FORM R
STIPEND PAYMENT AGREEMENT

THIS STIPEND PAYMENT AGREEMENT (this "Agreement") is made and entered into as of this ____ day of _____, 20__, by and between the Virginia Department of Transportation (the "Department"), and _____ ("Proposer").

WITNESSETH:

WHEREAS, as a result of a Request for Qualifications dated September 17, 2015, Proposer has been invited to submit a detailed proposal in response to a Request for Proposals ("RFP") for the Transform 66 P3 Project (the "P3 Project") in accordance with the Public-Private Transportation Act of 1995 ("PPTA"), and if selected as the Preferred Proposer in accordance therewith, Proposer will enter into the Comprehensive Agreement (the "Comprehensive Agreement") with the Department; and

WHEREAS, as part of the procurement process for the Project, Proposer has already provided and/or furnished to the Department, and may continue to provide and/or furnish to the Department, certain intellectual property, materials, information and ideas, including, but not limited to, such matters that are: (a) conveyed orally and in writing during proprietary meetings or interviews; and (b) contained in, related to or associated with Proposer's proposal, including, but not limited to, written correspondence, designs, drawings, plans, exhibits, photographs, reports, printed material, tapes, electronic disks, or other graphic and visual aids (collectively "Proposer's Intellectual Property"); and

WHEREAS, the Department is willing to provide a payment to Proposer, subject to the express conditions stated in this Agreement, to obtain certain rights in Proposer's Intellectual Property; and

WHEREAS, Proposer wishes to receive the payment offered by the Department, in exchange for granting the Department the rights set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and adequacy of which are acknowledged by the parties, the parties agree as follows:

1. The Department's Rights in Proposer's Intellectual Property. Proposer hereby conveys to the Department all rights, title and interest, free and clear of all liens, claims and encumbrances, in Proposer's Intellectual Property, which includes, without restriction or limitation, the right of the Department, and anyone contracting with the Department, to incorporate any ideas or information from Proposer's Intellectual Property into: (a) the Comprehensive Agreement and the P3 Project; (b) any other contract awarded in reference to the P3 Project; or (c) any subsequent procurement by the Department. In receiving all rights, title and interest in Proposer's Intellectual Property, the Department is deemed to own all intellectual property rights, copyrights, patents, trade secrets, trademarks, and service marks in Proposer's Intellectual Property, and Proposer agrees

that it will, at the request of the Department, execute all papers and perform all other acts that may be necessary to ensure that the Department's rights, title and interest in Proposer's Intellectual Property are protected. The rights conferred herein to the Department include, without limitation, the Department's ability to use Proposer's Intellectual Property without the obligation to notify or seek permission from Proposer.

2. Exclusions from Proposer's Intellectual Property. Notwithstanding Section 1 above, it is understood and agreed that Proposer's Intellectual Property is not intended to include, and Proposer does not convey any rights to, the Escrow Documents submitted by Proposer in accordance with the RFP.

3. Proposal Payment. The Department agrees to pay Proposer, and Proposer agrees to accept, the lump sum amount of One Million and 00/100 Dollars ($1,000,000.00) (the "Proposal Payment"), which payment (i) constitutes payment in full to Proposer for the conveyance of Proposer's Intellectual Property to the Department in accordance with this Agreement and (ii) is conditioned upon: (A) Proposer's Proposal being, in the sole discretion of the Department, responsive to the RFP; (B) Proposer complying with all other terms and conditions of this Agreement; and either (C) Proposer having not been awarded the Comprehensive Agreement or (D) Proposer having been awarded the Comprehensive Agreement but Financial Close is not achieved by the Financial Close Deadline through no fault of the Proposer.

4. Payment Due Date. Subject to the conditions set forth in this Agreement, the Department will make payment of the Proposal Payment to the Proposer within forty-five (45) days after the latest of: (a) notice from the Department that it has awarded the Comprehensive Agreement to another Proposer; (b) notice from the Department that the procurement for the P3 Project has been cancelled and that the Department will not award the Comprehensive Agreement to any Proposer; or (c) notice from the Department that the Proposer has been awarded the Comprehensive Agreement but Financial Close is not achieved by the Financial Close Deadline through no fault of the Proposer.

5. Effective Date of this Agreement. The rights and obligations of the Department and Proposer under this Agreement, including the Department's ownership rights in Proposer's Intellectual Property, vest upon the date that Proposer's Technical Proposal is submitted to the Department. Notwithstanding the above and unless the Department cancels this procurement prior to the Financial Proposal Due Date, if Proposer's Technical and/or Financial Proposal (in either case, to the extent then-required to have been submitted in accordance with the RFP) is determined by the Department, in its sole discretion, to be nonresponsive to the RFP, then Proposer is deemed to have waived its right to obtain the Proposal Payment, and the Department will have no obligations under this Agreement.

6. Indemnity. Subject to the limitation contained below, Proposer will, at its own expense, indemnify, protect and hold harmless the Department and its agents, directors, officers, employees, representatives and contractors from all claims, costs, expenses, liabilities, demands, or suits at law or equity ("Claims") of, by or in favor of or awarded to any third party arising in whole or in part from: (a) the negligence or willful misconduct of

Proposer or any of its agents, officers, employees, representatives or subcontractors; or (b) breach of any of Proposer's obligations under this Agreement, including its representation and warranty under Section 8 hereof. This indemnity will not apply with respect to any Claims caused by or resulting from the sole gross negligence or willful misconduct of the Department, or its agents, directors, officers, employees, representatives or contractors.

7. Assignment. Proposer will not assign this Agreement without the Department's prior written consent, which consent may be given or withheld in the Department's sole discretion. Any assignment of this Agreement without such consent will be null and void.

8. Authority to Enter into this Agreement. By executing this Agreement, Proposer specifically represents and warrants that it has the authority to convey to the Department all rights, title, and interest in Proposer's Intellectual Property, including, but not limited to, any rights that might have been vested in team members, subcontractors, consultants or anyone else who may have contributed to the development of Proposer's Intellectual Property, free and clear of all liens, claims and encumbrances.

9. Miscellaneous.

    a. Proposer and the Department agree that Proposer, its team members, and their respective employees are not agents of the Department as a result of this Agreement.

    b. Any capitalized term used herein but not otherwise defined will have the meanings set forth in the RFP.

    c. This Agreement, together with the RFP, embodies the entire agreement of the parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein or in the RFP, and this Agreement will supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto.

    d. It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the Commonwealth of Virginia, validity of the remaining portions or provisions will not be affected, and the rights and obligations of the parties will be construed and enforced as if the Agreement did not contain the particular part, term, or provisions to be invalid.

    e. This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to conflict of laws principles.

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

VIRGINIA DEPARTMENT OF TRANSPORTATION

By: _____

Name: _____

Title: _____

[Insert Proposer's Name]

By: _____

Name: _____

Title: _____