

FORM A-2

FINANCIAL PROPOSAL SUBMITTAL LETTER

Proposer: _____

Proposal Date: _____, 2016

Office of Transportation Public-Private Partnerships
1401 E. Broad Street, Suite 1306
Richmond, VA 23219
Attn: Dr. Morteza Farajian

The undersigned (“Proposer”) submits this proposal (the “Proposal”) in response to the Request for Proposals issued by the Virginia Department of Transportation (the “Department”), dated [•] (the “RFP”), to design, finance, construct, operate and maintain the Transform 66 P3 Project (the “Project”), as more specifically described herein and in the documents provided with the RFP.

Capitalized terms not otherwise defined in this Proposal will have the meanings set forth in the RFP, including the Instructions to Proposers (the “ITP”) and Exhibit A to the Comprehensive Agreement.

Proposer hereby acknowledges delivery by Proposer to the Department of Proposer’s Technical Proposal Cover Letter, dated [*insert date*], together with Proposer’s Technical Proposal in accordance with Exhibit B of the ITP. The Technical Proposal attached to such Technical Proposal Cover Letter is hereby incorporated by reference into this Proposal without amendment, modification or variation of any kind or nature whatsoever and Proposer represents that all statements made and information contained in such Technical Proposal are true, correct and accurate as of the date hereof.

In consideration for the Department supplying the Proposer, at its request, with the RFP and agreeing to examine and consider this Proposal, the Proposer undertakes:

- (a) to keep this Proposal open for acceptance for 180 days after the Financial Proposal Due Date without unilaterally varying or amending its terms and without any change being made in the composition of the Proposer or Major Participants, except as permitted by the RFP; and
- (b) if this Proposal is selected by the Department as the Apparent Best Value Proposal, to enter into (or to cause the entity identified below as the Developer to enter into) the Comprehensive Agreement without varying or amending their terms in accordance with the ITP (except for modifications agreed to by the Department in its sole discretion), and to satisfy all other conditions to the award of the Comprehensive Agreement, including compliance with all commitments contained in this Proposal.

The timely and complete performance of the foregoing obligations by the Proposer is secured by the Proposal Security, an original copy of which is enclosed with this Proposal. In submitting its Proposal, Proposer understands and agrees that the disposition of, and the parties' respective rights with respect to, such Proposal Security will be subject to the terms of Section 4.9 of the ITP. Proposer further acknowledges that the forfeiture of Proposal Security constitutes liquidated damages and not a penalty.

Additional information pertaining to the Proposer and the other Major Participants is enclosed with this Proposal as Attachment A to this Financial Proposal Submittal Letter. Proposer understands and agrees that if Proposer is a joint venture or association other than a corporation, limited liability company or partnership, all members of Proposer will be jointly and severally liable for all obligations and representations of Proposer under this Proposal, and each of the members will execute and deliver this Financial Proposal Submittal Letter.

The following individual(s) is/are authorized to represent Proposer and to enter into negotiations with the Department on behalf of Proposer in connection with this Proposal and all other matters pertaining to the RFP, the Project, the Comprehensive Agreement and the Design-Build Contract:

[List by name, title, address and phone and fax numbers, e-mail address]

Enclosed and, by this reference, incorporated in and made a part of this Proposal are the following:

1. Executive Summary
2. Financial Proposal, including Proposer Information, Certifications and Documents, Proposal Security
3. [List additional attachments]

Proposer acknowledges receipt of the following addenda to the RFP and sets of questions and responses:

[List all addenda and sets of questions and responses]

Proposer certifies the following:

1. the Proposal is submitted without reservation, qualification, assumptions or conditions;

2. the Developer, together with all other Contractors identified in the Proposal that will be responsible for the performance of construction work on the Project, have been prequalified for such work by the Department;
3. the schedule of estimated costs and administrative expenses shown in the Base Case Financial Model (a) are consistent with the Technical Proposal, (b) were used to generate the Public Funds Amount and (c) form the basis for all loan commitments and credit ratings letters included in the Proposal;
4. Proposer has examined carefully and is fully familiar with all of the provisions of all of the RFP Documents, including addenda, if any, and the Department's responses to questions, and is satisfied that the RFP Documents provide sufficient detail regarding the obligations to be performed by the Proposer and do not contain internal inconsistencies;
5. Proposer has checked carefully all the words, figures and statements in this Proposal;
6. Proposer has conducted such other field investigations and additional design development as is prudent and reasonable in preparing this Proposal; and
7. prior to the date of this Financial Proposal Submittal Letter, Proposer has notified the Department of any deficiencies in or omissions from any RFP documents or other documents provided by the Department and of any unusual site conditions observed.

Proposer acknowledges that it has examined carefully and is familiar with all of the provisions of all of the RFP Documents with respect to DBE/SWaM and Veteran/Local New Hire contract goals, that if selected as the Preferred Proposer it will have an obligation to make a good faith effort to meet such goals and that the outline plans submitted as part of its Proposal with respect to such goals are consistent with such obligation.

Proposer represents that all statements made and information contained in its Statement of Qualifications ("SOQ") previously delivered to the Department are true, correct and accurate as of the date hereof, except as otherwise specified in the enclosed Proposal. Proposer agrees that such SOQ, except as modified by the enclosed Proposal, is incorporated as if fully set forth in this Proposal.

Proposer understands that the Department will be under no obligation to select the Proposer submitting the Proposal with the lowest Public Funds Amount or to make a selection at all. Should an initially selected Preferred Proposer fail to execute (or to cause the entity identified below as the Developer to execute) the Comprehensive Agreement in accordance with the requirements of the RFP, the Department reserves the right, in the Department's sole discretion, to select an alternative Preferred Proposer to execute the Comprehensive Agreement to finance, design, construct, operate and maintain the Project.

Proposer further understands that all costs and expenses incurred by it in preparing this Proposal and participating in the RFP process will be borne solely by the Proposer, except to the extent expressly provided in Section 6.3 of the ITP (Payment of Stipend).

Proposer consents to the Department's disclosure of its Proposal in accordance with Section 2.2-3700 *et seq.* of the Code of Virginia to any Person, with the exception of those portions of the Proposal that the Department has determined to be exempt as trade secrets or proprietary information pursuant to Section 2.2-3705.6(11) of the Code of Virginia.

Proposer agrees that the Department will not be responsible for any errors, omissions, inaccuracies or incomplete statements in this Proposal.

This Proposal will be governed by and construed in all respects according to the laws of the Commonwealth of Virginia.

The business address of Proposer is as follows:

(No.) (Street) (Floor or Suite)

(City) (State or Province) (ZIP or Postal Code) (Country)

State or Country of Incorporation/Formation/Organization: _____

[Insert appropriate signature blocks for the Proposer and the proposed Developer from the following pages:]

1. Sample signature block for corporation or limited liability company:

[Insert the entity's name]

By: _____

Print Name: _____

Title: _____

2. Sample signature block for partnership or joint venture:

[Insert the entity's name]

By: *[Insert general partner's or member's name]*

By: _____

Print Name: _____

Title: _____

[Add separate signature block for each joint venture member if the Proposer is a joint venture]

3. Sample signature block for attorney in fact:

[Insert the entity's name]

By: _____

Print Name: _____

Attorney in fact

**ATTACHMENT A TO FINANCIAL PROPOSAL SUBMITTAL LETTER
IDENTIFICATION OF PROPOSER AND MAJOR PARTICIPANTS**

1. NAME OF ENTITIES AND CONTACT INFORMATION:

[Provide the name, title, address, phone number, fax numbers and e-mail address for the Proposer, the proposed Developer, and each Major Participant and Parent Guarantor]

<u>Entity Name</u>	<u>Name of Contact</u>	<u>Address</u>	<u>Phone/Fax Numbers</u>	<u>E-mail Address</u>
--------------------	------------------------	----------------	--------------------------	-----------------------

2. ROLE IN ORGANIZATION:

[Provide the following information for each Major Participant and Parent Guarantor]

Description of Work/Services To Be Performed by Entity (if applicable):

Virginia Contractor License and License Limit (if applicable): _____

3. ADDITIONAL REQUIREMENTS:

[Provide the following information]

- A. Describe the legal structure of the Proposer and provide a list of attached organizational and authorization documents.

[See Instructions to Attachment A, Section A]

- B. Describe the legal structure of the proposed Developer and each Parent Guarantor and provide a list of attached organizational documents.

[See Instructions to Attachment A, Section B]

- C. Describe the location of the required provisions.

[See Instructions to Attachment A, Section C]

INSTRUCTIONS TO ATTACHMENT A

ADDITIONAL REQUIREMENTS

- A. Describe the legal structure of the Proposer and provide organizational documents for the Proposer and evidence of authorization of execution and delivery of the Proposal and validity thereof. If the Proposer is a corporation, it will provide evidence 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 will be in the form of a partnership resolution and a general partner resolution (as to each general partner) providing such authorization, in each case, certified by an appropriate officer of the general partner. If the Proposer is a limited liability company, such evidence will be in the form of a limited liability company resolution and a managing member(s) resolution providing such authorization, certified by an appropriate officer of the managing member(s). If there is no managing member, each member will provide the foregoing information. If the Proposer is a joint venture, such evidence will be in the form of a resolution of each joint venture member, certified by an appropriate officer of such joint venture member. If the Proposer is a joint venture, the Proposal must be executed by all joint venture members.
- B. Describe the legal structure of the proposed Developer, provide an organizational chart showing the Persons that will own direct or indirect equity interests in the proposed Developer, and provide organizational documents for the proposed Developer and such Persons (including, for avoidance of doubt, each Parent Guarantor), as follows:
1. If any such entity is a corporation or includes a corporation as a joint venture member, partner or member, provide articles of incorporation and bylaws for each such entity, certified by an appropriate individual. If a modification to existing articles of incorporation and/or bylaws is contemplated prior to award, state accordingly, indicate that these documents will be provided prior to award and provide applicable draft documents for each such entity.
 2. If any such entity is a partnership or includes a partnership as a joint venture member, partner or member, (a) attach full names and addresses of all partners and the equity ownership interest of each entity, and (b) provide the incorporation, formation and organizational documents for the entity (partnership agreement and certificate of partnership for a partnership, articles of incorporation and bylaws for a corporation, operating agreement for a limited liability company and joint venture agreement for a joint venture) certified by an appropriate individual. If a modification to the organizational documents is contemplated prior to award, state accordingly, indicate that these documents will be provided for such entity prior to award and provide applicable draft documents for each such entity.
 3. If any such entity is a joint venture or includes a joint venture as a joint venture member, partner or member, attach full names and addresses of all joint venture members and the equity ownership interest of each entity and provide the incorporation, formation and organizational documentation for the Proposer/Contractor/Equity Member (partnership agreement and certificate of

partnership for a partnership, articles of incorporation and bylaws for a corporation, operating agreement for a limited liability company and joint venture agreement for a joint venture) certified by an appropriate individual. If a modification to the organization documents is contemplated prior to award, state accordingly, indicate that these documents will be provided prior to award and provide applicable draft documents for each such entity.

4. If the Proposer or proposed Developer or Parent Guarantor is a limited liability company or includes a limited liability company as a joint venture member, partner or member, attach full names and addresses of all members and the equity ownership interest of each entity, provide the incorporation, formation and organizational documentation for the Proposer or proposed Developer or Parent Guarantor (partnership agreement and certificate of partnership for a partnership, articles of incorporation and bylaws for a corporation, operating agreement for a limited liability company and joint venture) certified by an appropriate individual. If a modification to the organization documents is contemplated prior to award, state accordingly, and indicate that this information will be provided prior to award. Attach evidence to the Proposal and to each letter that the person signing has authority to do so and provide applicable draft documents for each such entity.

If any entity is not yet formed or if a modification is contemplated prior to award, state accordingly and provide a brief description of the proposed legal structure of each such entity.

- C. The partnership agreement, limited liability company operating agreement or joint venture agreement, as applicable, of the proposed Developer must include an express provision satisfactory to the Department, in its sole discretion, stating that, in the event of a dispute between or among joint venture members, partners or members, as applicable, no joint venture member, partner or member, as applicable, will be entitled to stop, hinder or delay work on the Project. Proposer will submit the applicable agreement to the Department and identify on a cover page where in the agreement the provision can be found. If the proposed Developer is not yet formed, provide draft organizational documents and indicate where the provision is found.