C Financial Statements Summary Table
 - D Guaranty Forms
 - Form D-1 Equity Funding Guaranty
 - Form D-2 Guaranty of Performance and Completion
 - E Independent Engineer Agreement
 - F Escrow Agreement
 - G Financial Close Security
 - H Opinion of Counsel

1.0 INTRODUCTION

1.1 In accordance with the provisions of the Public-Private Transportation Act of 1995, as amended (“PPTA”), the Virginia Department of Transportation (“VDOT”), as the designated responsible public entity for a new west-east transportation link known as the U.S. Route 460 Corridor Improvements Project, hereby requests submittal of Detailed Proposals to develop and operate the Project pursuant to a Comprehensive Agreement as described herein. The Project will generally extend from existing U.S. Route 460 near its Interstate 295 (“I-295”) interchange in Prince George County to a new interchange with the U.S. Route 58 Bypass in the City of Suffolk. The purpose of this Request for Detailed Proposals (the “RFDP”) is to establish the process for selecting a Concessionaire to enter into the Comprehensive Agreement.

1.2 Refer to Attachment A hereto for the meaning of various capitalized terms and acronyms used but not defined herein, and refer to Exhibit A to the Comprehensive Agreement for the meaning of capitalized terms and acronyms used but not defined herein or in said Attachment A.

1.3 As a result of a Solicitation for Proposals dated February 15, 2006, VDOT received three Conceptual Proposals for the Project in September 2006 from the teams of Cintra Concesiones de Infraestructuras de Transporte, S.A., Itinere Infraestructuras S.A., and Virginia Corridor Partners (the “Offerors”). The Commonwealth Transportation Board (“CTB”) and the Commonwealth Transportation Commissioner (“Commissioner”) approved each Offeror’s Conceptual Proposal for further evaluation and action under the PPTA. Only the three Offerors who have advanced through Phase Three of the procurement are invited to respond to this RFDP.

1.4 VDOT’s principal goals for the Project are as follows:

- a. Improve travel safety along the corridor;
- b. Create a new westbound emergency evacuation route for Hampton Roads; and
- c. Accommodate increases in freight movements along the corridor.

1.5 This RFDP defines both a “Base Case” and “Core Requirements” for the Project. The Base Case, which is a limited access, four lane, divided highway along a new alignment, represents VDOT’s preferred definition of the Project. The “Core Requirements” set forth the minimum scope that would satisfy VDOT’s principal goals for the Project and comply with the environmental approvals. The Offerors are required to submit Detailed Proposals that comply with all Core Requirements, and are encouraged to submit Detailed Proposals which exceed the Core Requirements and would deliver best value.

1.6 VDOT encourages Offerors to submit alternative concepts as described herein. The process for submittal and review of such concepts includes measures intended to maintain confidentiality of ideas to the extent allowable under the Code of Virginia. However, VDOT will not consider a Project scope that includes transportation facilities other than the new U.S. Route 460 and its immediate connections with other roadways.

1.7 There is no source of funding available from the Commonwealth of Virginia (“Commonwealth”) to support the development and operation of this Project, and the financing of the Project shall be non-recourse to VDOT and the Commonwealth. The Concessionaire may use tolls, related fees and revenue from users of the Project to finance the development and operation of the Project, as more particularly delineated in the Comprehensive Agreement. If the Offeror wishes to secure commitments for financial assistance from the United States Department of Transportation, VDOT will support the Offeror’s efforts.

1.8 Pursuant to the PPTA, VDOT contemplates entering into a Comprehensive Agreement, in the form set forth in Part 3 of the RFDP Documents, with the Concessionaire identified in the Detailed Proposal submitted by the Successful Offeror. VDOT anticipates that, under the terms of the Comprehensive Agreement, the Concessionaire shall have the obligation to close financing within a specified period following the date of the Comprehensive Agreement, to complete and commence operations of the Project by a specified date, and to operate the Project for a specified term, in exchange for the right to impose and collect tolls from users of the Project. The Concessionaire will be required to collect tolls and related fees and revenue using an open road tolling system, and may also use non-automated toll collection. The Concessionaire will bear full traffic and revenue risks, as well as all other risks associated with financing the Project.

1.9 The Offeror shall be responsible for satisfying the prerequisites to execution of the Comprehensive Agreement in accordance with the timetable herein and for achieving Financial Close by the Financial Close Deadline set forth in the Comprehensive Agreement.

2.0 BACKGROUND INFORMATION

2.1 Legislative Authority for the Project

2.1.1 The PPTA is the legislative framework enabling the Commonwealth to enter into agreements authorizing private entities to develop and/or operate qualifying transportation facilities. The Commonwealth adopted *Implementation Guidelines* (“*Guidelines*”) in accordance with the PPTA.

2.1.2 In 2003, Chapter 953 was enacted by the Virginia General Assembly and signed into law by the Governor. Chapter 953 required VDOT to issue a Solicitation for Proposals (“SFP”) for the Project under the PPTA, within 90 days of the CTB’s adoption of the preferred alignment. On November 17, 2005, the CTB approved Candidate Build Alternative (“CBA”) alignment 1. Accordingly, on February 15, 2006, VDOT issued the SFP for the Project. The CTB also requested that VDOT evaluate a shift in the alignment in Isle of Wight County. In January 2007, the CTB selected the modified alignment as the preferred alignment, known as Modified CBA-1. In a separate resolution, the CTB requested VDOT to seek alternative funding sources for this and other specified projects.

2.1.3 CTB resolutions are included with Project information; refer to Section 2.4.5 for more information.

2.2 Procurement Process

2.2.1 Offerors are advised that VDOT has modified some of the procedures otherwise set forth in the *Guidelines*, dated October 31, 2005, in order to meet the specific needs of the Project and VDOT. The modifications are as indicated below with respect to Phases 4 and 5.

- Phase One (completed) is a VDOT-level quality control review to determine if the conceptual proposal meets the requirements of law and the *Guidelines*. Additional information is included in the Innovative Project Delivery Division Memorandum [IPD 05-02.0](#).
- Phase Two (completed) is a review and evaluation of the conceptual proposals which results in a recommendation by an Independent Review Panel (“IRP”) to advance one or more conceptual proposal(s).
- Phase Three (completed) is a review of the conceptual proposal(s) and IRP recommendations by the CTB resulting in a resolution that VDOT either rejects the conceptual proposals or seeks a detailed proposal for submission by one or more of the Offeror(s).
- Phase Four generally entails the solicitation and evaluation of detailed proposals. For this Project, VDOT has determined to solicit binding Detailed Proposals consistent with the recommendations of the IRP, CTB and the evaluation criteria set forth in these Instructions. VDOT has developed distinct evaluation criteria and will utilize an evaluation team to evaluate Detailed Proposals and to make recommendations to the Commissioner, in accordance with the schedule set forth in Section 2.3. The final selection of the Best Value Proposal will be made by the Commissioner.
- Phase Five usually contemplates the initiation of negotiations by VDOT with offerors who have submitted detailed proposals that satisfy the evaluation criteria. As VDOT is seeking binding Detailed Proposals, the Concessionaire proposed by the Successful Offeror will be required to execute and deliver the Comprehensive Agreement (Part 3 to this RFDP), without modification other than incorporation of information from the Detailed Proposal, as contemplated by Part 3. VDOT does not anticipate major issues or material negotiations and therefore does not plan to post a list of major issues to be negotiated. However, VDOT reserves the right to conduct limited negotiations as described in Section 6.6.
- Phase Six is the final stage of review prior to the execution of the interim or comprehensive agreement by the Commissioner and the proposed Concessionaire. The Commissioner has the statutory authority to enter into an agreement under the PPTA once VDOT has received written approval of the procurement method from the Commonwealth’s Secretary of Transportation.

2.2.2 On February 15, 2006, VDOT issued its SFP. In September 2006, three teams responded. VDOT has completed its Quality Control Review (Phase One) and IRP (Phase Two).

As a result of the IRP review, each Offeror was recommended for advancement and a list of recommendations for further consideration was developed. On July 19, 2007, the CTB passed a resolution approving the IRP's list of recommendations with minor amendments, thus completing Phase Three of the procurement process.

2.2.3 This RFDP commences Phase Four of the procurement process. Each of the Offerors is requested to respond. Based on the results of the evaluation committee, the Commissioner will make a selection of the Successful Offeror, if any. VDOT shall be under no obligation to select the Offeror submitting the lowest priced Detailed Proposal or to make a selection at all. Should an initially selected Successful Offeror fail to provide an executed Comprehensive Agreement and other documents and information in accordance with the requirements herein, VDOT reserves the right, in its sole discretion, to select an alternative Successful Offeror to proceed with the Project.

2.3 Schedule

VDOT anticipates that the Project procurement will proceed in accordance with the following list of milestones leading to a Comprehensive Agreement. VDOT reserves its right to accelerate or further modify this schedule as it finds appropriate, in its sole discretion. VDOT will provide notice regarding any further modification to the schedule. In addition, VDOT may issue additional Addenda, supplements and modifications to this RFDP as it determines in its sole discretion to be appropriate.

Project Milestones	Date
1. Issue Request for Detailed Proposals	December 31, 2008
2. Written notification that the Offeror anticipates RFDP questions	January 9, 2009
3. RFDP Questions due to VDOT	January 20, 2009
4. VDOT responses to questions or clarifications	February 9, 2009
5. Begin proprietary meetings	February 17, 2009
6. Complete proprietary meetings	May 1, 2009
7. Preliminary Information submittal due	May 14, 2009
8. Last date for submittal of ATCs	June 12, 2009
9. Scheduled date for Addendum identifying the Independent Engineer and specifying the Department's Initial Reimbursable Cost, the Department's Annual Reimbursable Cost, and VDOT's Allocable Cost of Oversight Services	June 30, 2009
10. Last date for VDOT responses to ATCs	July 14, 2009
11. Last date for changes to Offeror teams	July 14, 2009
12. Scheduled date for Addendum specifying the Benchmark Interest Rates and the Initial PVR Discount Rate	July 31, 2009
13. Detailed Proposal Due Date	August 14, 2009
14. Presentation to CTB of contract business points (if applicable)	September 17, 2009
15. Recommendations to Commissioner	September 29, 2009

	Project Milestones	Date
16.	Approval Date	October 8, 2009
17.	Presentation to CTB of contract business points (if necessary)	October 15, 2009
18.	FHWA final approval	November 24, 2009
19.	Comprehensive Agreement execution	December 7, 2009

2.4 VDOT's POC and Project References

2.4.1 VDOT's sole Point of Contact ("POC") for the Project shall be the person designated below. By submitting a proposal, each Offeror shall be deemed to have agreed to limit all communication regarding its Detailed Proposal within the Executive Branch of the Commonwealth, including advocacy efforts, to VDOT's POC. VDOT's POC is the only individual authorized to discuss this RFDP with any interested parties, including Offerors. All communications with VDOT's POC shall be in writing, as required by the applicable provisions of this RFDP. Offerors may not rely upon any oral responses to inquiries.

VDOT's POC is:

Name: Mr. Jeff Hetzer
Title: Program Manager
Address: Innovative Project Delivery Division
Virginia Department of Transportation
1401 East Broad Street
Richmond, VA 23219
Phone: (804) 786-6724
Fax: (804) 786-7221
E-Mail: jeff.hetzer@vdot.virginia.gov

2.4.2 VDOT disclaims the accuracy of information derived from any source other than VDOT's POC, and the use of any such information is at the sole risk of the Offerors.

2.4.3 All written communications to VDOT from the Offerors shall specifically reference the correspondence as being associated with the "U.S. Route 460 Corridor Improvements Project."

2.4.4 Nothing herein shall be construed to preclude VDOT's POC from speaking with any Offeror at any time prior to the opening of the Detailed Proposals, and VDOT expressly reserves all such rights to do so.

2.4.5 RFDP Project information is available in the Project electronic data room ("data room"). Section 4.3 provides more information.

2.4.6 Any and all information made available to Offerors by VDOT or VDOT's contractors or consultants is made for convenience purposes only, and is without representation or warranty of any kind, except the extent provided to the Concessionaire pursuant to the Comprehensive Agreement.

2.5 RFDP Documents

2.5.1 The documents included in this RFDP (collectively the “RFDP Documents”) consist of the following, as well as any attachments and exhibits contained or identified in such sections:

- Part 1 – Instructions to Offerors (“Instructions”)
- Part 2 – Technical Information and Requirements (“Technical Requirements”)
- Part 3 – Comprehensive Agreement

2.5.2 The RFDP will be distributed to the three Offerors and posted on the data room and the Department’s external website.

2.5.3 Each Offeror shall review the RFDP Documents and provide comments regarding any aspect of such documents to which it has any concerns, including terms that it considers to be ambiguous or to which it takes exception. Such comments will be submitted to VDOT’s POC within the time specified in Section 2.3. VDOT will review all comments received and, if it deems appropriate, in its sole discretion, may modify such RFDP Documents through an Addendum. Offerors shall base their Detailed Proposals on the RFDP Documents as so modified.

2.5.4 Addenda to the RFDP Documents, if any, will be posted on the data room. Offerors should monitor the data room for the posting of any Addenda. Hard copies of the Addenda will be available upon request. If there is any conflict between the electronic format and hard copy of any RFDP Document or Addendum, the hard copy on file shall have precedence.

2.5.5 Certain information contained in or based on the Successful Offeror’s Detailed Proposal will be incorporated into the Comprehensive Agreement, including:

- a. the Offeror’s Schematic Design narrative and Offeror’s Schematic Design (see Attachment B);
- b. the Guaranteed Substantial Completion Date (see Attachment B);
- c. Outline Project Development Plans, with the Quality Management System Plan and Public Information and Communications Plan finalized by execution and approved by VDOT (see Attachment B);
- d. the Initial Baseline Schedule (i.e., the Proposed Initial Baseline Schedule, as it may be modified prior to execution of the Comprehensive Agreement) (see Attachment B);
- e. the Initial Project Financing Agreement or, if a fully committed financing is not in place as of the Agreement Date, the Financial Plan (see Attachment C);
- f. the Initial Base Case Financial Model (see Attachment C);
- g. Form 8-A (Maximum PVR) (see Attachment C); and

- h. Form 8-B (Initial Toll Rate Schedule & Illustrative Toll Rate Adjustment Policy) (see Attachment C); and
- i. Schedule of Values (see Attachment C).

3.0 PROJECT DESCRIPTION AND CORRIDOR INFORMATION

3.1 Project Description

The Project to be developed by the Concessionaire will be defined by the Successful Offeror's Detailed Proposal, subject to the requirements of this RFDP. It generally includes the development and operation of a new west-east transportation link extending from an intersection with the existing U.S. Route 460 near the existing I-295 interchange in Prince George County to a new interchange with the U.S. Route 58 Bypass in the City of Suffolk. The Project area extends approximately 55 miles.

3.2 Project History

3.2.1 In the 1930's, a two lane highway was built between Petersburg and Suffolk to parallel the Norfolk and Petersburg Railroad line (now known as the Norfolk Southern Railway) that had been constructed in the 1890's. This road was widened to four lanes in the 1950's. There were no medians, shoulders or divided sections on the highway.

3.2.2 This highway, the existing U.S. Route 460, is part of the federally designated National Highway System. Improvements to the U.S. Route 460 corridor between Suffolk and Petersburg were evaluated as part of the national "TransAmerica Study" resulting from the Federal Government's Intermodal Surface Transportation Efficiency Act ("ISTEA") in 1991. In the late 1990's, Virginia and West Virginia collaborated on a study of potential improvements between Beckley, West Virginia and Virginia Beach, Virginia.

3.2.3 In 2000, the Virginia Transportation Act designated U.S. Route 460 as a "High Priority Corridor" between I-295 in Petersburg and the U.S. Route 58 Bypass in Suffolk. VDOT initiated an environmental study in 2003 for U.S. Route 460 and the General Assembly also passed legislation requiring a PPTA solicitation for improvements to the highway.

3.2.4 In the spring of 2005, VDOT and Federal Highway Administration ("FHWA") released a Draft Environmental Impact Statement ("DEIS") that was prepared as part of the *U.S. Route 460 Location Study*. The DEIS identified several key elements that need to be addressed in improving the U.S. Route 460 corridor, including the need to:

- a. Address roadway deficiencies;
- b. Improve safety;
- c. Accommodate increasing freight shipments;
- d. Reduce travel delay;

- e. Provide adequate hurricane evacuation capability;
- f. Improve military strategic connectivity;
- g. Meet legislative mandates that identified the roadway as a high priority corridor; and
- h. Meet local economic development plans.

3.2.5 In November of 2005, the CTB selected the preferred alignment for the new highway, triggering the requirements of the 2003 PPTA legislation. The CTB also requested that VDOT further evaluate a shift in the alignment in Isle of Wight County. In January 2007, the CTB selected the modified alignment as the preferred alignment; known as Modified CBA-1. The Final Environmental Impact Study (“FEIS”) was approved June 6, 2008, and the Record of Decision (“ROD”) was signed on September 12, 2008. Additional information regarding the Modified CBA-1 alignment is included in the data room.

4.0 GENERAL PROCEDURES AND REQUIREMENTS

This Section provides general information, procedures and requirements that all Offerors must satisfy in submitting Detailed Proposals. An Offeror’s failure to comply with this Section may result in rejection of its Detailed Proposal.

4.1 Relationship of the SFP and RFDP

Offerors are advised that this RFDP contains Project information and evaluation criteria not identified in, or different from those contained in the SFP. In the event of any conflict between the RFDP and SFP, the RFDP shall govern.

4.2 Changes in Offeror’s Organization

4.2.1 Offerors are permitted to make changes in the Major Participants identified in the Conceptual Proposal (including Equity Member additions or withdrawals to/from an Offeror team), subject to the following provisions. If an Offeror wishes to make any such change, or if it wishes to change the percentage of equity participation of one or more Equity Members of its team, or change the role or scope of involvement by a Major Participant, the Offeror shall submit to VDOT a written request for approval of the change, no later than the last date for changes to Offeror teams shown in Section 2.3.

4.2.2 Any such request shall be provided to VDOT’s POC at the address set forth in Section 2.4.

4.2.3 In order for an Offeror to remain qualified to submit a Detailed Proposal, the ability of Offeror’s organization to successfully finance and undertake the Project must not be materially diminished from the organization identified in the Conceptual Proposal. Accordingly, any request for approval of a change shall include:

- a. A written explanation of not more than three pages explaining why the proposed change does not have a material adverse effect on the ability of the Offeror's organization to successfully finance, develop and operate the Project.
- b. A statement by the Offeror that any new Major Participant does not have a conflict of interest, in accordance with the requirements included in Section 10.1.
- c. If the Preliminary Information submittal required under Section 4.4 has not yet been submitted, then all information required under Section 4.4 shall be submitted, if applicable.
- d. If the Preliminary Information has already been submitted, then any applicable additions and revisions to the Preliminary Information submittal shall be included.
- e. If approval is requested to add a new Major Participant or to change the role or scope of involvement by a Major Participant, then all supporting information shall be included that would have been required to be submitted with the Conceptual Proposal with respect to the qualifications of the Major Participant to perform its proposed scope. In addition, the submittal shall identify each project of any size or nature within the Commonwealth, for which the entity or an affiliate has been assessed liquidated damages since 2002, and shall include an explanation of circumstances surrounding such assessment.
- f. The information required by Section 4.2.4, if applicable.

4.2.4 In connection with any request to approve addition of a proposed Major Participant, the Offeror shall submit a list identifying transportation infrastructure projects in which the new entity played a major role since 2002 which are relevant to the entity's role on the Project. For Equity Members, the list shall include projects structured as concessions or public-private partnerships involving private debt and equity in excess of \$500 million in which the Equity Member (or affiliate) acted as an equity investor or developer. For other Major Participants, the list shall include transportation projects in excess of \$500 million. The submittal shall include the following information about each listed project:

- a. Name of the Major Participant associated with the project;
- b. Name of the company involved in the project and its relationship to said Major Participant;
- c. Project name and location (attach a maximum one-page narrative description for each project listed on separate 8-1/2" x 11" sized white paper). The description shall give an overview of the project, explaining the entity's role and why the experience the entity gained on the project is relevant to this Project, and provide contact information for reference purposes;
- d. Relevant dates (effective date, financial close, construction completion, end of concession);

- e. Level of completion of construction work for the project as of June 30, 2008;
- f. Project size. For Equity Members, the project size shall be the total amount, of the project financed under private finance / project finance scheme, in U.S. dollars, excluding public finance or capital grants. For other Major Participants, the project size may include public funds. Exchange rates for amounts in other currencies shall use the exchange rate as of December 31, 2008, and the submittal shall identify the benchmark on which the exchange rate is based;
- g. For Equity Members only, debt amount (identify each tranche of debt used) and debt-to-equity ratios. Use U.S. dollars and identify exchange rates of amounts in other currencies using the exchange rate as of December 31, 2008, as well as the benchmark on which the exchange rate is based;
- h. For Equity Members only, equity investment of the referenced entity at financial close, in U.S. dollars. The equity investment may take the form of either shareholders' equity or shareholder subordinated debt. Indicate separately the U.S. dollar amount and percentage to which the company's equity investment bears to the total of all shareholders' equity investments for the listed project; and
- i. For Equity Members only, payment mechanism (such as availability payment, shadow toll, real toll or combinations of these mechanisms).

4.2.5 VDOT shall determine whether or not to approve such change within ten business days of VDOT's receipt of such written change request accompanied by a complete package of supporting information (as described above); such approval not to be unreasonably withheld provided that the information provided by the Offeror has established to VDOT's satisfaction that the proposed changes in the Offeror's organization (as compared to the organization identified in the Conceptual Proposal) would not have a material adverse effect on the Offeror's ability to successfully finance, develop and operate the Project. An Offeror that has made a change in its Major Participants will receive a "pass" rating under Section 6.3.1.a only if VDOT has approved the change.

4.2.6 Any changes to the Offeror's team after the date shown in Section 2.3 may result in the elimination of the Offeror from further consideration.

4.3 Data Room

4.3.1 The data room can be accessed at www.rt460ppta.sharepointspace.com. To access the data room, Offerors are required to complete, sign, and return all portions of the Confidentiality Agreement (Form A) and Multi-Purpose Non Disclosure Agreement (Form B). Form B is also required to be completed, signed and returned by each user. All forms and inquiries related to the RFDP data and access to the data room shall be coordinated through the VDOT POC.

4.3.2 Upon determination of a Successful Offeror, VDOT will suspend access to the data room by other Offerors. VDOT will terminate access to the data room upon execution of the Comprehensive Agreement.

4.4 Preliminary Information Submittal

Each Offeror must provide a Preliminary Information submittal as described in this Section 4.4, by the date set forth in Section 2.3.

4.4.1 Preliminary Financial Information

4.4.1.1 The submittal shall include financial statements and other information as required by Section C1 of Attachment C, for the proposed Concessionaire (if formed), Equity Members, Design-Build Contractor and Guarantors (if any), and shall provide a summary of the information provided, on Form C. Within 30 days of receipt of all required information, VDOT will advise the Offeror whether the information submitted appears likely to result in a “pass” rating under Section 6.3.2.b.iv. If VDOT indicates the information does not appear likely to result in a “pass” rating, the Offeror will be responsible for taking appropriate action to ensure it meets the pass/fail requirements on the Detailed Proposal Due Date. VDOT’s preliminary determination under this Section 4.4 does not constitute a guaranty that the Offeror’s Detailed Proposal will in fact receive a “pass” rating under Section 6.3.2.b.iv, regardless of any action or inaction by VDOT under this Section 4.4.

4.4.1.2 If (a) no financial statements are available for an Equity Member or proposed Design-Build Contractor, (b) financial statements are available for such entity but are not provided, or (c) the financial statements provided show that such entity has limited resources and/or balance sheet, then the submittal must identify proposed Guarantor(s) with respect to the obligations of such entities. Refer to Forms D-1 and D-2 in Attachment H for information regarding the terms and conditions of the required guaranty.

4.4.1.3 The submittal shall also identify, for VDOT’s approval, the proposed independent audit firm that will perform the audit of the Initial Base Case Financial Model required under Section C5.3.3 of Attachment C.

4.4.2 Other Information

Each Offeror must provide updated information for each Major Participant regarding projects similar to the proposed Project underway as of, or undertaken after, the date of the submission of the Offeror’s Conceptual Proposal. For each Equity Member, the information identified in Sections 4.2.4.a through 4.2.4.i shall be provided. For each Major Participant that is not an Equity Member, the information identified by Sections 4.2.4.a through 4.2.4.f shall be provided. The submittal shall also identify each project of any size or nature undertaken for any public agency within the Commonwealth, for which any Major Participant, or an affiliated entity, has been assessed liquidated damages since 2002, and shall include an explanation of circumstances surrounding such assessment.

4.4.3 Failure to Provide Information

At VDOT’s discretion, any Offeror that fails to submit the Preliminary Information submittal required by this Section 4.4, including providing any requested clarifications or missing information, may be barred from submitting Detailed Proposals.

4.5 Pre-Submittal Responsibilities

Each Offeror shall be solely responsible for examining the RFDP, including Addenda, and any and all conditions which may in any way affect its Detailed Proposal or the performance of the work on the Project, including:

- a. Examining and carefully studying the RFDP, including Addenda and other information or data identified in the RFDP;
- b. Visiting the Project area and becoming familiar with and satisfying itself as to the general, local, and site conditions that may affect the cost, progress or performance of its work on the Project; and
- c. Becoming familiar with and satisfying itself as to all federal, State and local laws and regulations that may affect the cost, progress or performance of its work on the Project.

4.6 Proprietary Meetings

4.6.1 VDOT will invite each Offeror to participate in proprietary meetings with VDOT and its representatives or consultants, with the anticipated dates for such meetings within the timeframes set forth in Section 2.3 above. VDOT will indicate the scope of each of the preliminary meetings, such as financial, technical or commercial matters. Each proprietary meeting would be private, in that only one Offeror would meet with VDOT at a time.

4.6.2 The purpose of the proprietary meetings is to give each Offeror, in a confidential setting, an opportunity to ask questions and discuss concerns related to the Project, the RFDP, and administrative procedures; and for VDOT to engage in fact finding with the Offerors regarding the RFDP and the Project. No negotiation or decision-making shall take place during the proprietary meetings. VDOT reserves the right to hold proprietary meetings on matters it deems appropriate in its sole discretion, provided each Offeror shall have the opportunity to meet with VDOT for the same quantity of time as any other Offeror. At least three business days before each meeting the Offeror shall submit to VDOT in writing the names and functions of each of its attendees and the issues and general questions to be addressed. Any written materials provided by an Offeror shall be subject to disclosure or exemption from disclosure in accordance with the provisions described in Section 9.1.

4.6.3 While the discussions in these proprietary meetings are intended to be confidential, VDOT reserves the right to disclose to all Offerors any issues raised during the proprietary meetings, except to the extent that VDOT determines, in its sole discretion, that such disclosure would reveal an Offeror's confidential business strategies. Nothing shall preclude VDOT from exercising any rights that it may have under this RFDP or state law, including the right to issue a clarification or revision of the RFDP, or an Addendum, as a result of what is discussed in such meetings.

4.6.4 Proprietary meetings are designed for the exchange of information. Offerors shall not seek to obtain commitments from VDOT in the proprietary meetings or otherwise seek to obtain an unfair competitive advantage over any other Offeror.

4.6.5 No aspect of these proprietary meetings is intended to provide any Offeror with access to information that is not similarly available to other Offerors, and the evaluation of Detailed Proposals will be based on the information provided in the Detailed Proposals and not on the conduct or discussions that occur during these proprietary meetings.

4.7 Procedures for Alternative Technical Concepts (“ATC”)

This Section 4.7 sets forth a procedure for review of concepts that the Offeror considers would add value to the Project.

4.7.1 Introduction to the ATC Procedure

The procedure is intended to:

- a. Allow an Offeror to present innovative concepts;
- b. Enable VDOT to review the concept’s purpose, compatibility with the Project’s principal goals, impact upon schedule, and effects on the Project’s costs/risks/benefits and to determine its acceptability for inclusion in the Detailed Proposals; and
- c. Provide a mechanism by which an entire concept or certain components of a concept may be considered confidentially via the Offeror-specific Addendum process described in Section 4.7.3 below.

Attachment D identifies and categorizes concepts that may be contemplated by Offerors and sets forth the applicability of VDOT’s ATC procedure for each category of concept.

4.7.2 Pre-Proposal Submittal of ATCs

4.7.2.1 The Offeror may submit ATCs for review to VDOT’s POC, at any time on or before the last date for submittal of ATCs identified in Section 2.3. All ATCs shall be submitted in writing, with a cover sheet identifying the Offeror and stating:

“U.S. Route 460 PPTA Project ATCs”

4.7.2.2 The Offeror shall clearly identify the submittal as a request for review of an ATC under this procurement and, if it wishes to obtain a determination from VDOT that some or all of the information is exempt from public disclosure, provide a written request for determination, in accordance with Section 9.1. ATC submittals shall include five copies of a narrative description of the ATC and technical information, including drawings. The format and contents of a submittal of an ATC for VDOT’s acceptance are set forth in Attachment E. Offerors are required to follow VDOT’s published procedures for the submittal of any design exception and/or design waivers included in an ATC submittal.

4.7.2.3 VDOT may request additional information regarding proposed ATCs at any time, and will return responses to each Offeror regarding its ATC on or before the last date set forth in Section 2.3.

4.7.2.4 VDOT's response will be limited to one of the following statements:

- a. The ATC is acceptable for inclusion in the Detailed Proposal;
- b. The ATC is not acceptable for inclusion in the Detailed Proposal;
- c. The ATC is accepted conditionally (i.e., the ATC is not acceptable in its present form, but may be acceptable upon the satisfaction, as required in VDOT's sole discretion, of certain identified conditions which must be met or clarifications or modifications that must be made); or
- d. The submittal does not qualify as an ATC but may be included in the Offeror's Detailed Proposal because it conforms to the RFDP Documents.

4.7.2.5 On acceptance by VDOT of an ATC, the Offeror will be responsible for ensuring that the Detailed Proposal complies with the requirements of the RFDP Documents as may be amended through the Offeror-specific Addendum process described in Section 4.7.3 below.

4.7.2.6 VDOT's acceptance or rejection of a pre-Detailed Proposal submission of an ATC will not entitle an Offeror to an extension of the Detailed Proposal Due Date.

4.7.3 Offeror-Specific Addendum Procedure for Accepted ATCs

On acceptance by VDOT of an ATC presented by an Offeror and following determination of its confidential status according to Section 9.1, VDOT reserves the right to issue an Addendum only to that Offeror, amending the RFDP Documents in a manner that would enable a Detailed Proposal incorporating the ATC to be in conformance with the RFDP Documents (as amended).

4.7.4 Incorporation of ATCs in the Comprehensive Agreement

4.7.4.1 The ATCs that were accepted by VDOT and incorporated in the Detailed Proposal by the Successful Offeror shall become part of the binding Comprehensive Agreement. If VDOT provided conditional acceptance for any such ATC, and the conditions have not been satisfied prior to execution of the Comprehensive Agreement, the conditions will become part of the Comprehensive Agreement.

4.7.4.2 If it becomes apparent, prior to execution of the Comprehensive Agreement, that the Concessionaire will not be able to satisfy one or more of the conditions of acceptance for an ATC, the Comprehensive Agreement will require the Concessionaire to finance, develop and operate the Project as though it had submitted a Detailed Proposal that did not include the ATC, without any change in the Financial Proposal or proposed scope of the Project. In such event, VDOT may re-evaluate the Detailed Proposals to determine whether the change affects the Offeror rankings.

4.8 No Exclusive Teaming Arrangements

In order to ensure a fair procurement process, VDOT has determined that no Offeror may enter into an exclusive teaming arrangement with any potential Lender or provider of letters of credit. Each Offeror, by submitting its Detailed Proposal, represents and warrants that it has made no exclusive arrangement prohibited by this Section 4.8.

4.9 Independent Engineer

As specified in Section 10.06 of the Comprehensive Agreement, certain quality assurance services for the Project will be provided by an Independent Engineer under a joint contract among VDOT, the Concessionaire and the Independent Engineer. Refer to Form E in Attachment H for a draft form of this contract and a general scope of work for the Independent Engineer. VDOT will conduct a procurement to select the firm that will be the Independent Engineer, and will notify the Offerors by Addendum regarding the identity of the selected firm and any revisions to the form of the joint contract, by the date specified in Section 2.3. The Concessionaire will be required to reimburse VDOT for the costs of the Independent Engineer. VDOT's estimate of the cost of the baseline services to be provided by the Independent Engineer is provided in Attachment C.

4.10 Information to be Provided by VDOT

By Addenda issued on the applicable dates specified in Section 2.3, VDOT will notify the Offerors regarding the values of (a) the Initial Benchmark Interest Rates, including complete term structures, (b) the Initial PVR Discount Rate, and (c) the Department's Initial Reimbursable Cost, the Department's Annual Reimbursable Cost, and the Department's Allocable Cost of Oversight Services to be included in the Schedule of Values.

4.11 DBE/SWAM Requirements

Offeror is advised that the federal Disadvantaged Business Enterprise ("DBE") contract goal for this procurement is 13% and the Commonwealth's Small, Women and Minorities ("SWAM") contract goal for this procurement is 27%. Offeror shall be required to fulfill a commitment to achieve these goals for the Project in accordance with the Comprehensive Agreement.

5.0 DETAILED PROPOSAL SUBMITTAL REQUIREMENTS

5.1 General Information and Delivery Requirements

5.1.1 This Section identifies requirements to be addressed in Detailed Proposals.

5.1.2 VDOT reserves the right to conduct an independent investigation of any information identified in the Detailed Proposal, including prior experience, by contacting project references, accessing public information, contacting independent parties, or any other means. VDOT also reserves the right to request additional information from an Offeror during the evaluation of its own Detailed Proposal.

5.1.3 Detailed Proposals are to be sealed in packages bearing the Offeror's name, its address and the words "U.S. Route 460 PPTA Project - Detailed Proposal, Volume xx" clearly written on the outside. All Detailed Proposals must be received by 2:00 p.m., local prevailing time on the date set forth in Section 2.3. Detailed Proposals must be delivered to the VDOT POC as designated in Section 2.4. Fax or email submissions will not be accepted.

5.1.4 Each Offeror is responsible for effecting delivery by the stated deadline. Late submissions will be rejected and returned unopened to the sender. VDOT accepts no responsibility for misdirected or lost Detailed Proposals.

5.1.5 Each Offeror shall submit to the VDOT POC one original and 14 paper copies of the Detailed Proposal and two CD-ROM or comparable electronic device copies (in .pdf format unless otherwise specified) of its Detailed Proposal.

5.2 Format and Organization of Detailed Proposal

5.2.1 To facilitate the evaluation of Detailed Proposals, each volume of the Detailed Proposal submittal described below shall be submitted in one or more sealed packages separate from the other volumes. Detailed Proposals shall follow the format prescribed in this Section. Submittals that do not follow the format provided below may be considered non-responsive and may be eliminated from further consideration.

- a. All pages of the Detailed Proposal shall be numbered and single sided with minimum 0.75" margins. Offerors should use cross-referencing rather than repetition throughout the Detailed Proposal. The Detailed Proposal shall contain a table of contents, and shall follow the format described herein.
- b. Detailed Proposals shall be placed in three-ring binders and shall be organized in accordance with Attachment F.
- c. Unless otherwise specified in this RFDP, all written submittals that are subject to page limitation as set forth in Attachment F shall be prepared on 8-1/2" x 11" or A4 sized, white paper. Any submittal requested on paper larger than 8-1/2" x 11" or A4 format will be considered one page.
- d. All written submittals, regardless of paper size, must be prepared on white paper and included in the applicable binder.
- e. Each section within a volume shall have sequentially numbered pages (i.e., "Vol. 2 – Section 2, p.2," for page 2 of Section 2 in Volume 2), shall be separated by a divider with a labeled tab, and shall be prepared using no smaller than eleven-point font size, except for tables, which may be prepared using ten-point font size.
- f. Certain portions of the Detailed Proposal are subject to an overall 150 page limit, as set forth in Attachment F. VDOT may disregard documents not complying with these page limitations. Offerors shall not include standard corporate

brochures, awards, licenses and marketing materials, and VDOT will not evaluate such materials.

- g. The electronic submittals (CDs and/or DVDs) shall follow equivalent organizational standards, and shall use a searchable format with appropriate bookmarks.
- h. Any financial statements or updates to financial statements shall be submitted electronically to the extent possible, including links to SEC filings.
- i. Within each volume binder shall be a page executed by the Offeror that sets forth the specific scope and nature of items the Offeror deems confidential, trade secret or proprietary information that the Offeror would like VDOT to evaluate to determine whether it can be protected from public disclosure in accordance with Section 9.1.

5.3 Technical Proposal Submittal Requirements

The Technical Proposal shall contain the Letter of Submittal (Form 1), Detailed Proposal Security and other forms and information required by Attachment B, separated and labeled appropriately and organized in accordance with Attachment F. The Letter of Submittal must enumerate all Addenda issued and acknowledge receipt thereof.

5.4 Financial Proposal Submittal Requirements

The Financial Proposal shall contain the information, materials and forms required by Attachment C, separated and labeled appropriately and organized in accordance with Attachment F.

5.4.1 Benchmark Interest Rates and Initial Base Case Financial Model

- a. In developing the Financial Plan, Initial Base Case Financial Model and Maximum PVR quotation, the Offeror shall select, from among the Initial Benchmark Interest Rates identified by VDOT pursuant to Section 4.10, the benchmark index or, in the case of multiple debt types, the set of indices (and associated weightings, if relevant), that best match the reference rate(s) of the Offeror's debt structure(s). The Offeror shall use this index (or set of indices) in the Initial Base Case Financial Model and to develop its Financial Plan and proposed Maximum PVR. After selecting the appropriate benchmark index (or set of indices), the Offeror will select the rates that correspond to the debt term or series of debt terms from each selected benchmark index that best matches the Offeror's debt structure(s) as described in the Project Financing Agreements and shown in the Initial Base Case Financial Model submitted with the Detailed Proposal. The Offeror will identify these rates in Table 5 of Form 8-D. Any refinancings anticipated in the Initial Base Case Financial Model shall be assumed to be at or above the rates of the then amortizing debt.

- b. If VDOT reasonably determines that the Offeror's selection of indices, debt terms and derived rates do not best match the Offeror's debt structure(s), then VDOT shall have the right to select indices, interest rates or debt terms, as applicable, from the Initial Benchmark Interest Rates that more accurately reflect the Proposal's debt-financing solution and revise Table 5 of Form 8-D and the Initial Base Case Financial Model accordingly for purposes of determining adjustments to the PVR Discount Rate under Comprehensive Agreement Section 7.02, provided that in the case of such a revision, only the Equity IRR and the debt structure shall be adjusted (the Maximum PVR will be held constant).

6.0 EVALUATION AND SELECTION PROCESS

Selection of the Offeror is an important decision and many factors must be evaluated in determining the most appropriate and qualified Offeror for this Project. Prior to receipt of Detailed Proposals, VDOT will form a proposal evaluation team to review the Detailed Proposals as described in this Section 6.0 and to provide a selection recommendation to the Commissioner.

6.1 Summary of Evaluation Process

The evaluation process will include an initial review of each Detailed Proposal to verify responsiveness in accordance with Section 6.2, a "pass-fail" evaluation in accordance with Section 6.3, and an evaluation and scoring of the Detailed Proposals in accordance with Section 6.4.

A Detailed Proposal will be evaluated for purposes of determining a total score only if the Detailed Proposal has been determined to be responsive and achieved a "pass" evaluation under Section 6.3. The Detailed Proposals will be ranked based on the total score determined by adding the Concession Value Score, determined in accordance with Section 6.4.1, and the Proposal Quality Score, determined in accordance with Section 6.4.2. The Detailed Proposal with the highest total score will be considered the apparent Best Value Proposal, and the Offeror that provided the apparent Best Value Proposal will be considered the Successful Offeror.

Upon determination of the Successful Offeror, VDOT's evaluation team may proceed with a recommendation to the Commissioner to approve VDOT's entering into the Comprehensive Agreement with the Concessionaire proposed by the Successful Offeror. In the alternative, VDOT may proceed with limited negotiations with the Successful Offeror as described in Section 6.6, in which event VDOT's evaluation team will provide such a recommendation only after successful conclusion of negotiations.

Evaluations and rankings of Detailed Proposals are subject to the sole discretion of VDOT. VDOT may, in its sole discretion, reject all Detailed Proposals or advertise for new Detailed Proposals, if, in the judgment of VDOT, the best interests of the public will be promoted by doing so.

6.2 Responsiveness Review

The Offeror shall submit a Detailed Proposal that provides all the information required by these Instructions, including all of the components required by Attachment F, and is in accordance with the minimum requirements contained in the RFDP. Attachment F will be utilized for the responsiveness review. If the Detailed Proposal does not fully comply with these requirements, VDOT may deem the Detailed Proposal non-responsive, in which case the Offeror shall be disqualified. For example, VDOT may consider Detailed Proposals non-responsive and the Offeror disqualified for the following reasons:

- a. If the Detailed Proposal is not submitted in the format specified in these Instructions or is illegible;
- b. If the Detailed Proposal contains multiple, conditional or alternate proposals, except as contemplated in Section 4.7, or contains any omission, erasures, alterations, unauthorized additions or other irregularities of any kind; or
- c. If the Detailed Proposal does not include the required Letter of Submittal, Detailed Proposal Security or one or more of any of the certifications or forms required by these Instructions to be completed and/or executed by the Offeror or any of the Major Participants.

Each Detailed Proposal must be determined to be responsive with respect to each of the items referenced in this Section 6.2. Failure to be determined responsive will result in disqualification of the Offeror. Prior to making such determination, VDOT may provide an Offeror the opportunity to clarify its Detailed Proposal (see Sections 6.5 and 8.1(p)).

6.3 “Pass-Fail” Evaluation Factors

Each Detailed Proposal must achieve a rating of “pass” on each “pass-fail” evaluation factor listed in Sections 6.3.1 and 6.3.2. Failure to achieve a “pass” rating on any “pass-fail” factor will result in VDOT declaring the Detailed Proposal and the Offeror disqualified. Prior to making such determination, VDOT may offer an Offeror the opportunity to clarify its Detailed Proposal (see Sections 6.5 and 8.1(p)).

6.3.1 Technical “Pass-Fail” Requirements

The technical pass/fail requirements are as follows:

- a. The Equity Members and Major Participants listed in the Offeror’s Conceptual Proposal have not changed since submission of the Conceptual Proposal, unless the Offeror has previously obtained VDOT’s prior written approval of the modification;
- b. Information in the Detailed Proposal indicates that neither the Offeror nor any Major Participant could be precluded from prequalification pursuant to Section 2.2-4317 C. (5) or (6) of the Code of Virginia; and that the Design-Build Contractor and all other Contractors identified in the Detailed Proposal that will

be responsible for the performance of construction work on the Project have been prequalified for such work by VDOT;

- c. The Offeror's scope of proposed improvements meets or exceeds the Core Requirements; and
- d. Each evaluation component marked "[P-F]" in Table 6.4E received a "yellow" or higher adjectival rating.

6.3.2 The financial pass-fail requirements are as follows:

- a. The Financial Plan requires no funding from the Commonwealth;
- b. The information provided shows that the Offeror and its Detailed Proposal meet the following minimum requirements:
 - i. In accordance with Section C6 of Attachment C, the Financial Proposal contains evidence of equity financial commitments consistent with the Financial Plan and Initial Base Case Financial Model, signed by duly authorized signatories of the proposed equity contributors, and accompanied by board resolutions or other applicable supporting documentation. The stated Committed Investments shall not be subject to the availability or obtaining of any debt identified in the Financial Plan;
 - ii. In accordance with Section 4 of Attachment C, the Proposal includes a letter(s) from letter of credit provider(s) indicating that the provider has reviewed the Comprehensive Agreement and the RFDP requirements regarding the Performance Security and is prepared to issue the Performance Security;
 - iii. In accordance with Section 4 of Attachment C, the Proposal includes a letter(s) from provider(s) of the Financial Close Security indicating that the provider has reviewed the Comprehensive Agreement and the RFDP requirements regarding the Financial Close Security and is prepared to issue the same;
 - iv. The information requested in Section 3 and 4 of Attachment C has been provided; there is no material concern that the Equity Members and Design-Build Contractor lack the financial capacity to: (1) undertake the Project, (2) achieve Financial Close, and (3) deliver the associated investment and guarantees; and there is no material concern regarding the ability of any Equity Member or the Design-Build Contractor to continue as a going concern; and
- c. Each evaluation component marked "[P-F]" in Table 6.4F received a "yellow" or higher adjectival rating.

6.4 Proposal Evaluation Criteria and Weighting

Each Detailed Proposal will be evaluated and scored according to the criteria set forth below, unless VDOT determines that such Detailed Proposal is non-responsive, as detailed in Section 6.2, or gives such Detailed Proposal a “fail” rating under Section 6.3. The maximum score for a Detailed Proposal will be 100 points, with up to 85 points for the Concession Value Score and up to 15 points for the Proposal Quality Score, determined as described below. In the event of a tie in total score (Concession Value Score + Proposal Quality Score), the Offeror with the highest number of Technical Merit Credits will be considered to have provided the apparent Best Value Proposal.

6.4.1 Concession Value Score Determination and Criteria

The Concession Value Score will be a maximum of 85 points, calculated using the following formula:

$$\text{Concession Value Score} = 85 - \left(85 \times \frac{\text{Offeror's adjusted value} - \text{Lowest adjusted value}}{\text{Maximum Technical Merit Credits}} \right)$$

where

Adjusted value	=	Maximum PVR - Technical Merit Credits
Lowest adjusted value	=	The lowest adjusted value for all Detailed Proposals being considered
Maximum PVR	=	The Maximum Present Value of Gross Revenue proposed by the Offeror
Technical Merit Credits	=	The credits allowed for a commitment to provide additional lanes and interchanges over the Core Requirements, and a commitment to accelerate completion of the Core Requirements
Maximum Technical Merit Credits	=	The sum of all potential Technical Merit Credits available as shown on <u>Tables 6.4A through 6.4C</u> .

Table 6.4A Technical Merit Credits for Additional Lanes (\$000)		
Segments	Length (Miles)	Technical Merit Credit for two additional lanes in excess of Core Requirements
I-295 to VA 156	4	\$21,820
VA156 to VA625	4	\$21,820
VA625 to VA602	5	\$27,270
VA602 to VA40	5	\$27,270
VA40 to VA31	8	\$43,630
VA31 to VA616/620	7	\$38,180
VA616/620 to VA644	6	\$32,730
VA644 to US258	6	\$32,730
US258 to WCL Suffolk	4	\$21,820
WCL Suffolk to Suffolk Bypass (U.S. Route 58)	6	\$32,730
Additional Bonus Lanes*	55 miles	\$100,000
Note to Table 6.4A		
* The Offeror will receive a bonus Technical Merit Credit of \$100 million if the proposed scope of the Detailed Proposal provides for two additional lanes in excess of the Core Requirements for the entire 55 miles.		

Table 6.4B Technical Merit Credits for Additional Interchanges (\$000)	
Interchange Locations	Technical Merit Credit for provision of interchanges
1. Route 156 in Prince George County	\$18,000
2. Route 625 south of Disputanta	\$11,000
3. Route 602 in Sussex County	\$8,000
4. Route 40 south of Waverly	\$27,000
5. Route 620 south of Wakefield	\$7,000
6. Route 616 south of Ivor	\$11,000
7. Route 258 in Windsor	\$18,000

Table 6.4C Technical Merit Credits for Early Completion (\$000)	
Technical Merit Credits will be provided to each Offeror that commits to achieve Substantial Completion in advance of five years after the execution of the Comprehensive Agreement.	Technical Merit Credit for each month in advance of five years after the execution of the Comprehensive Agreement (not to exceed 12 months): <p style="text-align: right;">\$2,000</p>

6.4.2 Proposal Quality Score Determination and Criteria

The Proposal Quality Score will be determined through the process described in Section 6.4.3 through 6.4.5. The Proposal Quality Score will be a maximum of 15 points, and will be based on evaluation of the following components of the Detailed Proposal:

- a. The Outline Project Development Plans (Attachment B, Section B6) shall be a maximum of 45% of the Proposal Quality Formula. Evaluation criteria and “green” adjectival ratings for each Project Development Plan are shown on Table 6.4E.
- b. The Proposed Initial Baseline Schedule shall be a maximum of 10% of the Proposal Quality Formula. The Proposed Initial Baseline Schedule shall be evaluated based on the extent to which it presents a realistic approach to the financing, construction and commencement of operations of the Project, consistent with completion on or before the Guaranteed Substantial Completion Date set forth in the schedule.
- c. “Proposed Toll Rates Score” shall be a maximum of 10% of the Proposal Quality Formula. Evaluation criteria and “green” adjectival ratings applicable to the proposed Initial Toll Rates, the proposed illustrative toll rate adjustment policy and the other tolling parameters set forth in Form 8-B are shown on Table 6.4G.
- d. The feasibility of the Financial Proposal shall be a maximum of 35% of the Proposal Quality Formula. Evaluation criteria and “yellow” adjectival ratings for feasibility of the Financial Proposal are shown on Table 6.4F.

6.4.3 The Proposal Quality Score will be determined using adjectival ratings (“blue”, “green”, “yellow”, “red”) for each evaluation component, with a generalized description of each provided in Table 6.4D. Each evaluation component of the Offeror’s Detailed Proposal will be assigned a rating color. This rating color will then be converted to a score using a predetermined conversion schedule. VDOT has developed benchmark criteria for “green” ratings for the components of the Technical Proposal and for a “yellow” rating for the Financial Proposal, as set forth in Tables 6.4E, 6.4F, 6.4G and 6.4H.

Table 6.4D Generalized Adjectival Ratings and Discriminating Factors	
Rating	Adjectival Rating Discriminating Factors
Blue	<p>The item under consideration greatly exceeds the stated requirements/objectives, offering material benefits and/or added value, and providing evidence-based assurance that a consistent, outstanding level of quality will be achieved throughout the Term.</p> <p>There is very little or no risk that the Offeror’s organization, with respect to the item under consideration, would fail to satisfy the requirements of the Comprehensive Agreement.</p> <p>Weaknesses, if any, are very minor and can be readily corrected.</p> <p>Significant unique and/or innovative characteristics are present that are practical, relevant and would add value to the Project.</p>
Green	<p>The item under consideration meets the stated requirements/objectives and the level of quality is acceptable.</p> <p>There is little risk, or an acceptable level of risk, that the Offeror’s organization would fail to satisfy the requirements of the Comprehensive Agreement applicable to the item under consideration.</p> <p>Weaknesses are minor and can be corrected.</p> <p>Some unique and/or innovative characteristics may be present.</p>
Yellow	<p>The item under consideration fails to meet some of the stated minimum requirements/objectives or the Technical Proposal fails to provide satisfactory assurance that the minimum level of quality will be achieved.</p> <p>There may be questions about the likelihood of success of the item under consideration and there is some risk that the Offeror may fail to satisfy the requirements of the Comprehensive Agreement.</p> <p>Weaknesses may be corrected, but with modest risk of failure.</p>
Red	<p>The item under consideration does not meet stated requirements/objectives and does not provide satisfactory assurance that the minimum level of quality will be achieved.</p> <p>There are many questions about the likelihood of success of the item under consideration and there is significant risk that the Offeror may fail to satisfy the requirements of the Comprehensive Agreement.</p> <p>Weaknesses are not readily correctable.</p>
<p>Note to Table 6.4D</p> <p>The term “weakness” means any flaw in the item under consideration in the Detailed Proposal that: increases the risk of unsatisfactory performance; decreases the likelihood of achievement of the Project goals identified in <u>Section 1.4</u>; or increases the probability or severity of the occurrence of a VDOT risk.</p>	

6.4.4 Table 6.4E provides a maximum percentage weighting for each Outline Project Development Plan (Attachment B, Section B6), for the purpose of evaluating the plans and assigning a total score to this component.

Table 6.4E Outline Project Development Plans		
Section Reference	Evaluation Criteria and “Green” Ratings	Maximum Weight
B6.1 Outline Concessionaire Management Plan	<p>Extent to which an outline Concessionaire Management Plan clearly identifies responsibilities and procedures for each activity and demonstrates a thorough understanding of the Project’s requirements.</p> <p>Extent to which the team is organized with clear lines of responsibility and with well-defined roles that can respond to the Concessionaire’s obligations.</p> <p>Extent to which the plan provides a well defined approach to Project schedule methodology, and schedule and cost information in detail sufficient for assessing Project schedule/cost balance.</p> <p>Extent to which the plan demonstrates an effective approach to mitigation of significant Project risks, including risks allocated under the Comprehensive Agreement to VDOT as well as risks allocated to the Concessionaire.</p> <p>Extent to which the roles and relationships of VDOT, Concessionaire and third parties are appropriately structured, with reasoned assumptions to include VDOT and the Independent Engineer participation in oversight.</p> <p>Extent to which team decision making and the independence of the quality process are coordinated to create an environment to meet the Project goals.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • The Offeror’s plan demonstrates an understanding of project management principles and appropriately identifies roles and responsibilities of the Concessionaire and all its team members to include integration of team members as well as identification of issues and issue resolution. The Offeror has an adequate understanding of the project control procedures throughout the Term. The Offeror identifies quality management principles that are key to Project success and identifies VDOT and Independent Engineer participation. The Offeror adequately understands the Project goals. The Offeror’s plan provides specific detail defining how it plans to mitigate and manage risk items that are consistent with the VDOT’s allocation of risk in the CA. The Offeror’s approach to managing the Project is adequate to provide confidence that the Project can be successfully delivered and meets the Project goals and VDOT oversight is minimal. 	15% [P-F]

Table 6.4E Outline Project Development Plans		
Section Reference	Evaluation Criteria and “Green” Ratings	Maximum Weight
B6.2 Outline Document Management Plan	<p>Extent to which the outline Document Management Plan commits the Concessionaire to efficient and effective management of documents including collaborative features that enable and assist VDOT’s retrieval, review, and audit processes.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • The proposed approach demonstrates an understanding of effective document management procedures that meets the requirements included in the Comprehensive Agreement (Section 8.05) and the Technical Requirements. The plan provides for methods to facilitate access to documents by VDOT, the Independent Engineer, and other third parties. The risk to document management is acceptable. Document control measures appear to be adequate to support effective and consistent management of the Project. 	2.5%
B6.3 Outline Quality Management System Plans (QMSP)	<p>Extent to which there is demonstrated relevant experience and commitment of the management team to quality management principles.</p> <p>Extent to which the QMSP is capable of being used to monitor compliance with the contract documents, identify and document corrective action procedures, and improve quality procedures.</p> <p>Extent to which the approach identifies a methodology and implementation process for an independent quality control process.</p> <p>Effectiveness and application of proposed quality system to monitor and address quality performance.</p> <p>Effectiveness of steps the Offeror proposes to address quality deficiencies, ensuring they are corrected in an acceptable and expeditious manner promoting the efficiency of facility administration.</p> <p>Extent to which Offeror demonstrates internal processes for design reviews including reporting procedures, responsibilities, documentation and correcting deficiencies aligns with VDOT’s aim to minimize its own design review requirements, and how design reviews will be coordinated with other stakeholders to include the O&M Contractor.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • The Offeror demonstrates that its quality management systems will be capable of ensuring and maintaining compliance with the Agreement and Technical Requirements. The Offeror includes in its plan procedures such as reporting and auditing functions consistent with the Department's guidance. The Offeror's quality assurance and quality control process is integrated with other components of the Offeror’s Project Development Plans and delivery of the Project. The Offeror organization and team members provide corporate commitment to QA/QC, e.g. aspiration to ISO 9000 certification. The Offeror demonstrates adequate experience in quality assurance and quality control, presenting a good understanding of VDOT's limited oversight role and providing some confidence to VDOT that VDOT will be able to minimize its own independent verification efforts. • The Offeror demonstrates that its design quality management plan 	10%

Table 6.4E Outline Project Development Plans		
Section Reference	Evaluation Criteria and “Green” Ratings	Maximum Weight
	<p>will result in quality design documents. The Offeror includes commitment to independent quality review of all submittals.</p> <ul style="list-style-type: none"> • The Offeror provides a construction quality team which is qualified and independent from both the design and construction team. The Offeror includes adequate understanding of different types and categories of inspection required to ensure successful project completion. The Offeror provides corporate commitment to high quality of construction. • The Offeror’s approach to O&M quality management is adequately addressed in its description of the defined procedures. • The Offeror identifies a satisfactory strategy to address deficiencies or trends indicating declining quality. The Offeror’s quality management system approach provides confidence to VDOT that the Offeror will identify and correct any adverse trends without need for VDOT intervention and there is little risk to VDOT that it will need to implement unplanned oversight to identify and rectify defects. The Offeror’s plan has few weaknesses and identifies little risk to VDOT. 	
B6.4 Outline Design Management Plan	<p>Extent to which the outline Design Management Plan presents clear lines of responsibility, and a well-defined and executable approach for design.</p> <p>Extent to which the Offeror demonstrates integration of the design with other disciplines and construction to include design features that improves constructability, uniformity, and consistency.</p> <p>Extent to which the Offeror demonstrates an understanding of the CTB Policy for Integrating Bicycle and Pedestrian Accommodations (included in the Project information) that will result in successful implementation.</p> <p>Extent to which the Offeror incorporates technical solutions with innovative features and a consideration of life cycle cost analysis and context sensitive design that achieve the goals of the Project.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • The Offeror adequately identifies how design coordination will be managed among all team members to maximize submitted quality. The Offeror adequately addresses Project objectives and key issues and provides sufficient evidence to demonstrate an understanding to the Project risks and how these elements are incorporated into its design process. The Offeror has a satisfactory description of how the breakdown of design into design packages will allow for an efficient design review process for VDOT. The Offeror provides an explanation of how the Design Manager will interface with the VDOT Project Manager. The Offeror approach to design plan integration and review has few weaknesses and there is little risk that VDOT would need to increase its own design review requirements. 	5%
B6.5 Outline	Extent to which Offeror’s response describes an approach to construction management to include coordination with all stakeholders;	5%

Table 6.4E Outline Project Development Plans		
Section Reference	Evaluation Criteria and “Green” Ratings	Maximum Weight
Construction Management Plan	<p>and construction sequencing that is reasonably anticipated to successfully deliver the Project on schedule.</p> <p>Effectiveness of construction schedule in identifying construction phasing, environmental constraints, right of way acquisition, public involvement, Governmental Approvals, QA/QC reviews, and any other obligations under the Agreement, maximizing the probability of anticipating and mitigating any potential delay.</p> <p>Effectiveness of measures to meet Project-specific challenges during construction (e.g. management of access and staging due to length of Project).</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • The Offeror demonstrates the adequacy of its construction teams, and other stakeholders, with a satisfactory explanation of how the Work is to be shared and each party’s responsibilities. The Offeror’s approach to construction sequencing and schedule development address an understanding of the Project scope and complexity. The Offeror provides Project-specific examples of design-construction interfaces and how these activities are efficiently managed. The Offeror incorporates adequate integration of quality management systems in its approach to construction. The Offeror demonstrates an approach to construction integration which gives confidence to VDOT that the design will be buildable, will require minimal inspection, and will ensure the final product can be efficiently operated. 	
B6.6 Outline Environmental Management Plan	<p>Extent to which the Environmental Management Plan displays a thorough understanding and approach to responsible environmental management that demonstrates experience and capability in managing environmental risk.</p> <p>Extent to which the plan includes specific and appropriate mitigation commitments where impacts are unavoidable.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • The Offeror provides an adequate Environmental Management Plan, with evidence of integration between environmental commitments and the design, and construction of the Project. The plan highlights and provides explanation as to how the Offeror resolves Project-specific challenges, to include identification of wetland mitigation and stream restoration requirements. The Offeror draws on evidence from previous projects with similar features and Project-specific cross-references to the Offeror’s Schematic Design. The Offeror demonstrates a sound understanding of the needs of the resource agencies and provides evidence of an understanding of the protocols needed to secure the necessary permits. The Offeror demonstrates a commitment to implement environmental risk elimination and reduction strategies and the plan describes most of the highest risks and potential methods to eliminate or mitigate some of those risks. 	15% [P-F]

Table 6.4E Outline Project Development Plans		
Section Reference	Evaluation Criteria and “Green” Ratings	Maximum Weight
B6.7 Outline Right of Way Acquisition and Relocation Plan	<p>Extent to which the Right of Way Acquisition and Relocation Plan presents a clear structure to the ROW and relocation process and demonstrates a clear understanding of each party’s roles.</p> <p>Extent to which the approach to ROW acquisition procedures provides assurance that property owners, lessees, and other occupants will be dealt with in compliance with state and federal requirements and in a sensitive manner.</p> <p>Extent to which the Offeror has taken into account ROW acquisition in the Proposed Baseline Schedule (for example allowing flexibility to account for problematic ROW acquisition) so that the impact of any risk to the Project is minimized.</p> <p>Extent to which the Offeror’s approach minimizes the impacts to the residents, businesses and private property within the Project corridor.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • Offeror's approach to ROW acquisition demonstrates competence, and a sound level of Project-specific understanding of the challenges such as replacement housing, splitting parcels, and minimizing impact to residences and businesses. The Offeror provides Project-specific examples demonstrating how the Offeror team has encountered similar challenges and planned the work and mitigated/eliminated risks. The Offeror demonstrates a sound understanding of procedures necessary to comply with state and federal requirements and the ROW acquisition process allows adequate time for VDOT's review and approval of acquisition packages. The Offeror has a flexible approach in the Baseline Schedule for ROW acquisition which should allow for mitigation of any potential unforeseen delay. 	2.5%
B6.8 Outline Utilities Plan	<p>Extent to which the outline Utilities Plan demonstrates a good understanding of Project-specific protocols and procedures for utility relocations, while minimizing impact to residences and businesses.</p> <p>Extent to which the plan demonstrates an approach that will maximize cooperation by utilities.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • The Offeror presents coordination and relocation plans which demonstrate satisfactory understanding of Project-specific-protocols and cross-references to the Offeror’s Schematic Design for coordinating with utilities; and procedures for utility relocations that will ensure cooperation by utilities. The Offeror's approach provides few weaknesses and there is little risk that the approach to utility relocation would result in delays to the Project. The Offeror has a flexible approach in the Baseline Schedule for utility relocations which should allow for mitigation any potential unforeseen delay. 	2.5%

Table 6.4E Outline Project Development Plans		
Section Reference	Evaluation Criteria and “Green” Ratings	Maximum Weight
B6.9 Outline Transportation Management Plan	<p>Extent to which the outline Transportation Management Plan demonstrates a comprehensive understanding of local conditions and demonstrates commitment to minimizing inconvenience to road users and maintaining access for residential and local businesses.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • The TMP provided by Offeror shows satisfactory level of detail for construction phasing and continuity of access. The Offeror demonstrates an understanding of local conditions and requirements. The Offeror provides Project-specific examples that demonstrate its understanding of the Project requirements as demonstrated in its narrative and the Offeror’s Schematic Design. There is a small risk of avoidable inconvenience to traveling public. 	5%
B6.10 Outline Public Information and Communications Plan	<p>All information to be released to the public will be approved and controlled by the Department.</p> <p>Extent to which the outline Public Information and Communications Plan demonstrates a commitment of the required resources to assist VDOT in administering the Public Information and Communications Plan during the Work Period and utilizes the Concessionaire in a leading role during the Operating Period. The plan should detail a comprehensive approach to providing and soliciting public information in a timely manner that is coordinated through VDOT and as described in the Technical Requirements.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • The Offeror's plan provides a reasonable public involvement strategy that is consistent with the Technical Requirements and identifies the process for review and approval by VDOT to include release of public information through VDOT. The Offeror's approach to public meetings and other forms of public outreach is backed up by previous experience on similar projects of this size and complexity. The Offeror's approach to public information and communications has some continuity between design, construction, and operations. The Offeror demonstrates an approach to advertising activities that would ensure involvement of stakeholders. The Offeror's public information and communications plan shows lines of communication between the project team and other stakeholders. The plan provides reasonable confidence that the Offeror will work closely with the Department to provide information to stakeholders in a timely, organized fashion that results in smooth project execution and maintains public and stakeholder support. 	5%

Table 6.4E Outline Project Development Plans		
Section Reference	Evaluation Criteria and “Green” Ratings	Maximum Weight
B6.11 Outline DBE/SWAM Plan	<p>Extent to which an outline DBE/SWAM Plan contains effective strategies for promoting and delivering business opportunities for small and disadvantaged businesses.</p> <p>Extent to which the Offeror provides a good understanding of concepts, strategies, and criteria needed to create an effective DBE/SWAM Plan that creates opportunities and training for DBE and SWAM vendors.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • The Offeror provides an adequate and effective strategy for promoting and delivering business opportunities for disadvantaged businesses that has a moderate chance for success. The Offeror defines efforts among team members to maximize the use of and training for DBE/SWAM vendors. There are few weaknesses and small, but manageable risk in meeting the Project DBE/SWAM goals. 	15% [P-F]
B6.12 Outline Health, Safety and Security Plan	<p>Extent to which the outline Health, Safety, and Security Plan addresses Project-specific issues and bases its approach on experience from the development and operation of projects of similar size and complexity.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • The Offeror describes an effective approach for implementing a management program that maintains health, safety and security while maintaining compliance with state and federal laws. The Offeror identifies some of the risk and potential methods to eliminate or mitigate risks. The Offeror’s approach provides few weaknesses and there is little risk that the Offeror’s approach to health, safety and security will result in a safe Project. 	2.5%
B6.13 Outline Operations and Maintenance Plan	<p>Extent to which the outline Operations and Maintenance Plan (“O&M”) demonstrates commitment to providing good service to road users.</p> <p>Extent to which the outline O&M Plan demonstrates the ability to successfully manage the maintenance, and operation of the asset to VDOT in a manner which provides certainty of delivery of the Project’s objectives.</p> <p>Extent to which the outline O&M Plan addresses a well-defined and executable approach for incident management and emergency response to include mass evacuation.</p> <p>Extent to which the plan addresses: an integrated approach between proposed tolling facilities and its tolling operations linked to its planned communication protocols and communication/coordination with VDOT and stakeholders; and integration into a regional operations network.</p> <p>Extent to which the plan demonstrates an understanding of operations, maintenance and tolling for a project of this size and character.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • The Offeror demonstrates adequate tolling, operations and maintenance procedures, which provides information on how maintenance work will be coordinated with toll operations and operation of the facility with cross-references to the Offeror’s 	10%

Table 6.4E Outline Project Development Plans		
Section Reference	Evaluation Criteria and “Green” Ratings	Maximum Weight
	<p>Schematic Design. The Offeror has an adequate understanding of roadway operations and maintenance management to provide good customer service and a quality roadway, which is demonstrated through descriptions of complexities, challenges, and scope in operating a facility of this magnitude. The Offeror provides Project-specific examples of operations and maintenance interfaces and how they are integrated into the proposed procedures and management approach. The Offeror demonstrates adequate integration of change management and quality management systems and addresses most of the main processes involved. The Offeror provides evidence of understanding of toll operations and implementation of a tolling program and integration with a regional roadway network. The Offeror demonstrates an approach to tolling, operations and maintenance which gives confidence to VDOT that the facility will be operated in a manner that clearly benefits the public, and with limited oversight.</p>	
B6.14 Outline Life Cycle Maintenance Plan	<p>Extent to which the outline Life Cycle Maintenance Plan identifies well-researched life cycle maintenance procedures that provide confidence that the underlying assets will be preserved throughout the Operating Period until Handback.</p> <p>Extent to which the plan demonstrates a comprehensive approach to Handback inspections, procedures and mechanisms for ensuring a smooth transition, adequate reserves, and usable facility.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • The Offeror provides an effective approach to life cycle maintenance that identifies many of the Project-specific issues. The Offeror provides evidence of an adequate understanding of the Handback Requirements and the approach for Handback is clearly described and adequate to address many of the Project risks. The approach has few weaknesses and identifies little risk that provides some confidence that the facility can be returned to VDOT with minimal rehabilitation. 	5%
<p>Notes to Table 6.4E</p> <p>(i) The symbol “[P-F]” identifies an evaluation component that is considered as pass-fail. Offerors must receive a “yellow” or higher adjectival rating for such components in order for the Detailed Proposals to be further considered. If any evaluation component marked “[P-F]” receives a “red” adjectival rating the Offeror shall not be eligible for approval to enter in the Comprehensive Agreement.</p>		

6.4.5 Table 6.4F contains the criteria for evaluating the Proposed Initial Baseline Schedule. The Proposed Initial Baseline Schedule shall be assigned an adjectival score as set forth in Table 6.4D.

Table 6.4F Proposed Initial Baseline Schedule Evaluation	
Evaluation Criteria and “Green” Ratings	Maximum Weight
<p>Extent to which the Proposed Initial Baseline Schedule presents a realistic approach to the financing, construction and start of operations of the Project, consistent with completion on or before the Guaranteed Substantial Completion Date.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • The Offeror's approach to schedule includes satisfactory graphical representation and narratives describing how the construction of each activity by segment has been determined taking into account constraints. The Proposed Initial Baseline Schedule contains appropriate logic links and sufficient detail. The Proposed Initial Baseline Schedule is comprehensive, identifying construction phasing, environmental constraints, Project Right of Way acquisition, Project restrictions, public involvement and QA/QC reviews. 	50%
<p>Effectiveness of procedures for tracking progress, roles and responsibilities for reporting results internally and externally and proposed methods for addressing delays. Effectiveness of the schedule in providing a tool for anticipating, evaluating and managing the impacts of unforeseen events.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> • The Offeror's schedule procedures for tracking progress meet the Technical Requirements. The Offeror provides evidence that the schedule management techniques would enable potential delays to be identified early and mitigated. The Offeror presents a satisfactory approach, for example allocation of appropriate roles and responsibilities to personnel who can enable schedule recovery in the event that slippages are identified. The Offeror's approach to schedule control gives rise to little risk that any threat to schedule will fail to be identified, reported and mitigated early. The Offeror provides some evidence from previous projects of similar schedule controls. The Offeror's approach gives rise to limited risk that there will be delays to the schedule. 	50%

6.4.6 Table 6.4G contains the criteria for evaluating the Proposed Initial Toll Rate Schedule & Illustrative Toll Rate Adjustment Policy. The Proposed Initial Toll Rate Schedule shall be assigned an adjectival score as set forth in Table 6.4D.

Table 6.4G Proposed Toll Rates Score	
Evaluation Criteria and “Green” Ratings	Maximum Weight
<p>Extent to which proposed Initial Toll Rates for each category of road user are aligned with, and do not significantly exceed, rates charged on other toll roads of similar characteristics.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> Proposed Initial Toll Rates for passenger car, Base Truck and other VDOT-selected categories of road user will be compared with established existing toll rates from a VDOT-designated set of comparator roadways of similar characteristics to the Project. (Note the proposed Initial Toll Rates and the toll rates from the comparator roadways will be normalized to account for any variation by segment and by charging time period). Following this normalization, when compared with the toll rates on comparator roadways, no proposed Initial Toll Rate for any category of road user exceeds: (a) the highest equivalent comparator toll rate plus 10%, or (b) the average equivalent comparator toll rate plus 25%. 	30%
<p>Extent to which the Offeror’s illustrative toll rate adjustment policy demonstrates public benefit over public cost.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> The illustrative toll rate adjustment policy explains how tolling initiatives will be applied to the Project and shows the extent to which the public benefit equals the public cost. 	30%
<p>Extent to which suitable toll rate differentials are to be applied and maintained to best reflect economic advantage to the region.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> The Offeror’s illustrative toll rate adjustment policy includes a methodology to adjust truck classification multipliers based on analysis that will support regional growth and will support the needs of key local industries 	20%
<p>Extent to which discount programs are to be applied and are fair and appropriate.</p> <p>The Offeror’s requirements to achieve a “green” adjectival rating are:</p> <ul style="list-style-type: none"> The Offeror’s illustrative toll rate adjustment policy includes a commitment to provide appropriate discount programs throughout the Operating Period. The Offeror demonstrates from evidence of similar programs that: (a) the discount programs are capable of fair administration using proven methodology and (b) the discount programs would be targeted to maximize local support to the Project. 	20%

6.4.7 Table 6.4H contains the criteria for determining the feasibility of the Financial Proposal. The feasibility of the Financial Proposal shall be assigned an adjectival score as set forth in Table 6.4D.

Table 6.4H Financial Proposal Feasibility	
General Evaluation Criteria and “Yellow” Rating	Maximum Weight
<p>Level of support from lenders: degree of firmness of debt underwriting commitments and associated due diligence progress, existence of extra capacity from lending sources and creditworthiness of lenders; existence and credibility of back-up finance plans (i.e. if bond financing is proposed, there should be an alternative(s) including bank financing, and vice-versa).</p> <p>Creditworthiness of equity sources, creditworthiness of provider of Financial Close Letter of Credit, and the debt-to-equity leverage considerations throughout the concession term.</p> <p>Coherence and robustness of the Financial Plan and Initial Base Case Financial Model, including macroeconomic and tax assumptions, level of cover ratios, cash reserves and security packages, and sensitivity results.</p> <p>The Offeror’s requirements to achieve a “yellow” adjectival rating are:</p> <ul style="list-style-type: none"> • In accordance with Section 4 of <u>Attachment C</u>, the Financial Proposal includes letters of interest or commitment letters from proposed Lenders experienced in infrastructure financing, signed by a member of the Lender’s senior management. • The above letters show combined underwriting commitments (or intended underwriting interest) equal to or in excess of the required debt amounts identified in the Financial Plan and the Initial Base Case Financial Model. • The Financial Proposal includes fully underwritten debt commitments, or if it does not, then the Financial Plan: <ul style="list-style-type: none"> a) Includes a narrative: (i) detailing the Financial Plan strategy; (ii) explaining the progress made toward obtaining Lenders’ commitments, showing evidence of advanced development in the financial structuring of the Project, (iii) describing the Offeror’s approach and schedule to secure underwritten debt commitments and expeditiously achieve Financial Close before the Financial Close Deadline, and (iv) outlining advantages of the current strategy over other financial structures; b) Does not rely on overly aggressive assumptions as to macroeconomic, tax, debt-to-equity leverage and debt coverage ratios, equity and debt drawdown schedules, equity distributions policy and other Project Finance Agreements conditions; and c) Demonstrates the reasonableness of such assumptions, in part by citing relevant precedent transactions. • The Initial Base Case Financial Model is free from obvious calculation errors, conforms with the <u>Attachment C</u> requirements and is able to calculate all sensitivity scenarios required therein. • The traffic and revenue projections included in the Financial Proposal are supported by a comprehensive traffic and revenue report produced in accordance with best industry practice. 	<p>100% [P-F]</p>

Table 6.4H Financial Proposal Feasibility	
General Evaluation Criteria and “Yellow” Rating	Maximum Weight
<p>Notes to Table 6.4F</p> <p>(i) The symbol “[P-F]” identifies an evaluation component that is considered as pass-fail. Offerors must receive a “yellow” or higher adjectival rating for such components in order for the Detailed Proposals to be further considered. If any evaluation component marked “[P-F]” receives a “red” adjectival rating the Offeror shall not be eligible for approval to enter in the Comprehensive Agreement.</p>	

6.4.8 Each evaluation team member responsible for evaluating elements relevant to the Proposal Quality Score will review the Detailed Proposals and shall assign adjectival ratings to each evaluation criterion. After the individual ratings have been completed, the evaluation team will meet to discuss their findings and determine a consensus rating.

6.4.9 A non-voting VDOT employee, who is Virginia Contract Officer (“VCO”) certified, will facilitate evaluation meetings and ensure fairness in the process. The VCO shall certify the ratings and scores after the process is complete, and will be responsible for calculating the total score for each Detailed Proposal as described above. A representative of VDOT’s Civil Rights Division will also be invited to observe the evaluation as a non-voting member of the evaluation team.

6.5 Clarifications Regarding Detailed Proposals

VDOT may at any time issue one or more requests for clarification to the individual Offerors, requesting additional information or clarification from an Offeror, or may request an Offeror to verify or certify certain aspects of its Detailed Proposal. Offerors shall respond to any such requests within two business days (or such other time as is specified by VDOT) from receipt of the request. The scope, length and topics to be addressed in clarifications shall be prescribed by, and subject to the discretion of VDOT.

Upon receipt of requested clarifications and additional information as described above, if any, the Detailed Proposals may be re-evaluated to factor in the clarifications and additional information.

6.6 Approval of Comprehensive Agreement

6.6.1 Upon completion of the evaluations, the evaluation team will determine the Successful Offeror. VDOT shall have sole discretion to decide whether to proceed with negotiations as described herein or to recommend execution of the Comprehensive Agreement without negotiations.

6.6.2 Within ten days after receiving notice that it is the Successful Offeror, such Offeror shall deliver its EPDs to VDOT, in sealed containers labeled “U.S. Route 460 Corridor Improvements Project Design-Build Contract EPDs.” After delivery to VDOT, the EPDs will be examined, organized and inventoried by representatives of VDOT, assisted by individuals designated by the Successful Offeror who are knowledgeable in how the EPDs were prepared. This examination is to ensure that the EPDs are legible and complete. It does not include review of, and does not constitute approval of, proposed construction methods, estimating assumptions or interpretations

of any Project Agreements, including the Design-Build Contract. Such examination will not alter any condition or term of any Project Agreement.

6.6.3 Negotiations (if any) will generally be limited as specified in 23 CFR 636.513, and will be limited to those issues that VDOT determines, in its sole discretion, are appropriate to include in the negotiations. Offerors are advised that VDOT is required by law to determine the reasonableness of the Offeror's return on investment before entering into a Comprehensive Agreement. VDOT will evaluate the base case assumptions of the Successful Offeror's Detailed Proposal, with reference to returns expected on other similar, competitively procured projects and current financial market conditions, to determine whether the Detailed Proposal meets statutory requirements. If VDOT is unable to make such determination based on the Detailed Proposal, the negotiations process may include a request for the Successful Offeror to reduce its proposed Maximum PVR or to take other measures enabling VDOT to make the required determination.

6.6.4 If VDOT elects to proceed with negotiations and fails to reach agreement with the Offeror initially determined to have provided the apparent Best Value Proposal, VDOT will formally end negotiations with that Offeror and take action as VDOT determines in its sole discretion. Such action may include (a) rejection of all Detailed Proposals, or (b) proceeding to the Offeror that submitted the next most highly ranked Detailed Proposal to finalize or attempt to negotiate a Comprehensive Agreement with that Offeror in accordance with this Section 6.6. If option (b) is selected, the next most highly ranked Detailed Proposal will then be considered the apparent Best Value Proposal and the Offeror that submitted such Detailed Proposal will be considered the Successful Offeror. If negotiations fail with the second ranked Offeror, VDOT may formally terminate negotiations with that Offeror and proceed with negotiations with the third ranked Offeror.

6.6.5 In the event VDOT elects to commence negotiations with an Offeror, such Offeror shall be obligated to negotiate in good faith with VDOT. If the Offeror fails to negotiate in good faith, it shall forfeit its Detailed Proposal Security as set forth in Section 6.7. A failure to negotiate in good faith includes, but is not limited to: (a) failure of the Offeror to attend and actively participate in reasonably scheduled negotiation meetings with VDOT, or (b) the Offeror's insistence upon terms or conditions that are inconsistent with the RFDP Documents.

6.6.6 Upon completion of the evaluations and negotiations as necessary, the evaluation team will recommend to the Commissioner that VDOT enter into a Comprehensive Agreement with the Concessionaire proposed by the Successful Offeror.

6.6.7 Once approved by the Commissioner, VDOT shall deliver notice to the Successful Offeror and they will proceed to execute and deliver the Comprehensive Agreement and other documents as further described in Section 6.7. The date of delivery of such notice is referred to herein as the "Approval Date."

6.6.8 The offer represented by each Detailed Proposal will remain in full force and effect for 180 days after the Detailed Proposal Due Date. If the Approval Date does not occur within said 180-day period, each Offeror that has not previously agreed to an extension of such deadline shall have the right to withdraw its Detailed Proposal.

6.7 Actions Following Approval Date

6.7.1 Within 45 days after the Approval Date, VDOT shall provide to the Successful Offeror duplicate copies of the Comprehensive Agreement to be executed by the Concessionaire, with all Exhibits attached, including those derived from the Successful Offeror's Detailed Proposal.

6.7.2 As required by Section 56-560 of the Code of Virginia, VDOT's independent auditor will conduct an audit of traffic and cost estimates associated with the Successful Offeror's Detailed Proposal, as well as a review of all public costs and potential liabilities to which taxpayers could be exposed (including improvements to other transportation facilities that may be needed as a result of the Detailed Proposal, failure by the Concessionaire to reimburse VDOT for services provided and potential risk and liability in the event the Concessionaire defaults on the Comprehensive Agreement). The Successful Offeror shall cooperate with the auditor and shall reimburse VDOT for the costs of such audit within ten days following receipt of an invoice therefor. Completion of such audit and review and reimbursement of VDOT's associated costs shall be conditions precedent to VDOT's execution of the Comprehensive Agreement. The failure of the Successful Offeror to reimburse VDOT's costs shall constitute cause to disqualify the Successful Offeror, entitling VDOT to draw on the Proposal Security.

6.7.3 As a condition precedent to execution of the Comprehensive Agreement by VDOT, the Successful Offeror shall ensure that the following actions take place by the deadlines specified below:

- a. The Successful Offeror shall immediately notify VDOT of any material adverse change in the financial condition of any firm whose financial statements were provided with the Preliminary Information or with the Detailed Proposal, or any material adverse change in the financial condition of any proposed Lender, and take action with respect thereto as required by VDOT.
- b. Within 15 days of the Approval Date, the Successful Offeror shall provide a draft set of exhibits for the Comprehensive Agreement for VDOT review and approval, including a finalized Quality Management System Plan and Public Information and Communications Plan;
- c. Within 15 days of the Approval Date, the Successful Offeror shall provide an updated Schedule of Values for review and approval by VDOT;
- d. If it has not already done so as part of its Detailed Proposal, the Successful Offeror shall complete the formation of the Concessionaire and, within 30 days of the Approval Date: (1) shall submit certified copies of the organizational documents to VDOT, together with evidence (if not previously provided) as to the authority, power, and capacity of the individuals executing the Comprehensive Agreement to bind the Concessionaire to the Comprehensive Agreement; and (2) shall notify VDOT in writing of the name and address of the Concessionaire's agent for service of legal process for this Project and the Concessionaire's federal Internal Revenue Service employer identification number.

- e. Within 30 days of the Approval Date, the Concessionaire shall execute and deliver to VDOT the Escrow Agreement in the form included in Attachment H hereto (Form F);
- f. Within 30 days of the Approval Date, the Concessionaire shall provide a ready for execution version of the Independent Engineer Agreement in the form included in Attachment H hereto (Form E), with appropriate information filled in for VDOT's review and approval;
- g. Within 30 days of the Approval Date, the Concessionaire shall provide draft copies of all Equity Funding Agreements, if applicable;
- h. At least 30 days prior to the scheduled date for delivery of the executed Comprehensive Agreement to VDOT, the Successful Offeror shall identify the attorneys and law firms that will provide the legal opinions identified in Attachment H hereto (Form H) and obtain VDOT approval thereof, not to be unreasonably withheld, and provide draft opinion letter(s) for review and approval by VDOT in its sole discretion;
- i. Concurrently with or prior to delivery of the executed Comprehensive Agreement, the Concessionaire shall provide to VDOT all documents required by the Comprehensive Agreement, including:
 - 1. executed parent company guaranties, if applicable (Form D-1 and Form D-2);
 - 2. executed copies of the Equity Funding Agreements, if applicable;
 - 3. the Financial Close Security, if applicable (Form G);
 - 4. an audit of the Initial Base Case Financial Model conducted by an independent audit firm satisfactory to VDOT (at the Successful Offeror's sole expense). The audit of the Initial Financial Model for this purpose may be the same as the audit required by the Offeror's lenders. In the event that the audit recommends that any amendments be made to the Initial Base Case Financial Model, such amendment shall be made only in accordance with Article 6 of the Comprehensive Agreement and shall not result in an increase to the Maximum PVR;
 - 5. the executed Design-Build Contract;
 - 6. the executed Independent Engineer Agreement; and
 - 7. evidence reasonably acceptable to VDOT (which may be in the form of a certification from a financial institution that funding or security has been transferred to an account dedicated to the Project) that Concessionaire's Equity Members have made cash contributions to the Concessionaire

totaling at least 15% of the Committed Investment, as contemplated by the Comprehensive Agreement.

- j. Within 60 days of the Approval Date, the Concessionaire shall deliver to VDOT the executed Comprehensive Agreement, together with evidence of authorization thereof and legal opinions in the form previously approved by VDOT.

6.7.4 Should the Successful Offeror fail to comply with any of the requirements specified in Section 6.7.3, within 15 days following delivery by VDOT of notice of such failure (or such longer time as may be allowed by VDOT in its sole discretion), VDOT shall have the right to call upon the Detailed Proposal Security in its entirety. VDOT may then identify the next highest ranked Offeror as the Successful Offeror and proceed to execute a Comprehensive Agreement with that Offeror, or VDOT may re-advertise and complete the work under a different contract, or otherwise, as VDOT may decide in its sole discretion.

6.7.5 In submitting a Detailed Proposal, each Offeror understands and agrees that VDOT shall be entitled to draw on the Detailed Proposal Security in its entirety if the Offeror (a) withdraws any part or all of its Detailed Proposal while the Detailed Proposal is valid without the consent of VDOT, (b) if negotiations are held, fails to negotiate in good faith, (c) refuses or is unable to enter into the Comprehensive Agreement as provided herein, (d) refuses or is unable to perform all of the acts or furnish all of the documents as provided herein (including failure to cooperate with the statutory audit process described herein or failure to reimburse VDOT for the costs of such audit), or (e) prior to execution of the Comprehensive Agreement, refuses or is unable to meet any commitments made in its Detailed Proposal. However, VDOT's recourse against the Detailed Proposal Security shall be limited to \$10,000,000 if the Offeror is not selected as a Successful Offeror. The Offeror acknowledges that the forfeit of the Detailed Proposal Security constitutes liquidated damages and is not a penalty.

6.7.6 VDOT will retain the Detailed Proposal Security for all Offerors until the earlier of (a) 180 days following the Detailed Proposal Due Date; (b) cancellation of this RFDP; or (c) execution and delivery of a Comprehensive Agreement by the Successful Offeror and VDOT; after which VDOT will return the Detailed Proposal Security for each unsuccessful Offeror, excluding any Detailed Proposal Security previously drawn upon by VDOT. VDOT shall return the Detailed Proposal Security for the Successful Offeror at such time as the Successful Offeror executes and delivers the Comprehensive Agreement.

6.7.7 VDOT will execute the Comprehensive Agreement and deliver it to the Concessionaire only after the Commissioner (or his designee) has presented the major business points of the Comprehensive Agreement to the CTB. Subject to the mutual agreement of the parties otherwise, the Offeror shall have the right to withdraw the Detailed Proposal without penalty or loss of its Detailed Proposal Security if VDOT does not execute and deliver the Comprehensive Agreement within 60 days following delivery by the Successful Offeror of all of the information and documents listed in Section 6.7.3 and receipt thereof by VDOT acknowledged in writing.

7.0 QUESTIONS AND REQUESTS FOR CLARIFICATION REGARDING RFDP

All questions and requests for clarification regarding this RFDP shall be submitted to VDOT in writing to VDOT's POC as described in Section 2.4. No requests for additional information, clarification or any other communication shall be directed to any other individual, other than at the proprietary meetings. Each Offeror shall provide written notification to VDOT stating whether it plans to submit questions or requests for clarifications by the date included in Section 2.3. VDOT's responses to questions or requests for clarification shall be in writing and may be accomplished by an Addendum to this RFDP. VDOT will not be bound by any oral communications, or any written interpretations or clarifications that are not set forth in an Addendum. All questions submitted by the Offerors will be published in the form in which they were received on the VDOT website.

8.0 RIGHTS AND OBLIGATIONS OF VDOT

8.1 Specific Rights and Obligations of VDOT

In connection with this procurement, VDOT reserves to itself all rights (which rights shall be exercisable by VDOT in its sole discretion) available to it under applicable law. In addition to all rights reserved as specified by law, VDOT further reserves to itself, without limitation or with or without cause and with or without notice, the following:

- a. The right to cancel, withdraw, postpone or extend this RFDP in whole or in part at any time prior to the execution by VDOT of a Comprehensive Agreement or interim agreement, without incurring any obligations or liabilities.
- b. The right to issue a new RFDP.
- c. The right to reject any and all submittals, responses and proposals received at any time.
- d. The right to modify all dates set or projected in the RFDP Documents.
- e. The right to terminate evaluations of responses received at any time.
- f. The right to suspend and terminate the procurement process for the Project, at any time.
- g. The right to revise and modify, at any time prior to the proposal submittal date, factors it will consider in evaluating responses to this RFDP and to otherwise revise its evaluation methodology.
- h. The right to issue Addenda, supplements, and modifications to this RFDP.
- i. The right to permit submittal of Addenda and supplements to data previously provided with any response to this RFDP.

- j. The right to hold meetings and conduct discussions and correspondence with one or more of the Offerors responding to this RFDP to seek an improved understanding and evaluation of the responses to this RFDP.
- k. The right to seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to the RFDP, including the right to seek clarifications from Offerors.
- l. The right to permit Offerors to add or delete firms.
- m. The right to add or delete the Offeror's responsibilities from the information contained in this RFDP.
- n. The right to appoint and change members of the proposal evaluation team.
- o. The right to use assistance of outside technical and legal experts and consultants in the evaluation process.
- p. The right to waive deficiencies, informalities and irregularities in a Detailed Proposal, accept and review a non-conforming Detailed Proposal or seek clarifications or supplements to a Detailed Proposal.
- q. The right to disqualify any Offeror that changes its submittal without VDOT approval or is found to have made a misrepresentation or incorrect certification in its Detailed Proposal.
- r. The right to respond to all, some, or none of the inquiries, questions and/or request for clarifications received relative to the RFDP.
- s. The right to suspend, discontinue and/or terminate Comprehensive Agreement negotiations with any Offeror at any time prior to the actual authorized execution of such agreement by all parties.
- t. The right to negotiate with an Offeror without being bound by any provision in the Offeror's Detailed Proposal.
- u. The right to negotiate and enter into an interim agreement with the Successful Offeror instead of immediately entering into a Comprehensive Agreement.
- v. The right to request revisions to the Detailed Proposal, in accordance with 23 CFR Part 636.
- w. The right to terminate an Offeror's access to the data room based on any violation of its confidentiality agreement or breach of security.

8.2 No Assumption of Liability by VDOT

8.2.1 VDOT assumes no obligations, responsibilities, and liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to this RFDP. All such costs shall be borne solely by each Offeror and its team members.

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

8.2.3 Any and all information made available to the Offerors is made for convenience purposes only and is without representation or warranty of any kind.

8.2.4 In no event shall the Commonwealth, the Commissioner or VDOT be responsible for any failure of Offerors to fully comply with applicable laws, or for tax assumptions made by the Offerors.

9.0 MISCELLANEOUS

9.1 Virginia Freedom of Information Act

9.1.1 All proposals or other written materials submitted to VDOT become the property of VDOT and are subject to the disclosure requirements of the PPTA and the Virginia Freedom of Information Act (“VFOIA”) (Section 2.2-3700 *et seq.* of the Code of Virginia). Offerors are advised to familiarize themselves with the provisions of each Act referenced herein to determine whether documents identified as confidential will not be subject to disclosure under VFOIA. In no event shall the Commonwealth, the Commissioner, or VDOT be liable to an Offeror or its team members or any other person for the disclosure of all or a portion of a proposal or other written material submitted pursuant to this request.

9.1.2 If a responding Offeror desires to make information available to VDOT which the Offeror believes constitutes a trade secret, proprietary information, or other confidential information exempted from disclosure, upon submission of its information such Offeror shall specifically and conspicuously designate that information as such and state in writing why protection of that information is needed. The Offeror shall make a written request to the VDOT POC.

9.1.3 Blanket designations that do not identify the specific information shall not be acceptable and may be cause for VDOT to treat the entire proposal as public information. Nothing contained in this provision shall modify or amend requirements and obligations imposed on VDOT by applicable law, and the applicable law(s) shall control in the event of a conflict between the procedures described above and any applicable law(s).

9.1.4 In the event that VDOT receives a request for public disclosure of a portion of a proposal, such requests will be processed in accordance with applicable law, and VDOT will determine whether or not the requested materials are exempt from disclosure. In the event that

VDOT elects to disclose the requested materials, it will endeavor to provide notice to the Offeror of its intent to disclose.

9.1.5 Offerors are on notice that once an interim agreement or Comprehensive Agreement is executed, some or all of the information submitted to VDOT may become available for public inspection under the applicable laws of the Commonwealth.

9.1.6 Offerors are advised that portions of the Project documents may be considered Critical Infrastructure Information/Sensitive Security Information (“CII/SSI”) and any VFOIA requests for such information will be processed in accordance with Section 2.2-3705.2 of the Code of Virginia.

9.2 Changes Prior to Execution of the Comprehensive Agreement

9.2.1 If, prior to satisfaction of all requirements under Section 6.7.3, VDOT is advised by Offeror or otherwise becomes aware of any material adverse change in the financial condition of any firm whose financial statements were provided with the Preliminary Information or with the Detailed Proposal, or of the proposed Lender(s), VDOT will consider whether such change would have resulted in the Offeror receiving a “fail” for any of the criteria set forth in Section 6.3.2. If VDOT determines that the Offeror would have received a “fail,” it may, in its sole discretion, require the Offeror to submit additional security or take other measures to maintain its “pass” rating, or take other action deemed appropriate by VDOT. Should the Successful Offeror fail to take action within 15 days of delivery of notice from VDOT identifying the required action (or such longer time as may be allowed by VDOT in its sole discretion), VDOT may declare the Offeror in breach and select an alternative Successful Offeror to proceed with the Project, in which event VDOT shall have the right to draw on the Detailed Proposal Security in its entirety.

9.2.2 If, between the deadline set forth in Section 2.3 for submission of changes in Offeror’s organization and execution of the Comprehensive Agreement, an Offeror seeks to change the composition of its team or the percentage of equity participation of one or more Equity Member, the Offeror is required to seek VDOT’s approval of such change. VDOT will consider requests by Offerors to make such changes, based only on unusual circumstances beyond the Offeror’s control, and shall approve or reject them, as it deems appropriate in its sole discretion. If any unapproved change is implemented after the Approval Date, VDOT shall have the right to declare the Offeror in breach and select an alternative Successful Offeror to proceed with the Project, in which event VDOT shall have the right to draw on the Detailed Proposal Security in its entirety.

9.3 Administrative Requirements

9.3.1 All business entities, except for sole proprietorships, are required to be registered with the Virginia State Corporation Commission (a Business Registration Guide is available on the Internet at <http://www.state.va.us/scc/division/clk/brg.htm>). Foreign Professional Corporations and Foreign Professional Limited Liability Companies must possess a Commonwealth of Virginia Certificate of Authority from the State Corporation Commission to render professional services. Any business entity other than a professional corporation, professional limited liability

company or sole proprietorship must be registered in the Commonwealth with the Department of Professional & Occupational Regulation, Virginia Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects (http://www.state.va.us/dpor/ape_regs.htm). Board regulations require that all professional corporations and business entities that have branch offices located in Virginia which offer or render any professional services relating to the professions regulated by the Board be registered with the Board. Registration involves completing the required application and submitting the required registration fee for each and every branch office location in the Commonwealth. All branch offices that offer or render any professional service must have at least one full-time resident professional in responsible charge who is licensed in the profession offered or rendered at each branch. All firms involved that are to provide professional services must meet these criteria prior to the performance of any services within the Commonwealth or the execution of any agreement with VDOT.

9.3.2 In accordance with Section 2.2-4311.1 of the Code of Virginia, the Concessionaire will be required to certify that it does not, and to agree that it shall not, during the performance of the Comprehensive Agreement, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986. In addition, the Concessionaire's Contractors (at all tiers) will be required to provide the same certification and agreement in their subcontract agreements.

9.3.3 The Concessionaire must have internal control systems in place that meet federal requirements for accounting prior to the execution of the Comprehensive Agreement. These systems must comply with requirements of 48 CFR 31, "Federal Acquisition Regulations, Contract Cost Principles and Procedures," and 23 CFR 172, "Administration of Negotiated Contracts."

9.3.4 VDOT assures compliance with Title VI of the Civil Rights Act of 1964, as amended. The Concessionaire and all of its subconsultants will be required to submit a Title VI Evaluation Report (EEO-D2) upon approval of execution of the Comprehensive Agreement. This requirement applies to all consulting firms with 15 or more employees.

9.3.5 VDOT does not discriminate against an Offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

9.4 eVA Business-to-Government Vendor System

The eVA Internet electronic procurement solution, web site portal (<http://www.eva.state.va.us>), streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. The Concessionaire must register in eVA prior to execution of the Comprehensive Agreement.

10.0 CONFLICT OF INTEREST

10.1 Conflict of Interest Determination

10.1.1 Each Offeror shall require its proposed team members to identify potential conflicts of interest or a real or perceived competitive advantage relative to this procurement. Offerors are notified that prior or existing contractual obligations between a company and a federal or state agency relative to any project included in VDOT's PPTA program may present a conflict of interest or a competitive advantage. If a potential conflict of interest or competitive advantage is identified, the Offeror shall submit in writing the pertinent information to VDOT's POC on Form 3.

10.1.2 VDOT will apply the procedures set forth in the Innovative Project Delivery Division Memorandum IPD 07-2.0, dated August 1, 2007, for identification and review of potential organizational conflicts of interest related to VDOT procurement of contracts under the PPTA or design-build legislation. This memorandum is available on VDOT's website.

10.1.3 Portions of the documents contained in the RFDP will include work product developed by the following firms:

- a. Parsons Brinckerhoff and Michael Baker Corporation, due to their participation in the development of the environmental document for the Project.
- b. Rummel, Klepper, and Kahl LLP, due to the firm's participation in assisting VDOT with development of the Preliminary Reference.
- c. The firms of Halcrow, Inc., Public Resources Advisory Group, C&M, Jeffrey A. Parker and Associates, KPMG, Parsons Transportation Group, Inc., Warner Construction Consultants, Inc., Capital Project Strategies, LLC, and Nossaman LLP / Nossaman, O'Connor & Hannan LLP, due to their participation in assisting VDOT with: procurement documents; negotiation strategies and negotiations; business and policy decisions; contract management and administration; development, negotiation, and execution of comprehensive/interim agreements; and reports and contract language.

10.1.4 The firms listed above will not be allowed to participate or assist any Offeror or any of its team members in connection this Project. Any Detailed Proposal received in violation of this requirement will be rejected.

10.1.5 VDOT reserves the right to make additional determinations concerning conflicts of interest or competitive advantages involving any other firm(s) if and when such issues are brought to the attention of the VDOT.

10.2 Ethics in Public Contracting Act

VDOT may, in its sole discretion, disqualify the Offeror and its Major Participants from further consideration in connection with the Project if it is found after due notice and examination by VDOT that there is a violation of the Ethics in Public Contracting Act,

Section 2.2-4367 of the Code of Virginia, or any similar statute, with respect to a procurement in the Commonwealth.