

**MAJOR BUSINESS TERMS FOR THE
TRANSFORM 66 PROJECT
IN THE COMMONWEALTH OF VIRGINIA**

This draft Term Sheet (“Term Sheet”) provides a summary of major business terms that is to be provided to interested private parties or consortiums (“concessionaires”) for the Transform 66 Project Outside the Beltway. The Commonwealth is providing this Term Sheet for the purposes of ascertaining whether there are concessionaires that have the ability to deliver the Transform 66 Project and meet the major business terms outlined in the Term Sheet.

It should be assumed that these major business terms will be mandatory requirements should the Commonwealth choose to procure this project under the provisions of the Public-Private Transportation Act of 1995 and would be included in any Comprehensive Agreement (“CA”) entered into for the development, design, construction, finance, operations and maintenance of high occupancy-toll lanes and associated facilities on the I-66 corridor between U.S. Route 15 in Prince William County and Interstate 495 in Fairfax County (the “Transform 66 Project” or the “Project”).

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Project Description	<p>The Project consists of the development, design, construction, financing, operation and maintenance of high occupancy/toll lanes (“Express Lanes”) and associated facilities along the I-66 corridor between U.S. Route 15 in Prince William County to Interstate 495 in Fairfax County in accordance with a Comprehensive Agreement (“CA”) to be entered into between the Department and the Concessionaire pursuant to the Public-Private Transportation Act of 1995 (as amended). The configuration of the Express Lanes will be generally consistent with the May 12, 2015 concept plans available on the Department’s website. The Department believes there is an acceptable scope that can be developed for approximately \$2.1 Billion.</p> <p>Technical Requirements:</p> <p>Operation:</p> <p>Fullest operational use of both GP lanes and managed lanes is a requirement, not to be diminished by friction points or traffic weave in the offerer’s design. Current plans have been designed to minimize these. Innovative designs by the successful offerer shall improve on these designs to further reduce friction points and weave.</p> <p>Minimization and preferably full elimination of entrance and exit from GP lanes back and forth to HOT lanes to eliminate friction that does not allow full operational capacity. Exit and Entrance to HOT lanes will be by separate ramp, interchange, or other means achieving this end. Addition of friction points and weaving by the offerer will be non compliant.</p> <p>Extended Life Cycle (100 year design minimum):</p> <p>Construction, including replacement of general purpose lane pavements, is to extend life cycle and minimize future maintenance. Cost reduction at the expense of marginal material and quality costs will be considered non-compliant as opposed to innovative.</p> <p>Pavement designs will be exceptionally robust, potentially including additional large aggregate free draining layers. Plan sheet designs should be looked at as the bare minimum.</p>
Concession Term	<p>The CA will be for a concession term not to exceed 40 years (to include the construction period) and end on the earlier of (a) the end date of the term or (b) any earlier termination as provided in the CA.</p>
Financing	<p>The Project will be financed by the Concessionaire at its own cost and risk. The Department expects that there will be a maximum public contribution to the Project of up to \$600 million to be provided during the period of construction. The repayment of any debt and/or equity arranged and entered into by the Concessionaire will be the responsibility of the Concessionaire, without recourse to the Department and/or the Commonwealth of Virginia.</p> <p>The Department will apply for a Private Activity Bonds (“PABs”) volume cap</p>

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	<p>allocation. The Department will commence the process for Transportation Infrastructure Finance and Innovation Act (“TIFIA”) credit support. Use of PABs and/or TIFIA is at the discretion of Proposers, who will be required to submit the final applications.</p> <p>Concessionaire will bear sole responsibility for reaching financial close by the financial close deadline set forth in the CA.</p>
Transit Scope	<p>Concessionaire will be responsible for funding transit services to include, initial capital purchase of buses, capital for new and replacement vehicles over the term of the concession, and capital for operations and maintenance of the transit systems and programs. The Concessionaire will not be responsible for procuring, operating and maintaining the systems and programs. Additional detail on the cash flows for funding the transit systems and programs is provided in Attachment A.</p>
O&M Scope	<p>Concessionaire will be responsible for operation and maintenance of the Express Lanes, except for snow and ice removal, which will be performed by the Department. The Department will be responsible for operation and maintenance of the general purpose lanes in the corridor.</p>
Park and Ride Scope	<p>Concessionaire will be responsible for the design, construction and financing of multiple Park and Ride (P&R) facilities along the Project alignment providing direct or nearly direct access to/from the I-66 Express Lanes via new ramps; multimodal access from local street network; parking and transit service information and bicycles accommodations. P&R facilities will be in the approximate area of the following locations:</p> <ul style="list-style-type: none"> • New P&R facilities at: <ul style="list-style-type: none"> • Haymarket (US 15) – Minimum 815 Spaces; • Gainesville (University Blvd.) – Minimum 1423 spaces, to be completed prior to 2019 and; • Balls Ford Road (Manassas) – Minimum 1,289 spaces • Expansion of existing P&R facilities at: <ul style="list-style-type: none"> • Gainesville (Cushing Road/Route 234 Bypass) – a minimum of 277 additional spaces, and; • Monument Drive (Fair Lakes) – a minimum of 457 additional spaces <p>The Department will be responsible for funding and procuring operation and maintenance of the P&R facilities at Final Acceptance.</p>
Right to Toll; Tolling Rates, Operations and Collection	<p>Concessionaire will be granted a permit to establish, charge, collect, use and enforce the payment of tolls and related charges on the Express Lanes. Concessionaire will charge and collect tolls through an open-road toll (ORT) configuration with an all-electronic toll (AET) collection system as necessary</p>

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	<p>to allow for collection of tolls from users of the Express Lanes. The Concessionaire shall use toll collection technology approved for revenue operations by the EZ-Pass Interagency Group (or any successor network thereof) compatible with and working through VDOT's EZ-Pass back office (or successor).</p> <p>Toll rates will be set using a dynamic tolling system. Concessionaire will be required to maintain a minimum average speed through the use of dynamic tolls.</p> <p>Concessionaire's rights to impose, charge, collect and enforce payment of tolls and enforce the use of the Project are limited by, and conditioned on, compliance with applicable law, including but not limited to Va. Code Ann. § 33.2-611.B and § 33.2-613, the Department and the Commonwealth Transportation Board ("CTB") designation of exempt vehicles, and all other provisions in the CA.</p>
Support for Corridor Improvements	The Concessionaire shall be responsible for providing the Commonwealth with \$350,000,000 on a present value basis over the term of the CA, excluding the construction period. The payment schedule will be specified in the CA and such payments shall be a required expense of the project in computing the Concessionaire's Base Case IRR.
Toll Revenue Sharing	The CA shall specify a revenue sharing arrangement between the Department and Concessionaire so that once the Concessionaire's Base Case IRR has been achieved the Commonwealth and the Concessionaire will share in any excess revenues. The revenue sharing arrangement will be structured comparable to revenue sharing arrangements utilized on similar projects within the P3 market.
Refinancing Gain	The Department and Concessionaire will share in the refinancing gains, with the methodology for allocating such gains set forth in the CA.
Toll Enforcement	<p>The Department will facilitate Concessionaire's coordination with the Virginia State Police. The Concessionaire may request the Department to provide toll violation services under the terms of a Violations Enforcement Agreement.</p> <p>The Concessionaire will be responsible for the cost of enforcement of tolls, including any and all additional cost of enforcement by the Virginia State Police within the project limits. Additional terms related to the Department's assistance will be detailed in the CA.</p>
Traffic and Revenue Risk	Concessionaire will bear traffic and revenue risk related to the Express Lanes. For purposes of an initial affordability analysis, the anticipated toll revenues by year are provided in Attachment A.
Right of Way	Concessionaire shall perform or cause to be performed all activities and services necessary for the acquisition of all Project right of way ("ROW") necessary for development and operation of the Project consistent with applicable law. The Concessionaire will be responsible for ROW acquisition

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	<p>costs, though the Department expects that there will be a risk sharing mechanism if costs exceed baseline values.</p> <p>The ROW impacts of the conception designs as of June 1, 2015 shall be considered the maximum allowable impacts under any contract.</p>
Utility Relocation	<p>Concessionaire, at its sole cost and expense, shall perform or cause to be performed all activities and services necessary for utility relocations or adjustments. The Department reasonably will assist Concessionaire in obtaining the benefit of all rights the Department has under any utility easement, permit, or other right in real property relating to utility relocations.</p>
Coordination with WMATA	<p>The Department will be responsible for obtaining an agreement with WMATA prior to submission of the Final Request for Proposals regarding design, construction and interaction with WMATA on their existing facilities within the project limits and with required operation and maintenance protocols and requirements during the term of the agreement. The concessionaire will be responsible, at their sole cost and expense, for obtaining all required WMATA permits in accordance with the VDOT/WMATA MOA during the term of the agreement, including but not limited to, a construction permit.</p>
Permits	<p>The Department will obtain required NEPA approvals, Commonwealth Transportation Board (“CTB”) approvals, and approvals by the Federal Highway Administration (“FHWA”) of the contract and contract management plan, as necessary. Concessionaire will be responsible for obtaining all other permits and government approvals.</p>
Due Diligence and Geotechnical Reports	<p>The Department will make available due diligence and geotechnical reports to Potential Proposers via a secure data room. Concessionaire will bear all cost risk, but may be entitled to schedule relief as a delay event if site conditions are materially different from those described by the geotechnical reports.</p>
Financial Close, Performance and Development Security	<p>The Department will require security from Concessionaire or its contractors related to Concessionaire’s responsibilities under the CA, likely in the forms of letters of credit, bonds and guarantees by affiliates.</p>
Limited Notice to Proceed	<p>The Department intends to issue limited notices to proceed after commercial close so Concessionaire may begin work necessary for obtaining required permits. The limited notices to proceed will remain in place until all environmental permits are finalized and Design Public Hearings are held.</p>
Design-Build Contract	<p>The CA will include a template Design-Build Contract which will be a fixed priced turnkey contract between Concessionaire and a design-build contractor. The Design-Build Contract shall not impose obligations on the Department beyond those obligations assumed by the Department under the CA.</p>

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O&M Services Agreement	Concessionaire may choose to self-perform or subcontract with an O&M contractor to perform all or some of the O&M services in accordance with the CA. Notwithstanding its use of an O&M contractor, Concessionaire ultimately remains responsible for the O&M services of the Project during the term, in accordance with the CA. The CA will include a template O&M Services Agreement.
Financial Model	The parties will agree on a process and schedule for preparing, reviewing and updating drafts of the financial model. The financial model will be updated according to the timeline and the procedures specified in the CA.
Warranties	The CA will contain representations and warranties for each party that are customary for similar transactions.
Insurance	Concessionaire shall obtain and maintain insurance coverages as required and as set forth in the CA.
Civil Rights	<p>Concessionaire shall use good faith efforts to achieve the goals for DBE and SWaM participation relating to Design-Build Contracting and O&M Services set forth in the CA. Failure to do so may result in increased Department oversight, disbarment or disqualification from participating in other State procurements.</p> <p>The Concessionaire shall submit a Hiring Development Plan that includes, but is not limited to, the recruitment, hiring, training, and retention of veterans and local workers in accordance with a pilot program under a Special Experimental Project No. 14 under development by the Department and in accordance with the March 6, 2015 edition of the Federal Register by the U.S. Department of Transportation and relating to the Design-Build Contracting and O&M Services as set forth in the CA.</p>
Indemnification	Concessionaire shall indemnify, defend, protect and hold harmless the Department against any claims or losses resulting or accruing from Concessionaire's responsibilities and liabilities under the CA.
Lender Step-In Rights	Lenders will be entitled to exercise step-in rights following Concessionaire insolvency or other Concessionaire defaults under the credit agreements as specified in the CA.
Delay Events	Delay Events will be listed in the CA and will be typical for projects of similar scope and purpose.
Force Majeure Events	Force majeure events will be listed in the CA and will be typical for projects of similar scope and purpose.
Compensation Events	Except as noted below, compensation events will be typical for projects of similar scope and purpose. The CA shall describe the procedural and claims submission process for administering compensation events and calculating

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	<p>damages.</p> <p>Compensation event for Alternative Facilities will be limited to the following:</p> <ul style="list-style-type: none"> • Additional general-purpose lanes on I-66 within the project corridor encompassing the Express Lanes during the term of the Agreement. General purpose lanes do not include the use of shoulder lanes during peak periods. • The expansion of the Orange Line within the corridor encompassing the Express Lanes for the first 10 years of the Term <p>In no case will the Concessionaire be granted a Compensation Event for any of the following activities or events:</p> <ul style="list-style-type: none"> ▪ Excessive HOV usage on the Project
Governing Law	Laws of the Commonwealth of Virginia
Federal and State Law	Concessionaire shall comply and require its contractors to comply with all federal and state laws and regulations applicable to transportation projects that receive federal or state funds. Federal or state requirements shall prevail, take precedence and be in force over and against any conflicting provisions in the CA.
Performance Measurement & Non-Compliance Points	The Department and Concessionaire will use a performance measurement and non-compliance point system to monitor Concessionaire's performance. The consequence for performance shortfalls may trigger increased oversight by the Department, the development and implementation of performance improvement plans by the Concessionaire, and a Concessionaire default.
Substantial Completion Deadlines	The CA will specify a required substantial completion date beyond which the Concessionaire will be expected to pay liquidated damages, and a long stop date beyond which the CA can be terminated, if substantial completion is not achieved.
Termination	Termination Events will be listed in the CA, will be typical for projects of similar scope and purpose, and will include, among other things, termination for convenience of the Department.
Anticipated Exhibits	<p>The Department anticipates that some or all of the following exhibits will be included in the CA:</p> <ul style="list-style-type: none"> • Definitions • Scope of Work and Schedules and Early Work • Technical Requirements • Form of Escrow Agreement • Form of Design-Build Contract

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	<ul style="list-style-type: none"> • Form of Design-Build Work Guarantee • USDOT Reporting Requirements • TIFIA Requirements • Form of O&M Agreement • Permit Fee • Form of Electronic Toll Collection Agreement • Form of Violation Processing Services Agreement • Toll Agreement, If Applicable • Public Funds Amount Payment Terms • List of Initial Project Financing Agreements and Financing Assignments • Form of Direct Agreement • Known Geotechnical Conditions • Known Pre-Existing Hazardous Substances • Federal Requirements • Turnover Plan • Non-Compliance Points Table • Shared Facilities Agreement, If Applicable • Insurance Requirements • Labor, Employment and DBE/SWaM Related Matters • Financial Close Adjustment Protocol • Project Right of Way Acquisition • Toll Sections

