

PPTA - REQUEST FOR PROPOSALS
TO DEVELOP, DESIGN, CONSTRUCT THE EASTERN AVENUE EXTENSION
UNDER THE VIRGINIA PUBLIC-PRIVATE TRANSPORTATION

ACT OF 1995 (AS AMENDED)



COUNTY OF ALBEMARLE, VIRGINIA

KEY DATES

EVENT	DATE
Draft PPTA-RFP posted for Public Review	April 11, 2025
Issue Date of Final PPTA-RFP	May 30, 2025
Technical Proposal Due Date	August 28, 2025
Financial Proposal Due Date	September 11, 2025
Selection of Offeror (Top ranking offeror after evaluation)	November 21, 2025
Execution of Comprehensive Agreement	April 4, 2026

Department of Facilities & Environmental Services

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EXHIBITS

- Exhibit A Technical Proposal Instructions
- Exhibit B Financial Proposal Instructions
- Exhibit C Summary and Order of Proposal Contents
- Exhibit D Required Forms

PPTA - REQUEST FOR PROPOSALS
COUNTY OF ALBEMARLE - EASTERN AVENUE EXTENSION
INSTRUCTIONS TO PROPOSERS

SECTION 1 Introduction and General Provisions

1.1 Introduction

This document comprises the Instructions to Proposers (“ITP”), Volume I of the PPTA - Request for Proposals (“PPTA-RFP”), as may be amended, issued by the County of Albemarle (the “County”) to seek competitive detailed proposals (individually, a “Proposal” and collectively, “Proposals”) for a public-private partnership for the Eastern Avenue Extension Project (“Eastern Avenue” or the “Project”) pursuant to a Comprehensive Agreement as further described below. The County evaluated the project for its appropriateness as a PPTA public-private partnership (“P3”) and subsequently executed a confirming Finding of Public Interest.

The Comprehensive Agreement included in the PPTA-RFP defines work to be performed by the entity or entities identified in the Apparent Best Value Proposal (the “Proposer”) to develop, design, and construct the Project. Pursuant to the PPTA-RFP, the County, acting as the Responsible Public Entity, is soliciting Proposals to enter into a Comprehensive Agreement with a Proposer in accordance with the Public-Private Transportation Act of 1995, as amended, Va. Code Ann. § 33.2-1800 (the “PPTA” or the “Act”).

The County is issuing this PPTA-RFP in accordance with the PPTA and the County’s adopted PPTA Guidelines (“the Guidelines”). The Guidelines provide a project delivery framework to identify, evaluate, develop, and deliver public-private partnership projects in the County.

The form of the Comprehensive Agreement is included in Volume III of the PPTA-RFP. The Technical Requirements are included as Volume II of the PPTA-RFP.

Proposers must comply with this ITP during the procurement and in their responses to the PPTA-RFP. In drafting their Proposals, Proposers also shall take into consideration the P3 Project objectives identified in Section 1.2.

All forms identified in this ITP are found in Exhibit D unless otherwise noted. All times in this PPTA-RFP are prevailing Eastern Standard Time.

1.1.a Purpose of the Project:

The purpose of the Project is to provide a connection between residential areas on the north side of Lickinghole Creek and Route 250 (Rockfish Gap Turnpike). This connection will supersede the approximately 5.5-mile detour currently required for residents to cross Lickinghole Creek and reach Route 250 (Rockfish Gap Turnpike), which is a key minor arterial linking to shopping centers, schools, and providing interstate access. As residential development and employment increase within Crozet, Eastern Avenue is needed to link the neighborhoods and mitigate the congestion that is otherwise expected to occur on Route 240 (Crozet Avenue and Three Notch’d Road) and Route 250 (Rockfish Gap Turnpike). This extension is consistent with the Downtown Crozet Master Plan, adopted in 2004. This Project also includes pedestrian and bike facilities to provide safe and accessible connectivity for pedestrians and cyclists to be used for commuting and recreational activities between their homes, schools, and other neighborhood destinations.

The Project is located in Albemarle County in the unincorporated town of Crozet, Virginia. The new alignment will include a bridge over Lickinghole Creek. The Project seeks to construct a connection between Route 250 (Rockfish Gap Turnpike) and Westhall Drive by extending the existing alignment of Eastern Avenue. Construction of this project will provide access which was previously lacking between the Westhall and Brookwood residential areas and Route 250 (Rockfish Gap Turnpike), a key minor arterial for this area. Currently there is no crossing of Lickinghole Creek within Crozet beside Route 240 (Crozet Avenue) and Route 250 (Three Notched Road). As residential developments (i.e., Westlake at Foothill Crossing) are expected to continue north of Lickinghole Creek, the approximate 5.5-mile detour currently required to cross Lickinghole Creek will not remain a viable option. Therefore, the County planned for the extension of Eastern Avenue to provide connectivity from existing and future residential areas to Route 250 (Rockfish Gap Turnpike). As part of a location study for this project, the County identified and analyzed three (3) conceptual alignments for the extension of Eastern Avenue to Route 250 (Rockfish Gap Turnpike). Constraints included wetland impacts, tree clearing, property impacts, and construction cost. The selected alignment corridor for Eastern Avenue Extended extends the existing Eastern Avenue alignment, then follows the existing alignment of Route 1260 (Cory Farm Road) to the intersection with Route 250 (Rockfish Gap Turnpike).

1.2 PPTA Project Objectives

Among other objectives, the County seeks to achieve the following:

Eastern Avenue Extension Project Objectives:

- i. Improving connectivity and multimodal mobility in the Crozet growth area by providing an essential connecting road and bridge in a cost-effective and timely manner.
- ii. Enhancing transportation safety and travel reliability.
- iii. Encouraging the Proposer to achieve early completion of the P3 Project.
- iv. Achieving transparency in the project development process and maintaining competition during procurement to achieve the Best Value for the County.
- v. Leveraging available County funds to enhance the financial feasibility of the P3 Project.
- vi. Proactively aligning the interests of the County and the Proposer to resolve disputes, engage stakeholders, increase customer satisfaction, and facilitate partnering and open communication.
- vii. Maximizing Value for Money through an optimal transfer of risks and rewards and minimizing the required public contribution.
- viii. Securing quality design and construction to optimize life cycle performance.
- ix. Implementing safe construction activities while managing mobility and safety of the traveling public within the Project's work zone during construction of the PPTA Project.

The Proposer will be expected to bring the necessary resources and expertise to deliver the Project efficiently, effectively, and with a high level of quality to achieve the objectives described above. The County anticipates reaching the close of the procurement process by April 4, 2026 and reaching completion of construction of the Project by February 28, 2029.

1.3 Project Priorities

- i. Cost – provide a competitive price for the scope of work identified in this PPTA-RFP
- ii. Design Concept – efficient design of the Project, meeting or exceeding this PPTA-RFP’s requirements.
- iii. Construction of the project – Proposer’s anticipated means and methods and impacts thereof.
- iv. Project Approach – proposed approach to managing all aspects of and constructing the Project such that potential risks for all stakeholders are limited.

1.4 General PPTA Project Description

The County has determined that the Project will require the Proposer to perform the following activities, in each case subject to the terms of the Comprehensive Agreement, with respect to the Project:

- a) The design, construction and utility relocation of a configuration consistent with the Phase 1 Scope as set forth in Exhibit B of the Comprehensive Agreement.
- b) The design, construction, and Final Acceptance of the Project.
- c) Allow for certain Early Work prior to Financial Close pursuant to a Limited Notice to Proceed and/or interim Comprehensive Agreement.

1.5 Scope of Proposer’s Obligations

The scope of the Proposer’s obligations for the Project will include the development, design, and construction of the P3 Project under the terms set forth in the Comprehensive Agreement. The improvements to be completed by the Proposer include those described in **Section 1.4** of this ITP and as required by the Comprehensive Agreement and the Technical Requirements.

1.6 Environmental Status

Please see Environmental Section 3.2 of the Technical Requirements of this PPTA-RFP.

1.7 Funding and Financing

The County anticipates a public contribution of \$16 million to the P3 Project by the County, with a focus on the Proposer bringing the greatest value with the least public contribution of funds. The anticipated funding amount does not include monies dedicated to third-party support for reviews and inspections. Proposers requesting a public contribution amount in excess of \$16 million will not be disqualified.

The Public Funds Amount will be paid to the Proposer in accordance with Section F.1 of the Comprehensive Agreement.

1.8 Documents in the PPTA - Request for Proposals

The PPTA-RFP consists of the following volumes that may be updated and revised at the County’s discretion at any time:

- (a) Volume I - this ITP (including exhibits and forms),
- (b) Volume II - the Technical Requirements (including attachments); and
- (c) Volume III - the DRAFT Comprehensive Agreement (including exhibits and forms).

All documents related to the PPTA-RFP (the “PPTA-RFP Reference Documents”), both those publicly available and those that are determined to be confidential, will be posted to the County’s Procurement Solicitations Website, as described further in Section 2.2 below.

The PPTA-RFP Reference Documents and references to any website in this PPTA-RFP are provided for reference and background information only. The information contained in such PPTA-RFP Reference Documents reflects information as of any date or time identified therein. The County intends to provide accurate and complete information to the extent possible but cannot guarantee the accuracy or completeness of any of the information on the County Website. To the extent that any information on the County Website is inconsistent with the PPTA-RFP, Proposers should rely on the information contained in the PPTA-RFP. At any time during the procurement process, the need to supplement or revise the PPTA-RFP Reference Documents may arise following interaction with the industry or in the event the underlying conditions of the P3 Project change or more information becomes available. The County will post addenda with the clarifications/supplemental information on the County Website. Proposers are encouraged to check the County Website frequently before submitting their Proposals.

The statements made in the PPTA-RFP Reference Documents or in any referenced website, including the County Website, that are not purely historical are forward-looking statements, including the County’s expectations, intentions or strategies regarding the future. These statements are based on information currently available to the County. The County assumes no obligation to update any such forward-looking statements.

1.8.1 PPTA-RFP Information Package

A PPTA-RFP Information Package will be provided as described further in Section 2.2 below. The RFP Information Package includes the following items which are not specific to one project element:

PPTA-RFP Plans

- PPTA-RFP Conceptual Roadway Plans
 - XXXX_Plan Scrolls.pdf
- PPTA-RFP Conceptual Bridge Plans
 - XXXX_Conceptual Bridge Plans.pdf
- CAD Files
 - Survey File(s) - s113038040.dgn
 - Existing Contour File(s) - scr113038040.dgn
 - Existing DTM File(s) - sdt113038040.dgn
 - Existing Utilities File(s) - su113038040.dgn
 - Existing Utilities As-Built File(s) - su11303840as-built.dgn
 - Existing Traffic Markings Survey File(s) - str - Eastern Ave.dgn
 - Existing DTM - s - Eastern Ave Preliminary.tin
 - PPTA-RFP Roadway Plans Exhibit File - ConceptualScroll_Graphic.dgn
 - PPTA-RFP Roadway Profile Exhibit File - ConceptualScroll_Profile.dgn
 - Right-of-Way File - rwupc###.dgn
 - Horizontal Alignment File - dupc###baseline50.dgn
 - Typical Section Files - dupc###typ.dgn
 - PPTA-RFP Roadway Design File - dupc###des.dgn
 - PPTA-RFP Roadway Profile File - dupc###prof50.dgn

- SWM Concept File - hupc###des.dgn
- Bridge Plans - General Plan & Elevation - d113038_PP.dgn
- Bridge Plans – Typical Abutment - d113038_TA.dgn
- Bridge Plans – Typical Section - d113038_TS.dgn
- Design-Build As-Built Guide
 - EasternAve-AsBuilt_Guide.pdf
- Environmental
 - PJD Package - EASTERNAVE_PJDPACKET_13AUG2020.pdf
 - USACOE Jurisdictional Determination - Eastern Avenue final JD.pdf
 - Streams Delineation (as confirmed by USACOE) - STREAMS_WOUS.zip
 - Wetlands Delineation (as confirmed by USACOE) - WETLAND_WOUS.shp.zip
- Geotechnical
 - Geotechnical Data Report, dated May 24, 2022 - 22430011 Eastern Avenue GDR.pdf
 - Pavement Design Memorandum - 22430011.010 Pavement Memo
- Hydraulics
- Traffic
- Special Provisions
 - Special Provisions and Special Provision Copied Notes - XXXX_SP_SPCN.pdf

Requirements described in the Technical Requirements (Volume II of the PPTA-RFP) shall supersede the information contained in the PPTA-RFP Information Package, including the information depicted in the PPTA-RFP Conceptual Plans. In the event that there is a discrepancy between the PPTA-RFP Conceptual Plans (or other information contained in the PPTA-RFP Information Package) and the Technical Requirements (Volume II of the PPTA-RFP) herein, the Technical Requirements (Volume II of the PPTA-RFP) shall take precedence.

1.8.2 Supplementary Information Package

A Supplementary Information Package, which is not deemed a component of the PPTA-RFP, will be provided as described further in Section 2.2 below. The Supplementary Information Package includes the following items:

- Roadway
 - Digital Files (model) for PPTA-RFP Plans - dupc###modelEW_20250321
 - Existing Parcels from Albemarle County GIS - supc###gis_parcel.dgn
 - PPTA-RFP Roadway Exhibit Border - dupc#####border_scroll.dgn
- Hydraulics
 - Draft HEC-RAS Model for Lickinghole Creek - LICKINGHOLE_CREEK_HECRAS.zip
- Adjacent Projects
 - Westlake Hills Phase 1 Road Plans - WestlakeHillsPh-1_RoadPlans_Approved_2013-03-05_Excerpts.pdf
- Utilities
 - ACSA As-Built Information - ACSA_20210503.zip
 - RWSA As-Built Information - RWSA_AsBuiltInfo.zip

- Traffic
 - Eastern Avenue Extension Traffic Report - Eastern Ave Connection Traffic Report_FINAL.pdf

The Supplementary Information Package is solely for the information of the Proposer, which each Proposer may use at their own risk and as they deem appropriate. The County does not represent or warrant that the information contained in the plans is suitable for preparation of the Proposal or designing the Project. As such, this information will not be considered as the basis for any relief under the Scope Validation provision stipulated in Section 3.1.

1.9 Construction and Interpretation of this ITP

Definitions and Acronyms

Capitalized terms and acronyms not defined in this Section 1.9 are defined in either Exhibit A of the Comprehensive Agreement or in the PPTA Guidelines.

“Alternative Technical Concepts” or **“ATCs”** means the concepts described in Section 3.2.

“Base Scope” means the transportation facilities and all related structures and improvements to be developed, designed or constructed pursuant to the terms of the Comprehensive Agreement, as more particularly described in Exhibit B-1 to the Comprehensive Agreement.

“Commercial Close” means the date on which the County counter-executes the Comprehensive Agreement between the County and the Proposer, in accordance with the time frames specified in Section 6.1.3.

“Commercial Close Date” means the date on which the County and the Proposer execute the Comprehensive Agreement, as set forth in Section 6.1.

“Cost and Pricing Data” meaning set forth in Exhibit B, Section 6.1.

“Draft PPTA-RFP” means the first draft of the PPTA-RFP issued on the date hereof by the County.

“Executive Scoring Panel” means the committee that will review and evaluate the Proposals and make a recommendation to the County Executive as set forth in Section 5.

“Executive Summary” has the meaning set forth in Exhibit B, Section 4.

“Instructions to Proposers” or **“ITP”** means the documents and information contained in Volume I and described in this ITP.

“Key Personnel” means the individuals designated by a Proposer pursuant to Exhibit A, Section 2.12.

“Major Participant” means each Equity Member and each member of Proposer’s organization with: (a) primary responsibility for design; (b) primary responsibility for construction.

(c) a proposed subcontract with a value greater than or equal to \$10 million (excluding subcontracts with Suppliers).

“Major Professional Services Firm” has the meaning set forth in Exhibit A, Section 5.d.

“Mobilization Costs” means the costs to be incurred by the Proposer to perform certain preparatory operations necessary to allow the Design-Build Work to begin, including but not limited to: required insurance, bonds, permits, movement of personnel, equipment, supplies, and incidentals to the Project site, survey, geotechnical investigations and utility coordination, preparation of a construction schedule, furnishing and erecting field offices, laboratory, batch plants and other facilities necessary to undertake the Design-Build Work, security, badging and certification requirements, initial site personnel, sanitary facilities, development of site material and equipment requirements, preparing requisitions for all items and preparation of the procurement program; provided, the following costs shall not be considered Mobilization Costs for purposes of the 5% limitation set forth in Exhibit B, Section 6.1: (i) costs of furnishing Project-specific insurance and (ii) costs of furnishing Design-Build Performance Security.

“P3 Project Development Plan” has the meaning set forth in Section 1.12. **“PPTA Guidelines”** has the meaning set forth in Section 1.12.

“Pre-Proposal Submittal” means each submittal required or otherwise permitted prior to the Technical Proposal Due Date and the Financial Proposal Due Date as identified in Section 2.13.1.

“Proposal Revision” has the meaning set forth in Section 5.8.

“Proposal Schedule” has the meaning given in Section 4.1.2(e) of Exhibit B.

“Proposal Security” means the letter of credit as described in Section 4.8.1.

“Proposal Validity Period” has the meaning set forth in Section 4.7.2.

“Public Funds Amount” has the meaning given in Exhibit B, Section 7.1.

“Revised Draft PPTA-RFP” means supplemental additions, deletions, and modifications to the provisions of the Draft PPTA-RFP after the release date of the Draft PPTA-RFP.

“PPTA-RFP Reference Documents” means the documents and information included in Volume III and described in Section 1.4.

“PPTA - Request for Proposals” or **“PPTA-PPTA-RFP”** means the set of documents identifying the P3 Project and its Work to be performed and materials to be furnished in response to which a Proposal may be submitted by a Proposer. The PPTA-RFP is issued only to Proposers that have been determined to be Qualified Proposers following SOQ and Conceptual Financial Proposal review.

“ROW” means right of way.

“County Website” has the meaning set forth in Section 2.2.

“Statutory Audit” has the meaning set forth in Section 5.12.2.

“Technical Proposal” means the portion of the Proposal described in Exhibit A.

“**Technical Proposal Due Date**” means the deadline for submission of the Technical Proposal to the County, set forth in Section 2.5

“**VFOIA**” has the meaning set forth in Section 2.6.1

- **Number and Gender**

In this ITP, terms defined in the singular have the corresponding plural meaning when used in the plural and vice versa, and words in one gender include all genders.

- **Headings**

The division of this ITP into sections and other subdivisions is for convenience of reference only and shall not affect the construction or interpretation of this ITP. The headings in this ITP are not intended to be full or precise descriptions of the text to which they refer and shall not be considered part of this ITP.

- **References to this ITP**

The words “herein”, “hereby”, “hereof”, “hereto” and “hereunder” and words of similar import refer to this ITP as a whole and not to any portion of it. The words “Section”, “paragraph”, “sentence”, “clause” and “Exhibit” mean and refer to the specified article, section, paragraph, sentence, clause or exhibit of, or to, this ITP. A reference to a subsection or clause “above” or “below” refers to the denoted subsection or clause within the Section in which the reference appears.

- **References to Agreements and Other Documents**

Unless specified otherwise, a reference to an agreement or other document is considered to be a reference to such an agreement or other document (including any schedules or exhibits thereto) as it may be amended, modified or supplemented from time to time in accordance with its terms.

- **References to Any Person**

A reference in this ITP to any Person at any time refers to such Person’s permitted successors and assigns.

- **Meaning of Including**

In this ITP, the word “including” (or “include” or “includes”) means “including without limitation” and shall not be considered to set forth an exhaustive list.

- **Meaning of Discretion**

In this ITP, the word “discretion” with respect to any Person means the sole and absolute discretion of such Person, unless otherwise qualified.

- **Notice, Approval, Etc., in Writing**

Whenever the PPTA-RFP Documents require or provide for any notice, approval, consent, acceptance, determination, decision, certificate, order, waiver, explanation, policy, information or the like, the same and any request therefore must be in writing (unless otherwise waived in writing by the other Party).

- **Meaning of Promptly**

In this ITP, the word “promptly” means as soon as reasonably practicable considering then-prevailing circumstances.

- **Trade Meanings**

Unless otherwise defined herein, words or abbreviations that have well-known trade meanings are used herein in accordance with those meanings.

- **Laws**

Unless specified otherwise, a reference to a Law is considered to be a reference to (a) such Law as it may be amended, modified or supplemented from time to time, (b) all regulations and rules pertaining to or promulgated pursuant to such Law, (c) the successor to the Law resulting from recodification or similar reorganizing of Laws and (d) all future Laws pertaining to the same or similar subject matter.

- **Currency**
Unless specified otherwise, all statements of or references to dollar amounts or money in this Agreement are to the lawful currency of the United States of America.

1.10 Procurement Schedule

The following represents the current schedule for the procurement.

EVENT	DATE and TIME
Issuance of Draft PPTA-RFP	April 11, 2025
Issuance of Final PPTA-RFP and Comprehensive Agreement	May 30, 2025
Utilities Meeting	July 17, 2025
First Round One-on-one meetings	June 18, 2025
Last Day for Questions from Proposers	August 15, 2025
Post Final Addenda	August 21, 2025
Technical Proposals Due	August 28, 2025
Financial Proposals Due	September 11, 2025
Notice of Intent to Award	November 25, 2025
Contract/Agreement Execution	April 4, 2026

Where the PPTA-RFP provides a deadline or due date for submission of documents, correspondence or other materials to the County, the submission will be considered timely only if the County receives the submission by the date and, if applicable, the time identified therein. All dates set forth above and elsewhere in the PPTA-RFP are subject to change, in the County’s discretion, by notice to Proposers.

1.11 Selection of Preferred Proposer and Deadline for Comprehensive Agreement Execution

The County selects the Preferred Proposer on the date indicated in Section . Upon selection of the Preferred Proposer, the County may, in its discretion, initiate limited negotiations as described herein or recommend execution of the Comprehensive Agreement without negotiations. For the avoidance of doubt, by submitting a proposal in response to this PPTA-RFP, the Proposer commits to enter into the Comprehensive Agreement in the form included in the PPTA-RFP, without negotiation or variation, except as necessary to fill in the blanks and include information that the form of the Comprehensive Agreement indicates is required from the Preferred Proposer’s Proposal. Subject to the requirements for execution and delivery of the Comprehensive Agreement as provided in Section 6.1.3 and Section 4.7.2, with respect to the period of Proposal validity, the Preferred Proposer shall deliver to the County executed copies of the Comprehensive Agreement and the documents required under Section .1.1. by the deadline specified in Section 2 for counter-execution by the County. 4.7.2, with respect to the period of Proposal validity, the Preferred Proposer shall deliver to the County executed copies of the

Comprehensive Agreement and the documents required under Section .1.1 by the deadline specified in Section 2.5 for counter-execution by the County.

1.12 General Provisions Regarding Proposals

Proposal Contents

As used in this procurement, the term “Proposal” means a Proposer’s complete response to the PPTA-RFP, including:

- a) a Technical Proposal, including a development plan for the Work (the “P3 Project Development Plan”).
- b) a Financial Proposal; and
- c) properly completed Proposal forms.

The instructions and requirements for the Technical Proposal (including the P3 Project Development Plan) and the Financial Proposal are set forth in Exhibits B and C, respectively, and a checklist showing the required contents of the entire Proposal is found in Exhibit D. The Proposal shall be organized in the order listed in Exhibit D and shall be clearly indexed. Each Proposal component shall be clearly titled and identified and shall be submitted without reservations, qualifications, conditions or assumptions. Any failure to provide all the information and all completed forms (Exhibit E) in the format specified, or submittal of a Proposal subject to any reservations, qualifications, conditions or assumptions, may result in the County rejecting the Proposal or giving it a lower rating (except for such reservations, qualifications, conditions or assumptions contemplated in this PPTA-RFP). All blank spaces in the Proposal forms must be filled in as appropriate. No substantive change shall be made in the Proposal forms.

Inclusion of Proposal in Comprehensive Agreement

Portions of the Apparent Best Value Proposal will become part of the Comprehensive Agreement, as applicable and to the extent specified in the Comprehensive Agreement. All other information is for evaluation purposes only and will not become part of the Comprehensive Agreement.

Commitments in the Proposal

The verbiage used in each Proposal will be interpreted and evaluated based on the level of commitment provided by the Proposer. Subject to Exhibit C, Section 5.2, tentative commitments will be given no consideration. For example, phrases such as “we may” or “we are considering” will be given no consideration in the evaluation process since they do not indicate a firm commitment.

Ownership of Proposal and the Virginia Freedom of Information Act

Subject to the exceptions specified herein, all written and electronic correspondence, exhibits, photographs, reports, printed material, tapes, disks, designs and other graphic and visual aids submitted to the County during this procurement process, whether included in the Proposal or otherwise submitted, become the property of the County and will not be returned to the submitting parties. Consequently, all such items will be subject to the provisions of the PPTA and the Virginia Freedom of Information Act (“VFOIA”) (Va. Code Ann. § 2.2—3700 *et seq.*). Proposers should familiarize themselves with the provisions of the PPTA and VFOIA that require disclosure of public information and exceptions thereto. In no event shall the the County, or any of their agents, representatives, consultants, directors, officers or employees be liable to a Proposer or Proposer

team member for the disclosure of any materials or information submitted in response to the PPTA-RFP. See also [Section 2.6](#).

SECTION 2 PROCUREMENT PROCESS

2.1 Procurement Method

The PPTA-RFP is issued by the County pursuant to the PPTA, the PPTA Guidelines, and other state and federal Law. The PPTA-RFP is not subject to the Virginia Public Procurement Act, (Va. Code § 2.2-4300 et seq.) except for Article 6, *Ethics in Public Contracting*, which is hereby incorporated by reference.

If a selection is made, the County will select as the Preferred Proposer the Proposer that delivers the Apparent Best Value Proposal, which is determined by the County through evaluation based upon the criteria set forth in the PPTA-RFP in accordance with the above Laws and regulations. For the County to execute a Comprehensive Agreement with the Preferred Proposer, the County Executive will certify that entering into a Comprehensive Agreement with the Preferred Proposer serves the public purposes of the PPTA. The County Executive may so certify if: (1) there is a public need for the transportation facility or facilities the private entity proposes to develop and/or operate as a qualifying transportation facility; (2) the transportation facility or facilities and the proposed interconnections with existing transportation facilities, and the private entity's plans for development and/or operation of the qualifying transportation facility or facilities, are, in the opinion of the responsible public entity, reasonable and will address the needs identified in the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, enhancing economic efficiency, or any combination thereof; (3) the estimated cost of developing and/or operating the transportation facility or facilities is reasonable in relation to similar facilities; and (4) the private entity's plans will result in the timely development and/or operation of the transportation facility or facilities or their more efficient operation.

The County will not review or consider unsolicited or nonconforming proposals related to this procurement (except for pre-approved ATCs, as described herein).

2.2 Receipt of the PPTA - Request for Proposal Documents, Communications and Other Information

The PPTA-RFP and the PPTA-RFP Reference Documents will be available to Proposers on the County's Procurement Solicitation website: [Solicitations | Albemarle County, VA](#)

Other information related to the procurement may, at the County's discretion, be made available to the public on the County's Procurement Solicitation website.

The County will not charge a fee to review responses to the PPTA-RFP.

2.2.1 County Representative

To facilitate receipt, processing and response, Proposers must submit all questions and requests for clarification regarding this procurement in writing to the contact acting as the County's representative, Vidhi Danak, at the following address:

County of Albemarle
Office of Procurement
401 McIntire Road, Suite 248

Charlottesville, VA 22902
Office – 434-296-5854
Email – vdanak@albemarle.org

From time to time during the procurement process, the County may designate another representative or representatives to carry out some or all the County’s obligations pertaining to this procurement (Any such representative or representatives, hereafter will be referred to as the “County Representative”).

Proposers are responsible for ensuring that any written communication clearly indicates on the first page or in the subject line, as applicable, that the material relates to the P3 Project.

2.2.2 Identification of Proposer Designated Representative

Each Proposer’s designated representative initially shall be the person identified in the SOQ as the single point of contact for the Proposer. If a Proposer changes its designated representative at any time, including after its submission of its Proposal, the Proposer shall provide the County Representative with the name and address of such new designated representative. A Proposer’s failure to identify a designated representative in writing may result in the Proposer not receiving important communications from the County. The County is not responsible for any such failure.

2.2.3 Rules of Contact

Starting on the date this PPTA-RFP was issued and ending at the earliest of (i) the execution and delivery of the Comprehensive Agreement, (ii) rejection of all Proposals by the County or (iii) cancellation of the procurement, the following rules of contact shall apply. These rules are designed to promote a fair and unbiased procurement process. For purposes of this Section 2.2.2, “contact” means communication, including by face-to-face, telephone, facsimile, electronic mail (e-mail), social media, instant messages, text messages, or formal written communication.

The specific rules of contact are as follows:

- a) No Proposer or any of its team members may have contact with another Proposer or its team members with regard to the PPTA-RFP or either team’s Proposal, except that team members that are shared between two or more Proposer teams may have contact with their respective team members so long as those Proposers establish a protocol to ensure that the team members will not act as a conduit of information between the teams (contact among Proposer organizations is allowed during the County-sponsored informational meetings);
- b) The Proposers shall correspond with the County regarding the PPTA-RFP only through the County Representative and the Proposer’s designated representative (except at one-on-one meetings or other group discussions with the County).
- c) Except as otherwise contemplated herein, no Proposer or representative thereof shall have any contact regarding the PPTA-RFP or the procurement described herein with any County staff, advisors, contractors or consultants involved with the procurement or P3 Project. This limitation on contact shall not apply to contact with the County consultants who have completed their services for the P3 Project and have obtained written release from the County, contact expressly permitted by the PPTA-RFP, or contact approved in advance by the County, in its sole discretion. The foregoing restriction shall not preclude or restrict contact regarding matters unrelated to the PPTA-RFP or the procurement or from

participating in public meetings of the County or any public or Proposer workshop related to this PPTA-RFP. Any Proposer engaging in such prohibited contact may be disqualified at the sole discretion of the County.

- d) Any communications determined by the County to be improper, at the sole discretion of the County, may result in disqualification.
- e) Any official information regarding the P3 Project will be disseminated from the County on the County letterhead. Any official correspondence will be in writing and signed by the County Representative; and
- f) The County will not be responsible for any oral exchange or any other information or exchange that occurs outside the official process specified herein.

Proposers shall note that no correspondence or information from the County regarding the PPTA-RFP or as the Proposal process in general shall have any effect unless it complies with Section 2.2.3(f).

2.3 Questions and Response Process; Revised PPTA-RFPs

2.3.1 Questions and Responses Regarding the PPTA-RFP

Proposers shall be responsible for reviewing the PPTA-RFP in each of its revised forms issued by the County prior to the Technical and Financial Proposal Due Dates and for requesting written clarification or interpretation of any perceived mistake, discrepancy, deficiency, ambiguity, error or omission contained therein, or of any provision that a Proposer fails to understand. Failure of a Proposer to examine and inform itself shall be at its sole risk, and no relief for error or omission will be provided by the County. Proposers shall submit to the County requests for written clarification using the Prebid Question Form in accordance with this Section 2.3.2. To the extent responses are provided, they will not be considered part of the Comprehensive Agreement, nor will they be relevant in interpreting the Comprehensive Agreement, except as expressly set forth in the Comprehensive Agreement.

The County will only consider comments or questions regarding the PPTA-RFP, including requests for clarification and requests to correct errors, if submitted by a Qualified Proposer within the appropriate time periods specified in Section 2.3.1.

Such comments or questions may be submitted at any time prior to the applicable last date specified in Section 1.6.1 or such later date as may be specified in any Revised Draft PPTA-RFP and shall be listed in order of importance and labeled as follows: (1) the comment or question relates to a “go/no-go” issue that, if not resolved in an acceptable fashion, may preclude the Proposer from submitting a Proposal, (2) the comment or question has a material impact on the value of the transaction, or (3) all other comments or questions, with 1 being highest priority and 3 being lowest priority. Additionally, the comments or questions shall (i) identify the document (e.g., the Comprehensive Agreement, Technical Requirements, etc.); (ii) identify the relevant section number, if applicable; and (iii) indicate whether the Proposer believes the question contains confidential or proprietary information relating to Proposer’s Proposal or ATCs. To the extent the County decides, in accordance with Section 2.6, that a question submitted as confidential does not qualify as confidential, the Proposer will have the opportunity to revise or withdraw its question. With respect to comments on the PPTA-RFP Documents generally, suggested revisions to language in the appropriate PPTA-RFP Documents are encouraged.

Except during one-on-one meetings proprietary meeting(s) with Proposers, no telephone or oral requests will be considered.

The questions and the County's responses will be in writing and will be delivered to all Proposers, except that the County intends to respond individually to those questions identified by a Proposer as containing confidential or proprietary information relating to a Proposer's Proposal or ATCs. The County reserves the right to disagree with a Proposer's assessment regarding confidentiality of information in the interest of maintaining a fair process or complying with applicable Law. Under such circumstances, the County will inform the Proposer and may allow it to withdraw the question, rephrase the question, or have the question answered non-confidentially. The County may rephrase questions as it deems appropriate and may consolidate similar questions. The County contemplates issuing multiple sets of responses at different times during the procurement process.

2.3.2 Revised Draft PPTA-RFPs

The County reserves the right, in its discretion, to revise, modify or change the PPTA-RFP and/or procurement process at any time. Any such revisions will be implemented through issuance of an addendum ("Revised Draft PPTA-RFP"). Any addenda will be posted on the County [Website](#). If any revision significantly impacts the PPTA-RFP, as determined in the County's discretion, the County may change the Technical Proposal Due Date or the Financial Proposal Due Date. The announcement of such a new date will be included in the Revised Draft PPTA-RFP. In addition, if the last date for Proposers to submit questions regarding the PPTA-RFP has occurred or has changed, the addendum will indicate the latest date for submittal of any permitted clarification requests concerning the addenda.

A Proposer shall acknowledge in each of its Proposal Letters receipt of all Revised Draft PPTA-RFPs and question and answer responses. Failure to acknowledge such receipt may cause the Proposal to be deemed non-responsive and be rejected. The County reserves the right to hold group meetings with Proposers and/or one-on-one meetings with each Proposer to discuss any Revised Draft PPTA-RFPs or response to requests for clarifications.

The County does not anticipate issuing addenda to the Final PPTA-RFP later than 5 Business Days prior to the Technical Proposal Due Date. If the need arises, the County reserves the right to issue addenda to the Final PPTA-RFP after such date. If the County finds it necessary to issue addenda, then any relevant processes or response times necessitated by the revisions will be set forth in a cover letter to that specific addendum, and the Proposers will have a right to withdraw their Proposals without any penalty, payment or draw on their Proposal Security (except that such withdrawal will preclude Proposers from receipt of a stipend pursuant to [Section 6.3](#)).

2.4 Pre-Proposal Submittals

Any Proposer that wishes to submit an ATC pursuant to [Section 3.1](#) must make a Pre-Proposal Submittal as described therein.

2.5 Pre-Proposal Meetings

2.5.1 Utility Meeting

The County will hold a non-mandatory Utility Meeting of all Proposers on Wednesday, June 11, 2025 in Conference Room 235 at County Office Building, 401 McIntire Road, Charlottesville, VA 22902 from 10:30AM to 12:00 Noon.

A representative from each Proposer is encouraged to attend the Utility Meeting in order for the Proposer's Proposal to be considered. No more than five (5) representatives from each Proposer

(inclusive of any other member of Proposer's team) will be allowed to participate in the Utility Meeting. The meeting will be in-person only with no virtual option.

2.5.2 One-on-One Meetings

As permitted under the PPTA Guidelines, the County intends to conduct in-person one-on-one meetings with any Proposer who requests a meeting on the dates set forth in Section 1.9 herein, and on such other dates designated by the County in writing to Proposers, to solicit feedback regarding the PPTA-RFP and discuss Proposer's ATCs and/or IFCs. The County reserves the right to disclose to all Proposers any issues raised during the one-on-one meetings, except to the extent that the County determines, in its discretion, such a disclosure would impair the confidentiality of an ATC or IFC or would reveal a Proposer's confidential business strategies.

The one-on-one meetings are subject to the following:

- a) The meeting will in-person only with no virtual option.
- b) The meetings are intended to provide Proposers with a better understanding of the PPTA-RFP.
- c) The County will not discuss with any Proposer any Proposal, ATC or IFC other than Proposer's own.
- d) Proposers shall not seek to obtain commitments from the County in the meetings or otherwise seek to obtain an unfair competitive advantage over any other Proposer.
- e) No aspect of these meetings is intended to provide any Proposer with access to information that is not similarly available to other Proposers, and no part of the evaluation of Proposals will be based on the conduct or discussions that occur during these meetings.

Proposers that have scheduled one-on-one meetings must submit to the County Representative at least seven days in advance of the meeting an agenda for the meeting and a list of persons, and their respective affiliations, who will attend the meeting. The County will determine the maximum number of individuals from each Proposer team permitted to attend the one-on-one meetings. Persons attending the one-on-one meetings will be required to sign an acknowledgment of the foregoing provisions and to identify all participants from Proposer. The Proposer shall be responsible for drafting and submitting a meeting summary/minutes of the meeting to the County no later than seven (7) business days following the meeting. The County will respond with requested changes, additions, corrections and/or written concurrence within three (3) business days after receipt of the draft meeting summary/minutes.

2.5.3 Questions and Responses During One-on-One Meetings

During one-on-one meetings, Proposers may ask questions, and the County may provide responses. However, any responses provided by the County during one-on-one meetings may not be relied upon unless questions were submitted in writing and the County provided written responses in accordance with Section 2.

2.5.4 Statements at Meetings

Nothing stated at any pre-Proposal meeting or included in a written record or summary of a meeting will modify this ITP or any other part of the PPTA-RFP unless it is incorporated in a Revised Draft PPTA-RFP or in the Final PPTA-RFP (or any addenda thereto), in each case issued pursuant to Section 2.3.2.

2.6 Virginia Freedom of Information Act/Confidentiality

2.6.1 Disclosure Waiver

All Proposals submitted to the County become the property of the Commonwealth of Virginia and are subject to the disclosure requirements of Va. Code Ann. § 2.2-4342 of the VFOIA. Proposers are advised to familiarize themselves with the provisions of the VFOIA to ensure that documents identified as confidential will not be subject to disclosure under VFOIA. In no event shall the County be liable to a Proposer for the disclosure of all or a portion of a Proposal submitted pursuant to this PPTA-RFP.

2.6.2 Claimed Exemptions to Disclosure

If a responding Proposer has special concerns about information it desires to make available to the County but which it believes constitutes a trade secret, proprietary information or other confidential information exempted from disclosure, such responding Proposer shall utilize County Form G – Proprietary Confidential Information Identification.

Blanket designations that do not identify the specific information will not be acceptable and may be cause for the County to treat the entire Proposal as public information. Nothing contained in this provision shall modify or amend requirements and obligations imposed on the County 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).

Proposers are on notice that the County will post on its webpage all responsive Proposals and other relevant information and agreements, in accordance with applicable Laws.

Where interpretation of the applicable statutes is required, the policy goals of transparency and accountability in the PPTA Guidelines shall prevail.

All Proposers should obtain and thoroughly familiarize themselves with the VFOIA, the PPTA, the PPTA Guidelines and any information in this PPTA-RFP applicable to the issue of confidentiality and public information. The County will not advise a Proposer as to the nature or content of documents entitled to protection from disclosure under the VFOIA, the PPTA or other Virginia Laws, as to the interpretation of the VFOIA, or as to the definition of trade secret. The proposer shall be solely responsible for all determinations made by it concerning the VFOIA. Each Proposer is advised to contact its own legal counsel concerning the effect of the VFOIA on that Proposer's own circumstances.

2.6.3 Observers During Evaluation

Proposers are advised that observers from federal or other agencies, including representatives of local agencies and municipalities, may observe the Proposal evaluation process and will have the opportunity to review the Technical and Financial Proposals after their respective due dates. Outside observers will be required to sign the County's standard confidentiality agreement.

2.7 County Studies and Investigations

The County has provided site investigation and traffic study information in the PPTA-RFP Information Package and PPTA-RFP Supplemental Information Package. To the extent the County undertakes any additional investigative activities or studies, the information obtained by the County from such activities or studies may be made available to Proposers in the PPTA-RFP

Reference Documents. All information provided by the County will be subject to the same limitations applicable to similar information furnished in the PPTA-RFP Reference Documents. The County makes no representation or warranty as to the accuracy, completeness or suitability of the additional information.

2.8 Examination of PPTA-RFP and Site Access

2.8.1 Examination of PPTA-RFP

Each Proposer shall be solely responsible for examining, with appropriate care and diligence, the PPTA-RFP, including PPTA-RFP Reference Documents, any Revised Draft PPTA-RFPs, the Final PPTA-RFP, and any addenda and material posted on the Project Website and the County Website, and for informing itself with respect to any and all conditions that may in any way affect the amount or nature of its Proposal or the performance of each of the Proposer's obligations under the Comprehensive Agreement with the County. The Proposal Letters (Form A-1 and Form A-2) include an acknowledgment that the Proposer has received and reviewed all materials posted to the Project Website and the County Website. Failure of Proposer to so examine and inform itself shall be at its sole risk, and the County will provide no relief for any error or omission.

Subject to Section 2.8., each Proposer is responsible for conducting such investigations as it deems appropriate in connection with its Proposal, regarding the condition of existing facilities and Site conditions, including Hazardous Materials, and permanent and temporary Utility appurtenances, area population, traffic patterns and driver preferences, keeping in mind the provisions of the Comprehensive Agreement regarding assumption of liability by Proposer. Proposer's receipt of the County-furnished information does not relieve Proposer of such responsibility. The submission of the Proposal shall be considered prima facie evidence that the Proposer has made the above-described examination and is satisfied to the conditions to be encountered in performing the Work and as to the requirements of the Comprehensive Agreement.

2.9 Duty to Notify of Errors

If any mistake, discrepancy, deficiency, ambiguity, error or omission is identified by Proposer at any time during the procurement process in any of the documents supplied by the County, the Proposer shall have a duty to notify the County of the error in writing.

2.10 Improper Conduct

2.10.1 Non-Collusion

Neither Proposer nor any of its team members shall undertake any activities that could be construed as collusion. County Form D – Certificate of No Collusion shall be submitted.

2.10.2 Organizational Conflicts of Interest

Guidelines for the County's policy on organizational conflicts of interest are addressed in the PPTA Guidelines.

The County, in its sole discretion, will decide relative to potential organizational conflicts of interest or a real or perceived competitive advantage, and its ability to mitigate such a conflict. An organization determined, at the County's sole discretion, to have a conflict of interest or competitive advantage relative to this procurement that cannot be mitigated shall not be allowed to

participate as part of the Proposer's team for the P3 Project. A list of parties the County has predetermined to have organizational conflicts has been provided on the Project Website.

The list provided on the Project Website is not, and is not intended to be, an exhaustive list. Prospective Proposers are responsible for determining whether any of its team members has a conflict of interest. Prior to the Commercial Close Date, if a Proposer believes any of its team members may have a conflict of interest, the Proposer shall contact the County Representative in writing to request a determination of the organization's conflict status. Failure to abide by the County's determination in this matter may result in a Proposal being declared non-responsive.

Conflicts of interest and a real or perceived unfair competitive advantage are described in state and federal law, and, for example, may include, but are not limited to the following situations:

- a. An organization or individual hired by the County to provide assistance in development of evaluation criteria for the P3 Project.
- b. An organization or individual hired by the County to provide assistance in the development of non-public evaluation criteria as part of the programmatic guidance or procurement documents for Virginia's P3 program, and as a result has a unique competitive advantage relative to the P3 Project.
- c. An organization or individual with a present or former contract with the County or VAP3 to prepare planning, environmental, engineering, or technical work product for the P3 Project, and has a potential competitive advantage because such work product is not available to all prospective Proposers in a timely manner prior to the procurement process; and
- d. An organization or individual with a present contract with the County to provide assistance in the development of the procurement documents, or the administration of the Comprehensive Agreement and the P3 Project.

In addition to the County's policy on organizational conflicts of interest, the organizational conflict of interest rules found in 23 CFR § 636, Subpart A, including 23 CFR § 636.116, apply to this procurement. 23 CFR § 636.103 defines an organizational conflict of interest as follows:

Organizational conflict of interest means that because of other activities or relationships with other people, a person is unable or potentially unable to render impartial assistance or advice to the owner, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

The firms listed below will not be allowed to participate as a Design-Build team member due to a conflict of interest:

- Kimley-Horn and Associates, Inc.
- Reynolds Smith & Hills (or RS&H)
- Schnabel Engineering, Inc.
- H&B Survey & Mapping, LLC
- Accumark, Inc.

Any Proposals received in violation of this requirement will be rejected.

2.11 Changes to Companies or Entities Filling Key Personnel Roles

Each Proposer must identify any company that will (a) fill a key project role, including project management, lead design firm, quality control management and quality assurance management, or (b) serve as a key task leader for geotechnical, hydraulics and hydrology, structural, environmental, utility and ROW issues. Furthermore, Proposer may not make changes to the companies so identified unless the original company or entity: (i) is no longer in business, is unable to fulfill its legal, financial or business obligations, or can no longer meet the terms of the teaming agreement with the Proposer; (ii) voluntarily removes itself from the team; (iii) fails to provide a sufficient number of qualified personnel to fulfill the duties identified during the proposal stage; or (iv) fails to negotiate in good faith in a timely manner in accordance with provisions established in the teaming agreement proposed for the P3 Project. If a Preferred Proposer makes team changes in violation of these requirements, any cost savings resulting from the change shall accrue to the County and not to the Proposer. The Proposer shall identify all such contractors. Note that all teaming agreements and subcontracts must be executed and provided to the County before the execution of the Comprehensive Agreement.

2.12 Changes in Key Personnel and Designation of New Key Personnel

Proposers are advised that the County discourages changes in Key Personnel from the individuals listed in the Proposal. Any proposed changes in Key Personnel from those identified in the Proposal are subject to County approval.

In addition, if any individual to be included in the Proposal is also proposed as a Key Personnel or for another position on any other County procurement, the Proposer shall include in the package a statement certifying that said individual will be available to assume its designated role on the P3 Project if Proposer is the Preferred Proposer.

Each such package shall include an original and two copies of the information specified above. The package shall be submitted to the County by the date and time for the submitting of changes in Key Personnel specified in Section 2.11 for review and approval by the County, in its discretion. The package shall be delivered to the address set forth in Section 2.2.1. The County is under no obligation to approve requested changes in Key Personnel or designations of new Key Personnel and may disapprove such requests at its discretion. If the County, in its discretion, disapproves a proposed Key Personnel or (if applicable) its proposed alternate, Proposer shall submit the information required above for its proposed substitute for review and approval by the County in accordance with the foregoing process.

The Proposal may not include any Key Personnel previously disapproved by the County in writing for such Key Personnel position.

A Proposer may not make any changes in its Key Personnel after receipt of County approval as specified in this section, except as provided in the Comprehensive Agreement.

2.13 Non-Exclusive Relationship; Release of Exclusive Relationship

Monoline Insurers and Credit Rating Agencies

The market for monoline insurers and rating agencies is of a size that exclusive teaming arrangements between monoline insurers, rating agencies and Proposers could give Proposers in exclusive arrangements a distinct and unfair advantage relative to other Proposers. As a result, to ensure a fair procurement process, Proposers are forbidden from entering exclusive teaming

arrangements with monoline insurers and rating agencies.

Lead Underwriters and Lenders

Subject to the following paragraph, Proposers may enter an exclusive relationship with not more than one Lead Underwriter. If a Proposer wishes to engage additional underwriters, such additional underwriters must be engaged on a non-exclusive basis. No exclusivity arrangements will be allowed with Lenders, including institutional investors, proposing to provide debt through a private placement.

Release of Exclusive Relationships

Each unsuccessful Proposer shall release its Lead Underwriter and/or Lender(s) of any exclusivity obligations no later than five days after being notified by the County that the County has executed the Comprehensive Agreement with another Proposer. Failure to satisfy the requirements of this Section 2.14 will entitle the County to draw on the Proposer's Proposal Security.

SECTION 3 SCOPE VALIDATION AND ALTERNATIVE TECHNICAL CONCEPTS

3.1 Scope Validation and Identification of Scope Issues

3.1.1 Scope Validation Period

The term "Scope Validation Period" is the period of time that begins on Design-Builder's receipt of County's Notice to Proceed and extends for ninety (90) days from such date of receipt. During the Scope Validation Period, Design-Builder shall thoroughly review and compare all of the then-existing Contract Documents, including without limitation the RFP Documents and the Proposal, to verify and validate Design-Builder's proposed design concept and identify any defects, errors, or inconsistencies in the RFP Documents that affect Design-Builder's ability to complete its proposed design concept within the Contract Price and/or Contract Time(s) (collectively referred to as "Scope Issues"). The term "Scope Issue" shall not be deemed to include items that Design-Builder should have reasonably discovered prior to the Agreement Date.

3.1.2 Submission Requirements for Scope Issues

If Design-Builder intends to seek relief for a Scope Issue, it shall promptly, but in no event later than the expiration of the Scope Validation Period, simultaneously provide the County in writing with a notice ("General Notice") of the existence of such Scope Issue, which General Notice shall generally explain the basis for such Scope Issue. Within twenty-one (21) days of the General Notice, Design-Builder shall provide the County with documentation that specifically explains its support for the Scope Issue ("Supporting Documentation"). The Supporting Documentation shall include, among other things: (a) the assumptions that Design-Builder made during the preparation of its proposal that form the basis for its allegation, along with documentation verifying that it made such assumptions in developing its proposal; (b) an explanation of the defect, error or inconsistency in the RFP Documents that Design-Builder could not have reasonably identified prior to the Agreement Date; and (c) the specific impact that the alleged Scope Issue has had on Design-Builder's price and time to perform the Work. For the avoidance of doubt: (1) Design-Builder shall not be entitled to raise in its Supporting Documentation any Scope Issues that were not previously addressed in a General Notice; and (2) Design-Builder shall have no right to seek any relief for any Scope Issues that have not been specifically identified in a General Notice provided to the County during the Scope Validation Period.

3.1.3 Resolution of Scope Issues

Within a reasonable time after the County's receipt of the Supporting Documentation described in the Section 3.1.2 above, the Parties shall meet and confer to discuss the resolution of such Scope Issues. If the County agrees that Design-Builder has identified a valid Scope Issue that materially impacts Design-Builder's price or time to perform the Work, a Work Order shall be issued in accordance with Section 4. If the County disagrees that Design-Builder has identified a valid Scope Issue that materially impacts Design-Builder's price or time to perform the Work, then Design-Builder's recourse shall be as set forth in Section 4. Notwithstanding anything to the contrary in the Contract Documents or as a matter of law, Design-Builder shall have the burden of proving that the alleged Scope Issue could not have been reasonably identified prior to the Agreement Date and that such Scope Issue materially impacts its price or time to perform the Work.

3.1.4 Design-Builder's Assumption of Risk of Scope Issues

The Parties acknowledge that the purpose of the Scope Validation Period is to enable Design-Builder to identify those Scope Issues that could not reasonably be identified prior to the Agreement Date. By executing this Agreement, Design-Builder acknowledges that the Scope Validation Period is a reasonable time to enable Design-Builder to identify Scope Issues that will materially impact Design-Builder's price or time to perform the Work. After the expiration of the Scope Validation Period, with the sole exception of those Scope Issues made the subject of a General Notice during the Scope Validation Period and subject to valid requests for Work Orders in accordance with Section 2.2.3 above, the Parties agree as follows:

1. Design-Builder shall assume and accept all risks, costs, and responsibilities of any Scope Issue arising from or relating to the Contract Documents, including but not limited to conflicts within or between the RFP Documents and Proposal;
2. Design-Builder shall be deemed to have expressly warranted that the Contract Documents existing as of the end of the Scope Validation Period are sufficient to enable Design-Builder to complete the design and construction of the Project without any increase in the Contract Price or extension to the Contract Time(s); and
3. The County expressly disclaims any responsibility for, and Design-Builder expressly waives its right to seek any increase in the Contract Price or extension to the Contract Time(s) for, any Scope Issue associated with any of the Contract Documents, including but not limited to the PPTA-RFP Documents.

3.1.5 Waiver of Rights

The failure of Design-Builder to meet the submission requirements required under Section 3.1.2 above for a Scope Issue, including but not limited to the times for providing notice and documentation of the Scope Issue, shall conclusively constitute a waiver of Design-Builder's rights to seek relief for such Scope Issue.

3.1.6 Failure of Technical Proposal to Meet Requirements of the Contract Documents.

Notwithstanding anything to the contrary in this Section 3.1 or elsewhere in the Contract Documents, the County shall have no responsibility in the event Design-Builder's Proposal fails to meet the requirements of the Contract Documents, regardless of whether: (a) the County modified the RFP Documents to permit Design-Builder to implement a technical approach; (b) the County accepted Design-Builder's Proposal; or (c) any other action or inaction of the County is alleged by Design-Builder.

3.2 Alternative Technical Concepts

“Alternative Technical Concepts” or “ATCs” are innovative concepts that deviate from the Technical Requirements for design and construction of the Project or otherwise require a modification of the Technical Requirements that may be proposed in accordance with the terms and conditions set forth in this ITP. Sections 3.1 through 3.3 set forth a process for pre-Proposal review of ATCs.

ATCs eligible for consideration hereunder shall be limited to those deviations from the as-issued Technical Requirements that result in performance, quality and value of the end product that is equal to or better than the end product that would result from full compliance with the Agreement and the Technical Requirements, as determined by the County, in its sole discretion. A concept is not eligible for consideration as an ATC if, in the County’s discretion, if it is premised upon or would require a mere reduction in P3 Project scope, performance or reliability.

ATCs that, if implemented, would require further environmental evaluation of the Project may be allowed, provided that the Proposer shall bear the schedule risks and cost impacts associated with such additional environmental evaluation. If the Proposer is not able to obtain the approvals necessary to implement the ATC, the Proposer will be obligated to develop the P3 Project in accordance with existing approvals without any relief for additional cost or schedule impacts due to the failure to obtain the necessary environmental approvals.

For ATCs that would require approval by a third party (e.g., a Governmental Authority), the Proposer shall have full responsibility for, and bear the full risk of, obtaining any such approvals and submitting required or relevant data if it is selected as the Preferred Proposer; provided, however, that the Proposer includes the County in all correspondence and meetings with any third parties. If any required third-party approval is not subsequently granted with the result that the Proposer must comply with the requirements of the original PPTA-RFP, the Proposer shall not be entitled to relief for additional cost or schedule impacts due to the failure to obtain the necessary third-party approvals.

Any ATC approved by the County that deviates from the following requirements described in the Technical Requirements may result in the issuance of an Addendum to the PPTA-RFP to modify the Technical Requirements:

- Design Speeds
- Typical Section elements (lane width, shoulder width, number of lanes)

If a Proposer is unsure whether a concept is consistent with the requirements of the PPTA-RFP or whether a concept would be considered an ATC by the County, the County recommends that the Proposer submit such concept for review as an ATC.

3.3 Pre-Proposal Submission of ATCs

If a Proposer wishes to include ATCs as part of its Proposal, Proposer may submit ATCs for review to the County Representative according to the procurement schedule. Such submission shall be in writing, with a cover sheet identifying the Proposer and stating, “Eastern Avenue Extension P3 Project – Confidential ATCs.” Proposer clearly shall identify the submittal as a request for review of an ATC under this ITP. If Proposer does not clearly designate its submittal as an ATC, the County will not treat the submission as an ATC. Note that the County is considering an all-electronic ATC submittal process in which Proposers will upload their submissions to a

secure site. Additional information will be made available prior to the date on which ATCs may first be submitted, as set forth in Section 1.6.1. The ATC submittals shall include a narrative description of the ATC and technical information, including drawings, as described below.

3.3.1 Pre-Proposal ATC Submittal Requirements

Pre-Proposal ATC submissions shall be sequentially numbered and shall identify the Proposer and the ATC number (multi-part or multi-option ATCs shall be submitted as separate individual ATCs with unique sequential numbers). Each submittal shall include:

- a. All references to requirements of the PPTA-RFP that are inconsistent with the proposed ATC, an explanation of the nature of the deviations from said requirements and a request for approval of such deviations.
- b. The locations where, and an explanation of how, the ATC will be used on the P3 Project.
- c. Any reduction in the time period necessary to design and construct the P3 Project resulting from implementing the ATC, including, as appropriate, a description of method and commitments.
- d. An estimate of any savings that would accrue to the County should the ATC be approved and implemented and/or any additional County, Proposer and third-party costs associated with implementation of the ATC.
- e. Additional ROW, if any, that will be required to implement the ATC (Proposers are advised that they shall (i) be solely responsible for the acquisition of any such ROW as per the Technical Requirements, including the cost thereof and obtaining any necessary Environmental Approvals; and (ii) not be entitled to any Change Order, Delay Event or Compensation Event as a result of acquisition or site conditions on such additional ROW);
- f. Any changes in operations requirements associated with the ATC, including ease of operations.
- g. Any changes in the anticipated useful life of the item(s) comprising the ATC.
- h. Preliminary analysis and quantitative discussion of potential impacts on vehicular traffic (both during and after construction).
- i. A preliminary analysis of environmental permitting, community impact, and safety.
- j. A description of other projects on which the ATC has been used, the degree of success or failure of such usage, and names and contact information, including phone numbers and e-mail addresses, for project owner representatives that can confirm such statements; and
- k. Preliminary drawings of the configuration of the ATC or other appropriate descriptive information, including a traffic operational analysis, if appropriate.

3.3.2 Errors, Ambiguities or Mistakes

If the County determines, based on a proposed ATC or otherwise, that the PPTA-RFP contains an error, ambiguity or mistake, the County reserves the right to revise the PPTA-RFP to correct the error, ambiguity or mistake, regardless of any impact on a proposed ATC.

3.4 County Review of Pre-Proposal Submission of ATCs

The County may request additional information regarding proposed ATCs at any time and will, in each case, return responses to each Proposer regarding its ATC on or before the applicable last date set forth in Section 1.6.1, provided that the County has received all required and requested information regarding such ATC. The County's responses will be limited to one of the following statements:

- a. The ATC is acceptable for inclusion in the Proposal.
- b. The ATC is not acceptable for inclusion in the Proposal.
- c. The ATC is acceptable for inclusion in the Proposal with such conditions, modifications and/or requirements as identified by the County; or
- d. The submittal does not qualify as an ATC but may be included in the Proposer's Proposal because it appears to be within the requirements of the PPTA-RFP or a pending revised version of the draft PPTA-RFP.

The County may request additional information regarding proposed ATCs at any time. The County will respond to each proposed ATC submission, provided that the County has received all requested information regarding such proposed ATC.

Prior to the deadline for the County to provide final responses to ATC proposals as set forth in the procurement schedule all approvals given by the County will be considered preliminary. If a preliminary acceptance is granted, with or without conditions, this acceptance will not be rescinded by the County unless the County discovers information that makes the ATC unacceptable for inclusion or that one or more of the preliminarily approved ATCs are inconsistent or duplicative of one or more other preliminarily approved ATCs. After the final submittal date for proposed ATCs, the County will provide final responses for each submittal that has been preliminarily approved and for all submittals awaiting response by the response date specified in Section 1.6.1.

The County's approval of an ATC will constitute a change in the specific requirements of the Comprehensive Agreement associated with the approved ATC for that Proposer, should the Proposer decide to incorporate that approved ATC. Each Proposer, by submitting its Technical Proposal, acknowledges that the opportunity to submit ATCs was offered to all Proposers and waives any right to object to the County's determinations regarding the acceptability of ATCs.

The County's acceptance or rejection of a pre-Proposal submission of an ATC will not entitle the Proposer to an extension of the Technical Proposal Due Date or the date that the ATCs are due; *provided, however*, that the foregoing shall not limit the County's absolute and sole right to modify the Technical Proposal Due Date or any other date in connection with this procurement.

3.5 Incorporation of ATCs in the Comprehensive Agreement

Following selection of the Preferred Proposer, ATCs that were pre-approved by the County and incorporated in the Proposal by the Preferred Proposer shall be included in the Comprehensive Agreement. If the County responded to any ATC by stating that it would be acceptable if certain conditions were met, those conditions will become part of the Comprehensive Agreement. Notwithstanding anything to the contrary herein, if the Proposer does not comply with one or more County conditions of pre-approval for an ATC or the Proposer fails to obtain a required third-party approval for an ATC, the Proposer will be required to comply with the original requirements of the PPTA-RFP without additional cost or extension of time as set forth in the Comprehensive Agreement.

Prior to execution of the Comprehensive Agreement, ATCs from unsuccessful Proposers may, in the County's discretion, be presented to the Preferred Proposer for possible incorporation into the Comprehensive Agreement during negotiation of the final terms of the Comprehensive Agreement pursuant to Section 5.12.1 and, if agreed by the County and the Preferred Proposer in such negotiations, incorporated into the Comprehensive Agreement. In addition, following execution of the Comprehensive Agreement, ATCs from unsuccessful Proposers may, in the County's discretion, be presented to the Proposer as a County Change Order in accordance with the Comprehensive Agreement.

3.6 Confidentiality of ATCs

Subject to the provisions of the PPTA-RFP, PPTA, VFOIA and the PPTA Guidelines, the County will maintain the confidentiality of ATCs and all communications regarding ATCs until a decision is made to select a Proposer or cancel the procurement, at which time all confidentiality rights, if any, shall be of no further force and effect except as otherwise allowed under the Act, applicable Law and Section 2.6 of this ITP. The foregoing shall not preclude the County from modifying the documents: (1) as necessary to comply with applicable Law, (2) to account for information obtained by the County outside of the ATC processes or (3) to correct an error in the Technical Requirements identified by a concept submitted as an ATC hereunder. By submitting a Proposal, Proposer agrees, if it is not selected, to disclose its work product to the Preferred Proposer.

SECTION 4 REQUIREMENTS FOR SUBMITTAL OF PROPOSALS AND ACCEPTANCE OF DELIVERY BY THE COUNTY

4.1 General Submittal Requirements

Each Proposal shall include a Technical Proposal and a Financial Proposal meeting the requirements set forth in Exhibits A and B. Technical and Financial Proposals shall be submitted in recyclable, low-cost, sealed containers, in the format and manner set forth in this Section 4 no later than the applicable dates and times specified in Section 1.6.1.

Each proposal shall include evidence that the Prime General Contractor is listed on the current edition (at the date and closing time of the receipt for proposals) of VDOT's List of Prequalified Vendors. In keeping with the VDOT Road and Bridge Specifications, the County may elect at their sole discretion to approve subcontractors that are not listed on VDOT's Prequalified Vendor list based on a request and justification provided by the Offeror on a case-by-case basis. Lack of prequalification by VDOT of the prime contractor would be cause for the rejection of any proposal received.

4.1.1 Signatures Required

Each Proposal Letter (Form A-1 and Form A-2) shall be signed in blue ink by all Equity Members and shall be accompanied by evidence of signatory authorization as specified in Form A-1 and Form A-2, as applicable.

4.1.2 Copies

Where copies of the Proposal are required, Proposer shall mark the document or cover with the word "Copy" and shall number the copies sequentially.

4.1.3 Consequences of Failure to Follow Requirements

Failure to use sealed containers or to properly identify the Proposal may result in an inadvertent early opening of the Proposal and may result in disqualification of the Proposal. Proposer shall be entirely responsible for any consequences, including disqualification of the Proposal, which result from any inadvertent opening if the County determines that Proposer did not follow the foregoing instructions. It is Proposer's sole responsibility to see that its Proposal is received as required. Proposals received after the date and time due will be rejected without consideration or evaluation.

4.2 Requirement to Submit Compliant Proposal

The Proposal may not include any qualifications, conditions, exceptions to or deviations from the requirements of the PPTA-RFP, except as contained in pre-approved ATCs (including conditionally pre-approved ATCs that have been revised to satisfy any conditions to approval), or as otherwise contemplated in this PPTA-RFP. If the Technical Proposal or the Financial Proposal does not fully comply with the instructions and rules contained in this ITP, including the Exhibits, the entire Proposal may be disqualified. Any Technical Proposal or Financial Proposal that contains a material alteration, as determined by the County, in its discretion, to the ITP Forms, will be considered non-responsive and non-compliant. Alterations that have been approved in writing in advance by the County will not be considered material.

If either a Technical Proposal or a Financial Proposal is deemed non-responsive or non-compliant, the County may disqualify the entire Proposal from further consideration, in its discretion. Such disqualification will not result in the forfeiture of Proposer's Proposal Security.

Each Proposal must be submitted in the official format that is specified by the County in the PPTA-RFP. The Proposer shall sign the original copy of Forms A-1 and A-2 of the Proposal submitted to the County. Multiple or alternate proposals may not be submitted.

Proposals may be considered non-compliant and may be rejected for any of the following reasons:

- a. If the Proposal: (i) is submitted in paper form or on disk other than that specified by the County, (ii) is not properly signed, (iii) is missing any parts, or (iv) otherwise does not meet the Proposal submittal requirements.
- b. If the Proposal contains irregularities that make the Proposal incomplete, indefinite or ambiguous as to its meaning, including illegible text, omissions, erasures, alterations, items not called for in the PPTA-RFP or unauthorized additions.
- c. If multiple or alternate Proposals are submitted or if the Proposal includes any conditions or provisions reserving the right to accept or reject a selection or to enter into a Comprehensive Agreement following selection.
- d. If the Proposal: (i) limits or modifies the Proposal Security, (ii) does not provide the Proposal Security or (iii) does not provide requested information deemed material by the County; and
- e. Any other reason the County determines the Proposal to be non-compliant.

4.3 Format

The Technical Proposal and the Financial Proposal shall contain concise written material and drawings enabling a clear understanding and evaluation of the capabilities of Proposer and the characteristics and benefits of the Proposal. Legibility, clarity and completeness of the Technical Proposal and Financial Proposal are essential. Financial statements may be submitted exclusively in an electronic format, and electronic submissions of any kind must be free of encryption and document restrictions.

The Technical Proposal shall not exceed the page limitation set forth in Exhibit A, Section 2. No page limit applies to appendices and exhibits; *however*, the County does not commit to review any information in appendices and exhibits other than those required to be provided, and the Proposal evaluation process will focus on the body of the Proposal and any required appendices and exhibits.

An 8¹/₂ by 11-inch format is required for typed submissions relating to the Technical Proposal and the Financial Proposal, and an 11 by 17-inch format is allowable for drawings, except the

Proposer's schematic submitted as part of the Technical Proposal, which shall be provided in the format set forth in Exhibit A, Section 4.2.2. Preliminary schedule submissions shall include both a hard copy and the native electronic files necessary to view and manipulate the schedule in Primavera P6 or the current version of MS Project.

Submittals must be bound with all pages in a binder and must be sequentially numbered. Printed lines may be single-spaced with the type font size being no smaller than 12-point, other than in tables and figures which may be prepared using 10-point font size type. The use of 11 by 17- inch foldouts for tables, graphics and maps is acceptable in the main body of the Technical and Financial Proposal, if applicable. Each 11 by 17-inch foldout will be considered one page.

4.4 Additional Requirements for Technical Proposal and Financial Proposal Delivery

The completed Technical Proposals and Financial Proposals shall be submitted and delivered in sealed containers no later than the due dates and times specified in Section 1.6.1.

The Technical Proposals and Financial Proposals are to be delivered to the County at the following address:

County of Albemarle
Office of Procurement
401 McIntire Road, Suite 248
Charlottesville, VA 22902
Office – 434-296-5854
Email – vdanak@albemarle.org

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

**[Proposer Name]:
Response to the PPTA -
Request for Proposals
for the Eastern Avenue Extension**

P3 Project Technical Proposal

And/or

P3 Project Financial Proposal

Each responding Proposer shall submit originals, copies and electronic copies of its Technical Proposal as required by Section 4.5 and of its Financial Proposal as required by Section 4.6. The original of each Technical Proposal and Financial Proposal clearly must be marked "Original" on its face and spine. Each copy must be sequentially numbered on its spine. The Proposer's name must be marked clearly on the spine. The Proposer's name must be marked clearly on all USB drives.

4.5 Technical Proposal

All of the binders comprising the original Technical Proposal, together with an electronic copy on one or more USB drives, shall be packaged in a single container, clearly addressed to the County as provided herein and labeled as set forth in Section 4.4. Proposer shall provide one original and four copies (for a total of 5) of the Technical Proposal, excluding any roll plots, for which Proposer

shall provide three copies. The containers that include the required hard copies of the Technical Proposal shall be labeled “Copies of Technical Proposal for the Eastern Avenue Extension P3 Project.”

The electronic copies shall be in PDF format and ORD (.dgn) or DWG (.dwg) on USB drives; *provided, however*, that (a) Proposal forms may be submitted in either PDF or Word format, and (b) corporate, partnership, joint venture and limited liability company documents (e.g., articles of incorporation, bylaws, partnership agreements, joint venture agreements and limited liability company operating agreements) must be submitted in hard copy and need not be submitted electronically.

4.6 Financial Proposal

One original and four copies (for a total of 5) of the Financial Proposal shall be delivered to the County, together with one electronic copy of financial statements in PDF format. The documents shall be included in a sealed container labeled as set forth in Section 4.4.

4.7 Modifications and Withdrawals

4.7.1 Modifications to a Proposal

In the event a Proposer submits its Technical Proposal or Financial Proposal prior to the applicable due date, the Proposer may modify its Financial Proposal or Technical Proposal in writing prior to the specified time on the applicable due date. The modification shall conform in all respects to the requirements set forth in the PPTA-RFP for submission of a Proposal. Modifications clearly should be delineated as such on the face of the document to prevent confusion with the original Proposal and shall specifically state that the modification supersedes the previous Proposal and all previous modifications, if any. If multiple modifications are submitted, they shall be numbered sequentially so the County can identify accurately the final Proposal. The modification must contain complete Proposal sections, complete pages or complete forms as described in Exhibits A and B. Line-item changes will not be accepted. No facsimile or other electronically transmitted modifications will be permitted.

4.7.2 Withdrawal and Validity of Proposals

A Proposer may withdraw its Proposal at any time prior to the time due on the applicable Proposal due date by means of a written request signed by the Proposer’s designated representative. Such written request shall be delivered to the County Representative specified in Section 2.2.1. A withdrawal of a Proposal will not prejudice the right of a Proposer to file a new Proposal provided that it is received before the time due on the applicable Proposal due date. Except as expressly set forth herein, no Proposal may be withdrawn on or after the time due on the Proposal Due Date and any attempt to do so will entitle the County to draw on the Proposal Security. Proposals shall be valid for acceptance by the County for a period of 210 days after the Proposal Due Date (as the same period may be extended hereunder, the “Proposal Validity Period”). No Proposer shall withdraw its Proposal within the 210-day period, unless notified by the County that (i) no Preferred Proposer will be selected by the County pursuant to the PPTA-RFP; (ii) the County has selected a Preferred Proposer and has received the executed Comprehensive Agreement and other required documents; or (iii) such Proposer is not the Preferred Proposer or next highest ranking Proposer.

If the next best Proposer is notified during the Proposal Validity Period that it is selected as the substituted Preferred Proposer, such Proposer shall enter good faith negotiations with the County and shall use commercially reasonable efforts to extend the validity of its Proposal for the period

until 180 days after the applicable Proposal due date.

Any Proposer may elect to extend the validity of its Proposal beyond the time periods set forth above; *provided that*, as a condition precedent to the extension of its Proposal Validity Period, such Proposer shall submit to the County amended and/or replaced forms of Proposal Security that reflect such extension.

4.7.3 Late Proposals

The County will not consider any late Proposals. Proposals and/or modification or withdrawal requests received after the time for submitting Proposals will be returned to Proposer without consideration or evaluation.

4.8 Submission and Forfeiture of Proposal Security

4.8.1 Submission of Proposal Security

As security for its commitment to enter into the Project Documents in accordance with its Proposal commitments if it becomes the Preferred Proposer, each Proposer shall submit to the County a Proposal letter of credit (the "Proposal Security") at or before the date and time on which it submits its Financial Proposal, as set forth in Section 1.6.1. The Proposer shall provide as part of its Proposal one original and three certified copies of the Proposal Security. The original Proposal Security shall be provided with the Financial Proposal and shall be in a separate envelope labeled "[Proposer Name]: Proposal Security for the Eastern Avenue Extension P3 Project." The Proposal Security shall be a letter of credit, or multiple letters of credit, in the aggregate amount of \$10 million and in the standard County template. The Proposal Security must be issued by an Eligible Security Issuer. A draft of the form of Proposal Security must be submitted to the County for pre-approval by the date set forth in Section 1.6.1. The Proposer shall deliver, together with its Proposal Security, evidence demonstrating that each issuer of the Proposal Security is an Eligible Security Issuer. At any time following the Proposer's submission of its Proposal Security to the County, if any issuer thereof shall fail to be an Eligible Security Issuer, the Proposer shall promptly notify the County in writing of such change and, within 10 days of such notice, the Proposer shall deliver to the County new Proposal Security from a replacement Eligible Security Issuer. Upon the County's receipt of such replacement Proposal Security, the County will promptly return the replaced Proposal Security to the Proposer.

To the extent that a Proposer seeks to deviate in any way from the foregoing requirements, the Proposer must submit a draft of its intended Proposal Security in accordance with the deadline specified in Section 1.6.1.

4.8.2 Forfeiture of Proposal Security

In the event the County elects to commence negotiations with a Proposer, such Proposer shall be deemed to have failed to engage in good faith negotiations with the County and shall forfeit its Proposal Security as set forth in this Section 4.8.2 if the following circumstances occur: (a) (i) the Proposer fails to attend and actively participate in reasonably scheduled negotiation meetings with the County, or (ii) the Proposer insists upon terms or conditions for any documents to be negotiated or provided by the Proposer hereunder that are inconsistent with the PPTA-RFP, and (b) the Proposer fails to execute the Comprehensive Agreement in the form issued by the County as of the Proposal Due Date.

Each Proposer, by submittal of its Proposal, shall be deemed to have agreed to the following:

- a. Failure to Deliver Replacement Proposal Security

The Proposal Security is subject to forfeiture if the issuer of such security fails to be an Eligible Security Issuer and the Proposer fails to notify the County of the ineligibility of the issuer or fails to deliver replacement Proposal Security by the deadline specified in Sections 4.8.1.

b. Failure to Meet Commitments

Subject to Section 4.7.2, the Proposal Security is subject to forfeiture if (a) the Proposer withdraws, repudiates or otherwise indicates in writing that it will not meet any commitments made in its Proposal except as specifically permitted hereunder or (b) the Proposer does not comply with its obligations set forth in Section 2.14.

c. Failure to Execute and Deliver Documents

Subject to Section 4.7.2, the Preferred Proposer's Proposal Security is subject to forfeiture if it fails to deliver to the County executed copies of the Comprehensive Agreement and the documents required under Section 6.1.4 by the deadline set forth in Section 1.6.2, unless such failure is directly attributable to:

- i. the County's failure to timely deliver any of the County Post-Selection Deliverables as described in the Comprehensive Agreement; or
- ii. the County's election not to enter into the Comprehensive Agreement in the form included with the PPTA-RFP, following (i) the County's election to commence negotiations regarding the Comprehensive Agreement, (ii) the Proposer's engaging in good faith negotiations as set forth in Section 5.12.1 and (iii) failure of the parties to agree upon County changes to the terms of the Comprehensive Agreement.

4.8.3 Proposal Security as Liquidated Damages

Forfeiture of Proposal Security in accordance with Section 4.8.2 of the ITP will constitute liquidated damages. By submitting its Proposal, the Proposer agrees and acknowledges that such liquidated damages are reasonable to compensate the County for damages it will incur as a result of the Proposer's failure to satisfy the obligations under the PPTA-RFP to which the Proposer agreed when submitting its Proposal. Such damages include potential harm to the credibility and reputation of the County's transportation improvement program, with policy makers and with the public, delays to the P3 Project and additional costs of administering this or a new procurement (including engineering, legal, accounting, overhead and other administrative costs). By submitting its Proposal, the Proposer further acknowledges that these damages would be difficult and impracticable to measure and prove, are incapable of accurate measurement because of, among other things, the unique nature of the P3 Project and the efforts required to receive and evaluate proposals for it, and the unavailability of a substitute for those efforts. The amounts of liquidated damages stated herein represent good faith estimates and evaluations as to the actual potential damages that the County would incur because of the Proposer's failure to satisfy the obligations under the PPTA-RFP to which the Proposer agreed when submitting its Proposal and does not constitute a penalty. By submitting its Proposal, the Proposer agrees to such liquidated damages to fix and limit the Proposer's costs and to avoid later Disputes over what amounts of damages are properly chargeable to the Proposer.

4.8.4 Return of Proposal Security of the Unsuccessful Proposer

The County will retain the Proposal Security of each unsuccessful Proposer until the earlier to occur of the following: (i) each of the County and the Preferred Proposer has executed and delivered the Comprehensive Agreement; (ii) the expiration of such Proposer's Proposal Validity Period; and (iii) the County has terminated the PPTA-RFP process and canceled the PPTA-RFP.

Following the occurrence of any of the foregoing events, the County will promptly return the Proposal Security of each unsuccessful Proposer, except for any Proposal Security that has been

drawn by the County in accordance with the terms of Section 4.8.2 of the ITP prior to such date.

4.9 Acceptance of Delivery by the County

The County will provide receipt for Proposals that are delivered to the County in a timely manner as specified herein.

4.10 Costs Not Reimbursable

The cost of preparing the Proposal and any costs incurred at any time before execution and delivery of the Comprehensive Agreement, including costs incurred for any interviews, costs associated with Post-Selection Deliverables, costs for compliance with federal requirements and costs relating to the finance process, shall be borne by the Proposer.

SECTION 5 EVALUATION AND POST-SELECTION PROCESS

The County's goal is to create a fair and uniform basis for the evaluation of the Proposals in compliance with all applicable legal requirements governing this procurement.

The County's Executive Scoring Panel is responsible for reviewing and ranking all Proposals.

The Proposal evaluation process will include an initial review of each Technical Proposal for pass/fail and responsiveness criteria, followed by a responsiveness and qualitative evaluation of the P3 Project Development Plan; an initial review of each Financial Proposal for pass/fail and responsiveness criteria, followed by a responsiveness and quantitative evaluation of each Financial Proposal; and a Best Value determination based on the scoring formula described in Section 5.2. The process may, at the County's discretion, include a request for Proposal Revisions and may, but is not anticipated to, include a negotiations phase with the Preferred Proposer. The steps in the process and evaluation criteria are set forth in Sections 5.1 through 5.10. The evaluation and selection process are subject to modification by the County, in its discretion. The evaluation process will involve the following steps:

- a) The Executive Scoring Panel will:
 - i. Evaluate the Proposals and determine which Proposer has offered the Apparent Best Value Proposal based on the specific evaluation criteria set forth herein; and
 - ii. Provide a recommendation to the County Executive regarding the Apparent Best Value Proposal.
- b) The County Executive will review and consider the recommendations from the Executive Scoring Panel and will provide a report on the selection of a Preferred Proposer in accordance with the PPTA Guidelines.

The details of the evaluation and selection process are set forth more fully in this Section 5.

5.1 Organization of the Executive Scoring Panel

Evaluation of Proposals will be conducted by the Executive Scoring Panel with assistance from advisors consisting of additional County personnel and other non-County representatives as determined by the County and the Executive Scoring Panel. In addition, observers from other agencies with specific interests and responsibilities associated with the PPTA Project may be invited to observe aspects of the evaluation process.

5.2 Best Value Determination

The determination of the Apparent Best Value Proposal will be computed using the following formula:

$$\begin{aligned} \text{Total Proposal Score} &= \text{Technical Score (max. 30 points)} \\ &+ \text{Financial Score (max. 70 points)} \end{aligned}$$

5.2.1 Technical Score

The Technical Score will be qualitative and will be based on the PPTA Project Development Plan as described in Section 5.4.1.

5.2.2 Financial Score

The Financial Score will be quantitative and will be computed based on the formula described in Section 5.5.1.

5.3 Pass/Fail and Responsiveness Evaluation

Upon receipt, the Technical Proposals and the Financial Proposals will be made available for review by the Executive Scoring Panel and its advisors. They will be reviewed for the Proposals' conformance to the PPTA-RFP instructions regarding organization, format and responsiveness to the requirements of the PPTA-RFP and based on the pass/fail criteria set forth below.

5.3.1 Technical Proposals

Technical Proposals will be evaluated based on the following pass/fail and responsiveness criteria:

- a. The business form of Proposer, and any entities that will have joint and several liability (i.e., any joint venture members or partners) under the Comprehensive Agreement or that will provide a guaranty (including any joint venture agreement, partnership agreement, operating agreement, articles of incorporation, bylaws, association agreements or equivalent documents) is consistent, or will be consistent, with the requirements of the P3 Project and Comprehensive Agreement.
- b. Proposer information, certifications, signed statements and documents as listed in Exhibit A, section 3.2 are included in the Proposal and do not identify any material adverse information.
- c. The Technical Proposal as outlined in Exhibit A, including the P3 Project Development Plan outlined in Exhibit A, meets all applicable PPTA-RFP requirements.

5.3.2 Financial Proposals

Financial Proposals will be evaluated based on the following pass/fail and responsiveness criteria:

- a. Based on the information furnished in response to Exhibit B, Section 5, Proposer has the financial capacity to complete a project of the nature and scope of the PPTA Project. Factors that will be considered in evaluating Proposer's financial capacity include changes to the following:
 - i. Financial statements
 - ii. Bonding capacity

- iii. Credit history
- iv. Other commitments and contingencies

If the County determines that a Proposer has insufficient financial capacity to fulfill its obligations under the Comprehensive Agreement, it may offer the Proposer the opportunity to meet the financial requirement through one or more guarantors acceptable to the County. If required, the Proposer shall provide such guaranty in the standard county template.

- b. The Proposer's Financing Plan demonstrates the following:
 - i. that it identifies sufficient financing (if proposed by the Proposer) for the Comprehensive Agreement, including all design and construction funding.
 - ii. that, pursuant to Section 1.7, the requested Public Funds Amount, if any, does not exceed the maximum available funding; and
 - iii. That it is adequate, feasible and capable of being executed if the Proposer is selected.
 - iv. The Proposer has submitted the required Proposal Security, pursuant to Section 4.8.1.

Any Proposer that fails to achieve a passing score on any of the pass/fail portions of the evaluation will not be eligible for recommendation for selection as the Preferred Proposer.

5.3.3 County Right to Exclude Proposals from Consideration

Any Proposal not responsive to the PPTA-RFP, or that does not pass the pass/fail criteria, will be excluded from further consideration. The County also may exclude from consideration any Proposer whose Proposal contains a material misrepresentation.

5.4 Evaluation of P3 Project Development Plan

After completion of the pass/fail criteria and initial responsiveness to the PPTA-RFP, the P3 Project Development Plan will be evaluated based on the factors set forth below to determine whether it improves upon the Comprehensive Agreement requirements and brings additional benefits or value to the County and the public.

5.4.1 P3 Project Development Plan Evaluation Factors

- a. The evaluation factors for the P3 Project Development Plan are listed under two main areas:
 - i. Project Schedule (33% of Technical Score)
 - ii. Design and Construction (67% of Technical Score, with five scoring categories);

Points are only assigned to technical enhancements where they exceed the minimum requirements for a responsive Proposal.

- a. Points for Project Schedule will be assigned as follows:
 - i. Project Completion Date
 - A. By August 1, 2028 – 10 points
 - B. By October 1, 2028 – 5 points

5.4.1.1 Design and Construction (70% of Technical Score)

- A. Pavement, bridge, structural durability
 - i. Demonstrates durability beyond the minimum requirements and performance specifications to proposed infrastructure, including ease of maintenance after delivery.
 - a. Demonstrates innovative or robust construction techniques or materials that result in improved pavement durability.
 - ii. Other.
- B. Design Concepts
 - i. The preliminary conceptual plan results in reduced Right-of-Way acquisition
 - a. Total Right-of-Way acquisition area is reduced compared to the PPTA-RFP plans. (Note that new Project elements requiring additional right-of-way approved as part of the ATC process will be considered as part of the base PPTA-RFP plan Right-of-Way.
 - b. Total number of parcels impacted is reduced compared against the PPTA-RFP plans.
 - ii. Other
- C. Risk Mitigation
 - i. Commitment to construction safety is demonstrated.
 - a. Innovative strategies for realizing a zero-incident culture.
 - ii. Other
- D. Environmental
 - i. The preliminary conceptual plan results in reduced impacts to Lickinghole Creek, including:
 - a. Floodplain
 - b. Floodway
 - c. Base Flood Elevations
 - d. Wetlands and Waters of the United States (WOUS)
 - ii. Environmental commitments are met and environmental stakeholder coordination is demonstrated.
 - a. Increased partnership with external agencies in order to realize positive audit review.
 - b. Innovative features that mitigate environmental challenges.
 - c. Reduced impacts to streams, wetlands, cultural resources, and parks through reduced temporary impacts, permanent impacts, increased mitigation, etc.
 - iii. Other
- E. Partnering and public outreach
 - i. Proposer demonstrates commitment to proactive prevention of construction disputes.
 - a. Commitment to a minimum value for Delay or Compensation Event claims submitted against the County. In other words, Proposer will not file a Delay or Compensation claim against the County for amount less than the committed amount.
 - b. Demonstrated methods that have been implemented and successful on other projects are included for reaching resolution on disputes without

- triggering formal dispute resolution process.
 - c. Other
- ii. Proposer commits to resolve all construction disputes prior to Final Acceptance.
 - a. Achieve agreed solutions prior to Service Commencement in the form of a conditions precedent in the Comprehensive Agreement.
 - b. Other
- iii. Proposer demonstrates public outreach plan and commitment of quantifiable plan elements over and beyond that required in Volume II Technical Requirements.
 - a. Additional creative user features for increased stakeholder communication and engagement through new applications or other social media options.
 - b. Incorporation of systematic feedback and tracking mechanisms to improve stakeholder engagement.
 - c. Other

5.5 Financial Proposal Evaluations

The Executive Scoring Panel will evaluate the Financial Proposal to determine (i) the Public Funds Amount and (ii) the Proposer's contribution.

5.5.1 Financial Score

Each Proposer's Financial Score shall be determined as follows:

$$\text{Financial Score} = 70 - (P_1 - P_{Best}) / 10$$

Where:

P_1 = such Proposer's Price (in \$ millions)

P_{Best} = the lowest Price offered by any Proposer (in \$ millions)

5.6 Executive Scoring Panel Evaluation

The Executive Scoring Panel will review the results of the Technical Proposal evaluation and Financial Proposal evaluation to determine each Proposal's Technical Score and Financial Score, respectively. Then the Executive Scoring Panel will determine the Total Proposal Score for each Proposal based on the formula set forth in [Section 5.2](#), assign rankings to the Proposals based on the Total Proposal Scores and determine the Apparent Best Value Proposal based on the highest Total Proposal Score.

5.7 Requests for Clarification

The County may at any time issue one or more requests for clarification to the individual Proposers, requesting additional information or clarification from a Proposer, or may request a Proposer to verify or certify any aspect of its Proposal. Any requests for clarification shall be in writing to Proposer's designated representative. Proposers shall respond to any such requests within two Business Days (or such other time as is specified by the County) 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 the County.

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

5.8 Requests for Proposal Revisions

The County may, at any time after receipt of Proposals and prior to selection of the Preferred Proposer, determine that it is appropriate to request changes to the Proposals (“Proposal Revisions”). Only Proposers that submitted a compliant Technical Proposal and a compliant Financial Proposal will be permitted to submit Proposal Revisions. The request for Proposal Revisions may be based on revisions to the PPTA-RFP. Before requesting any such Proposal Revisions, the County will engage in separate discussions (either in writing or in person through one-on-one meetings if not in writing) with each Proposer and in accordance with the procedures for proposal revisions described in 23 CFR 636.501 *et seq.* The request for Proposal Revisions will identify any revisions to the PPTA-RFP and will specify terms and conditions applicable to the Proposal Revisions, including identifying time and date for delivery. If Proposal Revisions are requested, the term “Proposal,” as used in the PPTA-RFP, shall mean the original Proposal, as modified by the Proposal Revision. Each Proposer may determine in its discretion whether to deliver the requested Proposal Revisions. Failure of a Proposer to deliver the requested Proposal Revisions shall not, in and of itself, result in the forfeiture of such Proposer’s Proposal Security; *provided* that such Proposer’s original Proposal, together with the Proposal Security included therewith, shall remain valid and in effect notwithstanding its election not to deliver the requested Proposal Revisions.

Upon receipt of Proposal Revisions, the Executive Scoring Panel, with assistance from the appropriate advisors, will re-evaluate the Proposals as revised and will revise ratings and value estimates as appropriate following the process described above.

5.9 Identification of Apparent Best Value Proposal

Once the Executive Scoring Panel has determined a Total Proposal Score for each Proposal, assigned rankings to the Proposals based on the Total Proposal Scores (whether based on the original Proposals or Proposal Revisions) and determined the Apparent Best Value Proposal, the Executive Scoring Panel will present its recommended rankings to the County Executive.

5.10 County Selection of Preferred Proposer, BOS Endorsement

The County Executive will review the Proposals and the recommendations and supporting information provided by the Executive Scoring Panel and may: (i) accept the recommendation, (ii) reject the recommendation and cancel the procurement or (iii) request that the Executive Scoring Panel reconsider the Executive Scoring Panel’s recommendation and provide the basis and reasons for reconsideration. The County’s decision regarding selection of the Preferred Proposer shall be final.

Near the end of the procurement, the County Executive or his designee will present a P3 Project fact sheet to the BOS. The BOS will be briefed as required by Section 5.10 of the PPTA Guidelines. During the briefing, the County Executive or his designee will seek BOS endorsement, indicating support of the County’s execution of a Comprehensive Agreement. A P3 Project fact sheet and the BOS endorsement will be posted on the Project Website for public awareness.

5.11 Certification of Finding of Public Interest

Prior to executing the Comprehensive Agreement with the Preferred Proposer, the County Executive must certify in writing a Final Finding of Public Interest for the P3 Project stating that the transfer, assignment, and assumption of risks, liabilities, and permitting responsibilities or the mitigation of revenue risk by the private sector enumerated in the Initial Finding of Public Interest

have not materially changed since the Finding of Public Interest originally was issued and the finding of public interest is still valid.

5.12 Finalization of the Comprehensive Agreement; Post-Selection Process

5.12.1 Negotiation of Comprehensive Agreement

If the County Executive has accepted the recommendation of the Executive Scoring Panel as provided in Section 5.10 above, then the County intends to proceed with the Preferred Proposer to finalize the Comprehensive Agreement. The County may agree to limited negotiations with the Preferred Proposer to clarify any remaining issues regarding scope, schedule, financing or any other information. In addition, limited negotiations may be conducted as necessary to incorporate the ideas and concepts of unsuccessful Proposers' work product; *however*, any decision to commence or continue negotiations regarding the terms of the Comprehensive Agreement is at the County's discretion. By submitting its Proposal, each

Proposer commits to enter into the form of Comprehensive Agreement included in the PPTA-RFP, without negotiation or variation, to fill in blanks and include information from the Proposal that the form of the Comprehensive Agreement indicates is required.

If a Comprehensive Agreement satisfactory to the County cannot be negotiated with the Preferred Proposer, the County will formally end negotiations with the Preferred Proposer and will require the Preferred Proposer to enter into the Comprehensive Agreement in the form included in the PPTA-RFP, without variation except to fill in blanks and include information from the Proposal that the form of the Comprehensive Agreement indicates is required from the Proposal (e.g., ATCs and IFCs). If the Preferred Proposer refuses to enter into the Comprehensive Agreement as described in the preceding sentence, the County may then choose to: (a) reject all Proposals or (b) proceed to the next most highly ranked Proposal to finalize or attempt to negotiate the Comprehensive Agreement with that Proposer in accordance with this Section 5.12. If option (b) is selected, the Proposer that submitted the next highest ranked Proposal will be considered the Preferred Proposer and the former Preferred Proposer shall forfeit its Proposal Security.

5.13 Post-Selection Deliverables

5.13.1 County Comments on Post-Selection Deliverables

The County will provide comments on any Post-Selection Deliverables required by the Comprehensive Agreement within 21 Business Days of the date of the County's receipt of such deliverable. The County will have 21 Business Days to review and respond to subsequent submittals of the deliverable.

SECTION 6 COMPREHENSIVE AGREEMENT; POST-EXECUTION ACTIONS

6.1 Execution and Delivery of Comprehensive Agreement

6.1.1 Commercial Close, Financial Close and Early Work

Commercial Close is expected to take place as set forth in Section 1.6.1 and will consist of the requirements set forth in Sections 6.1.4. During the period between Commercial Close and Financial Close, the Proposer will be expected to commence the Early Work outlined in the Comprehensive Agreement.

6.1.2 Comprehensive Agreement

Upon and subject to successful completion of any negotiations (if held), and receipt by the County of all of the documents required by this ITP to be provided by the Preferred Proposer prior to execution of the Comprehensive Agreement, the County will deliver three copies of the Comprehensive Agreement, with all exhibits attached, to the Preferred Proposer for execution by the Preferred Proposer. The County will deliver two sets to be retained by the County and as many sets as requested by the Preferred Proposer to be retained by the Preferred Proposer.

Within fifteen (15) Business Days after receipt of such execution copies, the Preferred Proposer shall execute and return all execution copies of the Comprehensive Agreement, together with the required documents described in Section 6.1.4, to the County for counter-execution by the County. If the Developer is a joint venture or a partnership, the Comprehensive Agreement must be executed on behalf of the Proposer by all joint venture members or general partners, as applicable.

Within fifteen (15) Business Days after receipt of the executed Comprehensive Agreement sets (and all other required documents) from the Preferred Proposer, the County will counter-execute the Comprehensive Agreement, retain two sets of the executed Comprehensive Agreement for itself, and deliver the other executed Comprehensive Agreement sets to the Developer.

Subject to satisfaction of all conditions precedent to the foregoing, the Comprehensive Agreement shall be fully executed and become effective not later than the expiration of the validity period of the Preferred Proposer's Proposal.

6.1.3 Documents to Be Delivered By Proposer With Executed Comprehensive Agreement

As a condition precedent to execution of the Comprehensive Agreement by the County, the Preferred Proposer shall ensure that the following actions take place concurrently with or prior to delivery of the Comprehensive Agreement as executed by the Developer:

- a. Immediately notify the County of any material adverse change in the financial condition of any firm whose financial statements were provided with the Proposal, and take action with respect thereto as required by the County;
- b. Identify the attorneys and law firms that will provide the legal opinions identified in the completed Opinion of Counsel (Form L) and provide draft opinion letter(s) to the County for the County's approval, not to be unreasonably withheld;
- c. Provide to the County, all documents required to be provided in accordance with the Comprehensive Agreement and the Design-Build Contract for County review and approval;
 - i. Provide to the County evidence of approval of the final form of the Comprehensive Agreement, and of due authorization, execution, delivery and performance of the Comprehensive Agreement by the Proposer thereunder and (if the Proposer is a joint venture) by its joint venture members. Such evidence shall be in form and substance satisfactory to the County. If the Proposer is a corporation, such evidence shall be in the form of a resolution of its governing body certified by an appropriate officer of the corporation. If the Proposer is a partnership, such evidence shall be in the form of a resolution signed by the general partners and appropriate evidence of authorization for each of the general partners, in each case, certified by an appropriate officer of the general partner. If the Proposer is a limited liability company, such evidence shall be in the form of a resolution of the governing body of the limited liability company, certified by an appropriate officer of the company, or (ii) a managing member(s) resolution,

certified by an appropriate officer of the managing member(s), or (iii) if there is no managing member, a resolution from each member certified by an appropriate officer of such member. If the Proposer is a joint venture, such evidence shall be in the form of a resolution of each joint venture member, certified by an appropriate officer of such joint venture member;

- d. Provide to the County evidence of insurance required to be provided by the Proposer under the Comprehensive Agreement (including, in the case of insurance policies not required to be in place until after the effective date, evidence satisfactory to the County that the Proposer is able to obtain the coverages to be bound, such as a letter from an insurance broker with details of the coverages and pricing, limits, endorsements, and other terms required by the Comprehensive Agreement);
- e. Provide to the County evidence that each of the Proposer and its Major Participants hold all licenses required for performance of the Work as of the Agreement Date;
- f. Provide to the County commitments for and delivery of payment and Performance Security as set forth in Section 17.08 of the Comprehensive Agreement;
- g. If security for the Proposer's obligations under the Comprehensive Agreement is required by the County pursuant to Section 5.3.2, deliver guarantees from a Financially Responsible Party(ies) in the form previously approved by the County; and
- h. Deliver other ancillary documents, if any, not inconsistent with the Comprehensive Agreement or this ITP, customarily and reasonably provided in connection with the execution of Virginia comprehensive agreements and non- financial closing of such transactions (which the County will identify at least five Business Days prior to the date by which the Developer is required to deliver the documents listed in this Section 2.2.1 to the County) and (ii) other documents determined to be necessary as a result of pre-selection negotiations, if any (which the County and the Proposer shall mutually identify as part of the pre-selection negotiations).

6.2 Debriefings

All Proposers submitting responsive Proposals will be notified in writing of the results of the evaluation process. Proposers not selected as the Preferred Proposer may request a debriefing.

Debriefings shall be provided at the earliest feasible time after execution of the Comprehensive Agreement. The debriefing shall be conducted by a procurement official familiar with the rationale for the decision selecting the Preferred Proposer.

Debriefings shall:

- a. Be limited to discussion of the unsuccessful Proposer's Proposal and may not include specific discussion of any competing Proposal;
- b. Be factual and consistent with the evaluation of the unsuccessful Proposer's Proposal; and
- c. Provide information on areas in which the unsuccessful Proposer's Proposal had weaknesses or deficiencies.

6.3 Payment to Unsuccessful Responsive Proposers

6.3.1 Payment of Stipend

A Stipend Payment will not be provided by the County to any Proposer.

6.3.2 Right to Use Work Product

In accordance with the PPTA Guidelines, each Proposal and every submittal a Proposer makes prior to submitting its Technical Proposal to the County in response to this PPTA-RFP becomes the property of the County. Each Proposer agrees that the County will be entitled to use all such work product and that the County may incorporate such work product into the Comprehensive Agreement and otherwise use such work product in the performance of its functions.

SECTION 7 COUNTY RIGHTS AND DISCLAIMERS

7.1 County Rights

The County may investigate the qualifications and Proposal of any Proposer under consideration, may require confirmation of information furnished by a Proposer and may require additional evidence of qualifications to perform the Proposer's obligations under the Comprehensive Agreement. The County reserves the right, in its discretion, to:

- a. Develop the P3 Project and any facility in any manner that it, in its discretion, deems necessary;
- b. Reject any or all of the Proposals;
- c. Modify any dates set or projected in this PPTA-RFP and extend any deadlines;
- d. Cancel, modify or withdraw this PPTA-RFP in whole or in part;
- e. Terminate this procurement and commence a new procurement or an alternate method of project delivery for part or all of the P3 Project;
- f. Terminate evaluations of Proposals received at any time, in its discretion;
- g. Suspend, discontinue or terminate negotiations of the Comprehensive Agreement at any time, elect not to commence negotiations of the Comprehensive Agreement with any responding Proposer and engage in negotiations with the substitute Preferred Proposer;
- h. Modify the procurement process (with appropriate notice to Proposers);
- i. Waive or permit corrections to data submitted with any response to the PPTA-RFP until such time as the County declares in writing that a particular stage or phase of its review of the responses to the PPTA-RFP has been completed and closed;
- j. Permit submittal of addenda and supplements to data previously provided in a Proposal pursuant to a request for clarification issued by the County until such time as the County declares that a particular stage or phase of its review of the responses to the PPTA-RFP has been completed and closed;
- k. Appoint one or more Executive Scoring Panels to review Proposals, make recommendations and seek the assistance of outside technical experts and consultants in Proposal evaluation;
- l. Disclose information contained in a Proposal to the public as described herein;
- m. Approve or disapprove changes to the Key Personnel identified in the SOQ;
- n. Approve or disapprove changes to Proposer's organization;
- o. Accept a Proposal other than that which requests the least public contribution from or offers the highest total payment to the County;
- p. Waive deficiencies, informalities and irregularities in Proposals; accept and review a non-conforming Proposal or seek clarifications or modifications to a Proposal;
- q. Request or obtain additional information about any Proposal from any source;
- r. Disqualify any Proposer that violates the terms of the PPTA-RFP;
- s. Issue Revised Draft PPTA-RFPs or addenda to the Final PPTA-RFP, including changes to conform the PPTA-RFP to applicable legal requirements and address any changes to the scope of the P3 Project arising from the environmental analysis process; and
- t. Exercise any other right reserved or afforded to the County under the PPTA-RFP and applicable Law.

7.2 County Disclaimers

The PPTA-RFP does not commit the County to enter into a Comprehensive Agreement. Except as expressly set forth in Section 6.3, the County and the Commonwealth of Virginia assume no obligations, responsibilities or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to this PPTA-RFP. All of such costs shall be borne solely by each Proposer and Proposer team.

In no event shall the County be bound by, or liable for, any obligations with respect to the P3 Project until such time (if at all) as the Comprehensive Agreement, in form and substance satisfactory to the County, has been authorized and executed by the County and, then, only to the extent set forth therein. In submitting a Proposal in response to the PPTA-RFP, a Proposer is specifically acknowledging these disclaimers.

EXHIBIT A

TECHNICAL PROPOSAL INSTRUCTIONS

1 General Instructions

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

2 Format

The Technical Proposal shall be limited to an aggregate of 40 pages (the County requires that the Technical Proposal be printed on double-sided sheets), plus the Executive Summary, resumes, appendices and exhibits containing required forms, graphs, matrices, schedule, drawings and other pertinent data.

3 Contents of the Technical Proposal

The Technical Proposal shall consist of the following major elements:

- a) Executive Summary,
- b) Proposer Information, Certifications and Documents (including required Forms); and
- c) P3 Project Development Plan.

4 Executive Summary

The executive summary ("Executive Summary") shall be written in a non-technical style and shall contain sufficient information for reviewers with both technical and non-technical backgrounds to become familiar with Proposer's Proposal and its ability to satisfy the financial and Technical Requirements of the P3 Project. The Executive Summary shall not exceed three single-sided pages. The Executive Summary shall not include any information regarding pricing. It shall, at a minimum, include the following:

- a) An explanation of the organization and contents of the Proposal;
- b) A summary of all Major Participants and identification of Proposer's organization and Key Personnel; and
- c) A summary of the P3 Project Development Plan.

5 Proposer Information, Certifications, and Documents

a) Proposal Letter and Additional Documentation

The Proposal shall include the Technical Proposal Letter. The Proposer shall attach to the Technical Proposal Letter the documents and information described in Forms A-1, A-2, and A-3 and shall identify its authorized representative for all purposes relating to the Technical Proposal, including the Proposer's rights and obligations under the PPTA-RFP, negotiations of the Comprehensive Agreement and receipt of any submittals returned to Proposer, including the Proposal Security.

The Technical Proposal Letter shall include evidence of signature authorization for each individual executing any Proposal forms.

b) Information About Proposer, Major Participants, and Other Subcontractors

The Technical Proposal shall include all of the following, to the extent each is required:

- a) a completed chart, including the names, contact information, role in organization, licensing information and description of work (if applicable) for the Proposer and all Equity Members;
- b) a completed resume providing 3 lead contractor work history about the Proposer and its team as specified therein; and
- c) a completed document providing information regarding: (i) each Major Participant (excluding Equity Members that do not fall into categories (a) through
- d) of the definition of Major Participants); (ii) each firm that will provide engineering, architectural, surveying, planning, quality assurance and/or other professional services for development of the P3 Project valued at \$100,000 or more (“Major Professional Services Firms”); and (iii) all other subcontractors identified by Proposer as of the Technical Proposal Due Date. The Proposer is advised that all Major Professional Services Firms must be identified at the time of the Proposal, and that, as a condition to execution of the Comprehensive Agreement, the Preferred Proposer must provide evidence that it and its Major Participants hold all necessary licenses, professional registrations and County pre-qualifications.

c) Key Personnel

The Proposer may not make any changes in its Key Personnel after receipt of County approval as specified in this Section 2.12, except as provided in the Comprehensive Agreement.

The Proposal shall identify the Key Personnel and shall include a statement signed by Proposer and the employer of each designated key person, committing to maintain such individual’s availability for and active involvement in the P3 Project. Refer to the Comprehensive Agreement for information regarding time commitment requirements for Key Personnel and the County rights if it determines that any such personnel are not devoting sufficient time to the prosecution and performance of the Work required for the P3 Project. The Proposal shall also include copies of the resumes and contact information for each of the identified Key Personnel in Form B-2.

Provide the identity of and information about the Key Personnel listed below:

P3 Project Manager (P3PM) – This individual shall be responsible for the overall Project design, financing, and construction and shall have the necessary expertise and experience required to supervise and exercise a degree of control of the Work. Work is comprised of all Proposer’s design, construction, quality management, contract administration, financing, and other services required by the Contract Documents, including procuring and furnishing all materials, equipment, services and labor reasonably inferable from the Contract Documents in a timely manner. The individual should be capable of answering questions/inquiries relevant to the project. The P3PM shall be responsible for meeting the Proposer’s obligations as generally referenced in the PPTA-RFP. This individual shall also coordinate any required public outreach and public meetings.

Quality Assurance Manager (QAM) – This individual shall be from an independent firm that has no contractual relationship and no involvement in construction operations (to include QC inspection

and testing) for the Project, and shall be responsible for the quality assurance (QA) inspection and testing of all materials used and work performed on the Project, to include monitoring of the contractor's quality control (QC) program. The QAM will ensure that all work and materials, testing, and sampling are performed in conformance with the contract requirements, and the "approved for construction" plans and specifications. This individual shall be a registered, licensed, Professional Engineer in the Commonwealth of Virginia. Provide a current list of assignments and the anticipated duration of each assignment for all projects in which the QAM is currently obligated.

Design Manager (DM) – This individual shall be responsible for coordinating the individual design disciplines and ensuring the overall Project design is in conformance with the Contract Documents. The DM shall be responsible for establishing and overseeing a QA/QC program for all pertinent disciplines involved in the design of the Project, including, review of design, working plans, shop drawings, specifications, and constructability for the Project. This individual shall be a registered, licensed, Professional Engineer in the Commonwealth of Virginia.

Construction Manager (CM) – This individual, who will be required to be on the Project site for the duration of construction operations, shall be responsible for managing the construction process, to include all Quality Control (QC) activities to ensure the materials used and work performed meet contract requirements and the “approved for construction” plans and specifications. This individual shall hold a Virginia Department of Environmental Quality (DEQ) Responsible Land Disturber (RLD) Certification and a VDOT Erosion and Sediment Control Contractor Certification (ESCCC) or a statement shall be included indicating this individual will hold these certifications prior to the commencement of construction. Provide a current list of assignments and the anticipated duration of each assignment for all projects in which the CM is currently obligated.

Lead Quality Assurance Inspector (Lead QA Inspector) – This individual shall be required to be on the Project site full time for the duration of construction operations. They shall act under the direction of the QAM in their absence and shall be responsible to observe construction as it is being performed, to include all the required inspection and testing activities, and correction of any non-conformities of the Work are being performed in accordance with the Contract requirements. If needed, the Lead QA Inspector shall be supported by other QA inspectors under his/her direction to ensure all construction work and QC activities are being observed. The Lead QA Inspector shall report directly to the QAM and the QAM shall maintain all signing obligations.

d) Non-Collusion Affidavit

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

e) Conflict of Interest Disclosure Statement

The Proposal shall include a certification on describing potential organizational conflicts of interest, including disclosure of all relevant facts concerning any past, present or currently planned interest that may present an organizational conflict of interest.

f) Certification Regarding Equal Employment Opportunity

The Proposal shall include a statement regarding participation in contracts or subcontracts subject to the equal opportunity clause and the filing of required reports.

4 P3 Project Development Plan

The Proposer shall present a P3 Project Development Plan, which shall consist of three components: General Project Management (Section 4.1), and Design-Build Management and Technical Solutions (Section 4.2). The P3 Project Development Plan shall describe the project management philosophy, the plan and schedule for the P3 Project and any related contract administration, and how Proposer plans to achieve and satisfy the P3 Project requirements.

4.1 General Project Management

General Project Management shall set out the Proposer's management approach to coordination of all P3 Project activities including design, construction, quality, handback, documentation, scheduling, testing and auditing/reporting for the P3 Project, risk analysis and mitigation and community outreach. Information presented shall apply to all stages of the Work. The General Project Management approach shall address the information requested in Sections 4.1.1 through 4.1.7.

4.1.1 Management Structure and Personnel

The General Project Management approach shall describe the proposed overall P3 Project management organization, identifying participating firms, organizations and individuals. It shall include:

- a) An organizational chart, which may be excluded from the page count limitation, outlining the structure of the Proposer's P3 Project management organization through all aspects of the project. Include a description of the roles allocated, responsibilities, interrelation and Work to be accomplished by each member of the management team and each sub-organization, including identified subcontractors and suppliers (at all tiers);
- b) Information describing how each of the Key Personnel will fit into the organization, including a description of each key person's function and responsibility relative to the P3 Project, and indicating the percent of time that he or she will devote to the P3 Project;
- c) Information regarding the current and projected workload of all Major Participants and a description of the Proposer's plan and overall ability to provide the experienced personnel, equipment and facilities required to successfully complete all aspects of the P3 Project on a timely basis and within any applicable time frames set forth in the Comprehensive Agreement and the Technical Requirements.

4.1.2 Schedule, Cost Control, and Risk Mitigation

The General Project Management approach shall describe the proposed schedule methodology and include at least the following:

- a) A description of the approach used for preparing, controlling and updating the Baseline Schedule, and for calculating progress and performance on a monthly basis;
- b) A description of the approach used for preparing and updating the Schedule of Values for the Early Work, as required pursuant to the Comprehensive Agreement;
- c) A description of the approach to integrate subcontract activities into Proposer's scheduling and reporting system;
- d) A description of the approach to managing resources and activities, both its own and subcontractors, in order to achieve the Initial Baseline Schedule, and if necessary, to

- recover schedule slippage;
- e) A proposal schedule (“Proposal Schedule”) and narrative for the Project The Proposal Schedule should be a high-level Critical Path method schedule representing Proposer’s plan for completing the Work between LNTP and Project Completion. The schedule must show a Project Completion Date that is no later than the Long Stop Date:
- i. The Proposal Schedule is the Proposer’s preliminary conceptual plan for the design and construction of the P3 Project. The Proposal Schedule should depict the Proposer’s proposed overall sequence of work, and times each work task and deliverable required to complete the Project will be accomplished. The Proposal Schedule should be organized using a hierarchical Work Breakdown Structure (WBS), broken down into major phases of the Project (i.e. Project management, scope validation period, design, public involvement, environmental, ROW, utility, and construction, etc.). The Proposal Schedule should depict the anticipated Critical Path of the Project (based on the longest path), reviews by County, and other regulatory agencies; Early Work activities, work by suppliers, subcontractors, and other involved parties, as applicable. For the Early Work activities, the Proposer must show all of the scheduling detail necessary to complete each activity, including cost, resources, predecessor and successor logic, appropriate calendars, and any other information needed to understand and complete the Early Work.
 - ii. The Proposal Schedule narrative must describe the Proposer’s proposed overall plan to accomplish the Work, including but not limited to the overall sequencing of the Work, a description and explanation of the Critical Path, proposed means and methods, and other key assumptions upon which the Proposal Schedule is based. In addition, the Proposer shall include a listing of resource allocation (including, at a minimum, manpower, equipment, and material supplies) required to meet the Project Completion Date.
 - iii. The Proposer must supply the Proposal Schedule and accompanying narrative in both hard copy and in PDF format. Proposer also should provide a back-up copy of the Proposal Schedule’s source document, which may be in any of the following electronic file formats: “XER” or “MPP”.
 - iv. The Proposal Schedule shall be used to monitor performance of the Work until the Initial Baseline Schedule is submitted by the Proposer.
- f) Description of the Proposer’s document, cost control and schedule management system to be used to control, review and coordinate the cost and schedule of the Work during the term of the Comprehensive Agreement, including during design, and construction.
- g) Description of the Proposer’s approach to identify, assess, manage, mitigate and allocate P3 Project-specific risks. The Proposal shall, at a minimum:
- i. Identify significant risk categories, such as, capacity, planning, design, construction completion, demand, inflation, and financing.
 - ii. Describe the potential consequences of the identified risks;
 - iii. Describe the probability of identified risks;
 - iv. Propose procedures and tools to conduct a risk sensitivity analysis; and
 - v. Provide a proposed or desirable allocation of risks among the Proposer and its team members.

4.1.3 Environmental and Permit Management

The General Project Management approach shall describe the management approach to environmental compliance and permitting. The approach shall:

- a) Describe applicable qualifications and experience of the Lead QA Inspector for Environmental Compliance, as such role is described in the Technical Requirements;
- b) Describe the approach to the Proposer's environmental compliance described in the Technical Requirements;
- c) Identify applicable laws, rules and regulations;
- d) Identify the environmental commitments, permits, mitigation, potential re- evaluations and documentation, necessary to complete the P3 Project;
- e) Identify potential environmental risk and describe the approach to mitigate, eliminate or reduce those risks.

4.1.4 Safety and Health

The safety component of the General Project Management approach shall include a description of the preliminary safety plan meeting the requirements set forth in the Technical Requirements Section 1.12 and Attachment 1.3, including at least the following:

- a) A description of the role and responsibilities of managers, supervisors, and employees, and how responsibility and accountability for safety will be incorporated at all levels;
- b) A description of the Proposer's approach to safety procedures, including incident response plans and systems for reporting and responding to hazardous conditions, and how such procedures will ensure the safety and health of personnel involved in the Project and the general public affected by the Project;
- c) The procedures the Proposer will use to immediately notify the County of all incidents arising out of the performance of the Work, and the Proposer's approach to communication and coordination of incident response and emergency management with the County and other involved agencies;
- d) A description of how the Proposer's approach to safety will account for the unique attributes of this P3 Project.

4.1.5 Organizational Systems

The General Project Management approach shall describe the organizational systems to be used by Proposer, and shall include:

- a) A detailed description of how Proposer's team members will work together to provide a unified design, construction, and quality approach to all elements of the Work;
- b) A description of the Proposer's team decision-making process, how internal disputes between team members will be resolved and how the Proposer will avoid adverse impacts to the P3 Project (cost, schedule or quality) in the event of such disputes;
- c) A description of the methods to be used to establish lines of communication and documentation within the Proposer's team, including communication among the sub-organizations and management personnel;
- d) description of how the quality process will be structured for the P3 Project, and how the quality process will function independently of design and construction; and
- e) A description of how the Proposer intends to interface with the County, its consultants,

applicable third parties, and relevant federal, State and local agencies on all matters including planned transportation and utility infrastructure in the project area.

4.1.6 Public Information and Communications

The public information and communications component of the General Project Management approach shall include:

- e) Qualifications and experience of proposed staff members who will be engaged for purposes of public information and community outreach; and
- f) A preliminary public information and communications plan, which presents the approach to addressing all items of the public information communications requirements as referred to in the Technical Requirements.

4.2 Design-Build Management and Technical Solutions

Design-Build Management and Technical Solutions shall present the Proposer's approach to Design-Build Management, Design-Build Quality Management and the Proposer's Design-Build Technical Solutions as required in Section 4.2.1 through 4.2.3.

4.2.1 Design-Build Management

The Design-Build Management approach shall provide a description of the Proposer's approach for performing design and construction on the Project, including at a minimum the following:

- a) A description of the management approach for development and coordination of design, including integrating related issues such as ROW, survey, environmental permitting, utilities and community relations;
- b) A description of the proposed approach for delivering the design for the P3 Project, including where the designers will be located and how designs developed by different firms and offices will be integrated and coordinated to ensure consistency and quality;
- c) A description of the management approach for construction, including how design will be integrated with construction and how the Work will be divided and controlled; and

4.2.2 Design-Build Technical Solutions

The Design-Build Technical Solutions shall include information identified herein relevant to the Proposer's schematic and proposed approach to construction sequencing and utilities, subsurface elements, roadways, bridges and surface structures, delineation, pavement markings, signalization and lighting, and aesthetics that meet the requirements set forth in Sections 4.2.2.1 through 4.2.2.10.

The Proposer's schematic shall be presented in English units on 36-inch by 72-inch scroll plots at a scale of 1 inch = 50 feet and shall clearly identify the Work to be completed for the P3 Project. Each Proposer shall identify characteristics of its Proposal and schematic which vary from the County's Schematic (provided in the PPTA-RFP Reference Documents) or which exceed P3 Project requirements. Further, the Proposer may provide supporting documentation for the change outlining the overall benefits to the P3 Project. Responsibility for changes in alignments or other elements proposed by the Proposer's schematic is addressed in the Comprehensive Agreement.

4.2.2.1 Roadway

The Proposer' Roadway schematic shall include:

- a) General P3 Project roadway information including P3 Project limits, design speeds, functional classification(s), and other data indicating minimum design criteria have been satisfied;
- b) P3 Project horizontal alignments including PI station/location, degree of curve, radius, length of curve, PC and PT (graphical location) and bearings;
- c) P3 Project planimetrics including curbs and barriers, driveways, edge of pavement, and surface roadways' edge of shoulders;

4.2.2.2 Construction Sequencing

The Proposal shall include a description of the construction staging during the construction of the P3 Project:

- a) A narrative description of how the Proposer intends to schedule and sequence the construction to minimize impacts on the environment, and community.
- b) A description of the intended laydown, recycling, staging, disposal and maintenance locations to be used during construction; and
- c) A description of how the ROW and adjacent roads and properties will be maintained and protected, including the intended measures to be used to mitigate and minimize noise, vibration, light, dust, erosion/run-off and local road damage.

4.2.2.3 Drainage

The Proposal shall provide a description of the drainage for the P3 Project in conformance with Section 3.5 of the Technical Requirements. For the drainage related to the P3 Project, the Proposal is to include:

- a) A description of the overall surface water collection system identifying the proposed location of major drainage trunk lines and outfall locations to accommodate the Project;
- b) Exhibit drawings (scale: 1 inch = 50 feet) of the Proposer's design for conveying runoff through the facility to discharge points; and
- c) Exhibit drawing(s) defining the approximate limits of temporary construction easements and drainage easements necessary for completion of the P3 Project drainage work.
- d) A description of the SWM required for the P3 Project and exhibit drawings of Proposer's detention locations.

4.2.2.4 Structures

The Proposal shall provide a description of the Structures (as defined in Section 3.13 of the Technical Requirements) for the P3 Project, including at least the following:

- a) The Proposer's schematic shall include:
 - i. Sufficient detail to indicate bridge and culvert locations and limits, bridge type, foundation types, controlling vertical clearances and typical span arrangements; and

- ii. Preliminary wall types, proposed locations and limits for retaining walls.
- b) The Proposer shall include the following:
 - i. Drawings detailing the proposed structures' conformance to the aesthetic requirements of the P3 Project.

4.2.2.5 Aesthetic and Landscape Design

The Proposal shall provide the following related to the aesthetic design for the P3 Project, as further described in Sections 4.2.25 of the Technical Requirements:

- a) A preliminary Aesthetic and Landscaping Plan;
- b) A description and concept drawings of additional aesthetics items proposed to be completed as a portion of Proposer's Work; and

4.2.3 Design-Build Quality Management

The Design-Build Quality Management approach shall describe the Proposer's quality approach to design and construction for the P3 Project, including at least the following:

- a) For the design quality component associated with the preliminary Quality Management Plan, a description of the design deliverable process, a description of the internal process for design reviews and a description of quality assurance and quality control functions. The design quality component shall present the Proposer's approach to reporting relationships and responsibilities, including County oversight procedures to be implemented; conformance with federal oversight requirements; how design quality management will be documented; and how changes will be made to correct design deficiencies; and
- b) For the construction quality component associated with the preliminary Quality Management Plan, a description of the approach to acceptance testing and inspection, and how construction deficiencies and non-compliance issues will be documented and corrected. The construction component of the preliminary Quality Management Plan shall describe how the program will integrate with the design activities, including County oversight and all quality-related activities and conformance with federal oversight requirements.

4.2.4 Right of Way Acquisition and Utility Adjustment Management and Approach

The ROW and utility adjustment management and approach shall describe the Proposer's approach to performing ROW services and a description of utility work required for the P3 Project. The information shall include at least the following:

- a) For ROW services for the P3 Project, Proposer is to include:
 - i. The approach describing how the acquisition of ROW and any necessary relocation service will be managed by the Proposer in conjunction with the County and local officials. The approach must describe how acquisition of ROW will be incorporated into the Baseline schedule to avoid delays.
 - ii. A description of the quality control methods that the Proposer will employ to assure that all property owners' rights under the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, are being satisfied, including without limitation, the safeguards and policies the Proposer will implement to ensure, that no coercive actions, as described in 49 CFR 24.102(h), will result from advancing a portion of ROW to the construction stage or any other

action that may be undertaken that could adversely affect the ROW acquisition process.

- iii. A description of the acquisition and relocation process that will maintain the project schedule but be sensitive to the needs and concerns of property owners, lessees, licensees and other occupants.

b) For utilities related to the P3 Project, the Proposer is to include the below. The Proposer's approach to identifying, verifying and documenting the presence and locations of subsurface utilities that may impact or be impacted by the Work.

- i. The intended means of communication and planning of construction to keep Utility Owners informed of the construction schedule, the means of construction and changes that may affect their facilities.
- j. The methods of design and construction related to utility relocation and protection.
- k. The proposed methods to minimize utility conflicts during design and construction and the approach for managing conflicts.
- l. The proposed methods to facilitate cooperation from Utility Owners, including, without limitation the approach to negotiating utility adjustment agreements and resolving betterment issues.
- m. The Proposer's approach to / knowledge of when utility relocation / upgrade / replacement is paid for by the utility and when the Proposer will be liable for costs.

EXHIBIT B

FINANCIAL PROPOSAL INSTRUCTIONS

1. General Instructions

The required contents and organization of the Financial Proposal are presented in this Exhibit B and summarized in the Financial Proposal checklist provided in Exhibit C. The Proposers are to provide all the information set out in this Exhibit B in the organization and format specified herein and in the order listed in Exhibit C. Each component of the Financial Proposal shall be clearly titled and identified.

The Proposal shall include the Price Proposal Form (Form B-1). The Financial Proposal Letter shall include evidence of signature authorization for each individual executing any Proposal forms.

A copy of the checklist for the Financial Proposal shall be included in the Financial Proposal. A Proposer shall not amend the order or change the contents of the checklist except to provide the required cross reference to its Financial Proposal. To ensure a competitive procurement process, the County intends to place all Financial Models in escrow until Commercial Close is achieved.

2. Format and Content of Financial Proposal

All financial information provided in the Financial Proposal shall be in U.S. Dollar currency only and all amounts clearly shall be identified as real or nominal dollars.

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

The following components should be included in the Financial Proposal:

- Financial Proposal Cover Letter;
- Financial Proposal Checklist;
- Executive Summary;
- Financial Capacity Information;
- Price Proposal Form (Form B-1);
- Proposal Security

3. Executive Summary

The executive summary (“Executive Summary”) shall be written in a non-technical style and shall contain sufficient information for reviewers with both financial and non-financial backgrounds to become familiar with Proposer’s Proposal and its ability to satisfy the financial requirements of the P3 Project. The Executive Summary shall not exceed 5 single-sided pages. It shall, at a minimum, include the following:

- a. An explanation of the organization and contents of the Proposal;
- b. A summary of all Major Participants

- c. A summary of the P3 Project Pricing Plan.

4. Financial Capacity Information

Proposers shall clearly identify any materially adverse differences between the financial capacity information submitted in the Proposal and the information submitted in the SOQ.

4.1 The Financial Proposal shall include the following information for the Proposer, Equity Members, the Lead Contractor of Proposer. If an Equity Member, the Lead Contractor is a subsidiary of a larger corporation whose financial obligations will be supported by the parent company or an affiliate company (a “Financially Responsible Party”), only financial statements of the Financially Responsible Party need be submitted:

- a. Audited financial statements for all periods subsequent to those previously submitted to the County during the procurement process, audited by a certified public accountant in accordance with U.S. GAAP and/or International Financial Reporting Standards (“IFRS”).
- b. Interim unaudited statements for the period since the most recent completed fiscal year excluding those previously submitted to the County during the procurement process.

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

- a. Financial statement information must include:
 - i. With respect to audited financial statements only, an Opinion Letter (Auditor’s Report)
 - ii. Balance Sheet
 - iii. Income Statement
 - iv. Statement of Changes in Cash Flow
 - v. Footnotes.
- b. Financial statements must meet the following requirements:
 - i. U.S. GAAP or IFRS. Financial statements must be prepared in accordance with U.S. Generally Accepted Accounting Principles (“U.S. GAAP”) or International Financial Reporting Standards (“IFRS”). If financial statements are prepared in accordance with principles other than
 - ii. U.S. GAAP or IFRS, a letter must be provided from a certified public accountant discussing the areas of the financial statements that would be affected by a conversion to U.S. GAAP or IFRS.
 - iii. U.S. Dollars. Financial statements must be provided in U.S. dollars. If financial statements are not readily available in U.S. dollars, the Proposer must convert the Balance Sheet, Income Statement and Statement of Changes in Cash Flow to U.S. dollars and provide a summary of the conversion methods and applicable foreign exchange rates used to do so.
 - iv. Audited. Financial statements must be audited by an independent party qualified to render audit opinions (e.g. a certified public accountant). If audited financials are not available for an Equity Member, the Lead Contractor or the Lead Operations & Maintenance Firm of Proposer, the Proposal shall include unaudited financial statements for such Equity Member or Lead Contractor, certified as true, correct and accurate in all material respects by the chief financial officer (“CFO”) or treasurer of the entity.

- v. English. Financial statement information must be prepared in English. If audited financial statements are prepared in a language other than English, translations of all financial statement information, including footnotes, must be provided.

4.3 The Proposer must provide the following information:

- i. Newly Formed Entity. If the Proposer is a newly formed entity or has not yet formed a legal entity and does not have independent financial statements, financial statements for the Equity Members shall be provided. The Proposer shall state expressly that the Proposer is a newly formed entity or not yet formed entity, as applicable, and does not have independent financial statements.
- ii. Financially Responsible Party Letter of Support. If financial statements of a Financially Responsible Party are provided to demonstrate financial capability of the Proposer or its Equity Members, or Lead Contractor, an appropriate letter from the Financially Responsible Party must be provided stating that it will guarantee all the obligations of the Proposer, Equity Member of Proposer, or Lead Contractor, as applicable, with respect to the P3 Project. Proposers shall note that the County may, in its discretion based upon the review of the information provided, specify that an acceptable guarantor is required, in which case the information required of such Financially Responsible Party or additional Equity Member shall be submitted upon request by the County.
- iii. SEC Filings. If any entity for whom financial information is submitted hereby files reports with the Securities and Exchange Commission, then such financial statements shall be provided through a copy of their annual report on Form 10K. Also, for all subsequent quarters, provide a copy of any report filed on Form 10Q or Form 8-K which has been filed since the latest filed 10K. Instead of providing hard copies of such forms, Proposers may submit digital copies of such information in a read-only format on a USB drive with each submission.
- iv. Credit Ratings. Each rated Proposer, Equity Member, Lead Contractor and Financially Responsible Party must provide its credit ratings.
- v. Off-Balance Sheet Liabilities. A letter from the CFO or treasurer for each entity for which financial information is submitted, identifying, as applicable, each off-balance sheet liability exceeding \$25 million. Proposers shall be required to provide updated information following the Financial Proposal Due Date as such information becomes public. At the discretion of the County, any failure to disclose a prior or pending off- balance sheet liability may result in disqualification from further participation in the selection process. Estimates of the impact on revenues, expenses and the change in equity shall be provided separately for each off-balance sheet liability as certified by the CFO or treasurer. Where an off-balance sheet liability will have a negative financial impact, the affected entity shall provide a discussion of measures that would be undertaken to insulate the P3 Project from any recent material adverse changes, and those currently in progress or reasonably anticipated in the future.

The information required under this Section shall be packaged separately for each separate entity with a cover sheet identifying the name of the organization and its role, if any, in the Proposer's organization (e.g., Equity Member, Lead Contractor, etc.).

5. Price Proposal

5.1 Range of Financing Sources

The Proposers shall describe their Price Proposal and provide supporting evidence of the commitments from Lenders and Equity Members by addressing the range of financing sources including, as applicable:

- a. any forms of finance,
- b. Identity of the investors,
- c. Identity of lead arrangers, lead managers and/or underwriting banks and/or quasi- equity providers that have given indications/commitments;
- d. The proposed steps and timeframes for reaching financial close; and

5.2 Financial Advisor Letter

The Proposal shall include an opinion letter from Proposer’s Project Finance Lead or Financial Advisor indicating that, as of the date thereof, in their professional view, the Financial Proposal is achievable and sufficient to fulfill Proposer’s commitments as set out in the Proposal.

5.3 Feasibility of Financing Plan

Proposers shall ensure that their Financing Plans are sufficiently developed and have attracted sufficient support and commitment from Lenders and investors to satisfy the County that there is no material risk on financial grounds that:

- a. The Proposer will fail to enter into a Comprehensive Agreement on the terms in the PPTA-RFP;

Subject to compliance with the PPTA-RFP, the suitability or desirability of different funding solutions in each Proposal to be submitted is the Proposer’s responsibility.

6. Financial Submittal Requirements

6.1 Detailed Cost and Pricing Data

Mobilization Costs shall not exceed 5% of the Public Contribution Amount. The Proposer shall provide the detailed back-up information regarding the basis for the Proposer’s cost estimates for development, design, and construction of the P3 Project, meeting all requirements of this Section (the “Cost and Pricing Data”). The Cost and Pricing Data shall include supporting data, technical memoranda, calculations, formulas, unit and materials prices (if applicable) and such other cost, charge and fee information used by Proposer in the creation and derivation of its Proposal. The Proposer shall submit the Cost and Pricing Data in such format as is used by the Proposer and its Contractors in connection with the Proposal. The Cost and Pricing Data provided with the Proposal shall be personally examined by an authorized officer of the Proposer, who shall ensure that they meet the requirements of this Section prior to delivery.

7. Availability of Public Funds

7.1 Public Funds Amount

The County intends, to the extent needed, to contribute \$16 million in public funds to the P3 Project (“Public Funds Amount”), which will be payable in accordance with the terms of Exhibit M of the Comprehensive Agreement. The Public Funds Amount will be payable as a fixed percentage of the Design-Build Contract price.

Constitutional, statutory, and County ordinance requirements apply to the appropriation and expenditure of public funds, including to Interim and Comprehensive Agreements entered under the PPTA.

EXHIBIT C

SUMMARY AND ORDER OF PROPOSAL CONTENTS

Technical Proposal				
Proposers shall follow the order of the Technical Proposal Checklist in their submissions. A referenced copy of this document shall be submitted with the Technical Proposal.				
Proposal Component	Form (if any)	ITP Cross- Reference	Count Toward Page Limit?	Proposal Cross-Reference
A. Executive Summary				
Executive Summary (Exclude price information)		<u>Exhibit A, Section 4</u>	No	
B. Proposer Information, Certifications & Documents				
Technical Proposal Letter		<u>Exhibit A, Section 5.a</u>	No	
Authorization Documents		<u>Exhibit A, Section 5.a</u>	No	
Identification of Proposer and Equity Members		<u>Exhibit A, Section 5.b</u>	No	
Key Personnel Resumes	Form A-1	<u>Exhibit A, Section 5.b</u>		
Lead Contractor Work History	Form A-2	<u>Exhibit A, Section 5.b</u>		
Lead Designer Work History	Form A-3			
Information About Proposer Organization		<u>Exhibit A, Section 5.b.</u>	No	

Information About Major Participants, Major Professional Services Firms and Identified Subcontractors		<u>Exhibit A, Section 5.</u>	No	
Responsible Proposer Questionnaire	Form C		No	

Proposal Component	Form (if any)	ITP Cross- Reference	Count Toward Page Limit?	Proposal Cross-Reference
Personnel Work Assignment Form		<u>Exhibit A, Section 3.2.5</u>	No	
Key Personnel statement of availability		<u>Exhibit A, Section 3.2.5</u>	No	
Non-Collusion Affidavit	Form D	<u>Exhibit A, Section 3.2.7</u>	No	
Conflict of Interest Disclosure Statement		<u>Exhibit A, Section 3.2.9</u>	No	
Equal Opportunity Employment Certification	Form C	<u>Exhibit A, Section 5f</u>	No	
C. P3 Project Development Plan				
General Project Management		<u>Exhibit A, Section 4.1</u>	Yes	
Design-Build Management and Technical Solutions		<u>Exhibit A, Section 4.2</u>	Yes	

Proposal Component	Form (if any)	ITP Cross- Reference	Count Toward Page Limit?	Proposal Cross-Reference
D. Appendices				
Key Personnel Resumes and References	Form A-1	<u>Exhibit A, Section 5c</u>	No	
Proposer's Schematic		<u>Exhibit A, Section 4.2.2</u>	No	
Initial Baseline Schedule		<u>Exhibit A, Section 4.1.2</u>	No	

Financial Proposal

Proposers shall follow the order of the Financial Proposal Checklist in their submissions. A referenced copy of this document shall be submitted with the Financial Proposal.

Reference	Proposal Component	Form (if any)	ITP Cross- Reference	Count Toward Page Limit?
A	General			
A1	Financial Proposal Cover Letter		Exhibit B, Section 1	No
A2	Financial Proposal Checklist	Exhibit C	Exhibit B, Section 1	No

Reference	Proposal Component	Form (if any)	ITP Cross- Reference	Count Toward Page Limit?
A3	Executive Summary	N/A	Exhibit B, Section 3	Yes
B	Financial Capacity Information		Exhibit B, Section 4	

B1	Price Proposal Form	B-1	Exhibit B, Section 5	No
B2	Schedule of Items	B-2		
B3	Asphalt Index Form	B-3		No
B4	Steel Index Form	B-4		

²Note: Financial Capacity Information should be packaged separately for each entity within the Proposer’s team. However, please note that each set of separately packaged information should appear sequentially within Tab B.

Reference	Proposal Component	Form (if any)	ITP Cross- Reference	Count Toward Page Limit?
B5	Credit Ratings	N/A	Exhibit B, Section 4.3	No
B6	Letter disclosing all material off balance sheet liabilities	N/A	Exhibit B, Section 4.3	No
B7	Proposal Security	Standard County Template	Exhibit D	No

EXHIBIT D

REQUIRED FORMS

Form A-1	Key Personnel Resume Form
Form A-2	Lead Contractor Work History Form
Form A-3	Lead Designer Work History Form
Form B	Offeror Data Sheet
Form B-1	Price Proposal Form
Form B-2	Schedule of Items Form
Form B-3	Asphalt Index Form
Form B-4	Steel Index Form
Form C	State Corporation Commission & Registered Agent Form
Form D	Non-Collusion Affidavit
Form E	BLANK
Form F	Insurance Requirements
Form G	Proprietary Confidential Information identification
Form H	Proposer Questionnaire Form
Bonds	Standard Labor & Material Bond & Standard Performance Bond