

DOWNTOWN TUNNEL/ MIDTOWN TUNNEL/ MLK EXTENSION

Solicitation for Proposals

May 2008





**Virginia Department of
Transportation**

**SOLICITATION FOR CONCEPTUAL
PROPOSALS**

**Downtown Tunnel/Midtown Tunnel/MLK
Extension Project**

through the

Public-Private Transportation Act

May 30, 2008

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1 EXECUTIVE SUMMARY

1.1 Introduction

The Downtown Tunnel/Midtown Tunnel/Martin Luther King Freeway (MLK) Extension, formerly known as the Midtown Tunnel Corridor Project (Project) is located in the Cities of Norfolk and Portsmouth, Virginia. The Project is comprised of a new two-lane tunnel under the Elizabeth River parallel to the existing Midtown Tunnel; maintenance and safety improvements to the existing Midtown Tunnel; minor modifications to the interchange at Brambleton/Hampton Boulevard in Norfolk; maintenance and safety improvements to the existing Downtown Tunnel; and extending the MLK from London Boulevard to Interstate 264 (I-264), with an interchange at High Street.

In accordance with the Public-Private Transportation Act of 1995 (the “PPTA”), as amended, the Virginia Department of Transportation (VDOT) is hereby requesting the submittal of Conceptual Proposals for the financing, design, construction, operation, and maintenance of the Project.

Capitalized terms used in this Solicitation for Conceptual Proposals (SFP) are defined in Appendix A, provided however, if a term is not specifically defined in Appendix A, then such term shall have the definition ascribed to it in this SFP or the SFP Documents.

1.2 Purpose

The purpose of this SFP is to:

- inform the industry of the Project;
- identify VDOT’s objectives and priorities for the Project’s delivery;
- set out the evaluation criteria and selection process to select the short listed Offerors; and
- request receipt of Conceptual Proposals to enable VDOT to identify Offerors qualified to submit Detailed Proposals to finance, design, construct, operate, and maintain the Project.

Offerors must demonstrate their ability to undertake the financing, design, construction, operation and maintenance of the Project within a legislative, contractual and regulatory environment that will necessitate working effectively with VDOT, other Responsible Public Entities, the community and other stakeholders.

1.3 Project Objectives

VDOT is procuring this Project under the provisions of the PPTA to secure private sector funds and offset the need for public allocations to fund the Work. A successful project will satisfy the following transportation objectives:

- Increase capacity, reduce congestion and provide safe and efficient operations;
- Develop a multi-modal transportation facility that may be integrated into the operations of a regional transportation network and that serves as an emergency evacuation route;
- Develop a project that reduces and mitigates its impacts to the environment and surrounding communities while supporting the movement of commercial traffic; and
- Develop a project that is coordinated with adjacent land uses and supports the anticipated growth in personal and commercial traffic.

1.4 Document Disclosure

VDOT shall disclose to the public, in accordance with the Virginia Freedom of Information Act set forth in Section 8.1 of this SFP, all information received in response to this SFP including any proposed product, service, or idea for the Project that enhances or augments VDOT's minimum requirements and/or project objectives, unless determined by VDOT to be exempt in accordance with Section 8.1 of this SFP. Noting VDOT's intent to disclose, Offerors are expected to submit Conceptual Proposals with very limited requests for exceptions to disclosure.

1.5 Legislative Authority for the Project

PPTA is the legislative framework enabling the Commonwealth of Virginia (the "Commonwealth") to enter into agreements authorizing private entities to develop and/or operate qualifying transportation facilities. The Commonwealth of Virginia adopted Implementation Guidelines (Guidelines) in accordance with the PPTA. The current Guidelines were revised as of October 31, 2005 and are available at <http://www.virginiadot.org/business/ppta-Guidelines.asp>. In accordance with § 56-556 *et seq.* of the Code of Virginia, VDOT shall be the coordinating Responsible Public Entity for the Project.

Furthermore, as described in Appendix B, the Hampton Roads Transportation Authority (HRTA) also has the right to enter into a PPTA agreement(s) for this Project. VDOT will be the coordinating Responsible Public Entity and will work cooperatively with HRTA as this Project is implemented.

1.6 Procurement Process

This SFP commences the first-phase of a six-phase PPTA procurement process. The following is a summary of the process, which is defined in greater detail in the Guidelines:

1. Phase One – Quality Control: a VDOT level review to determine whether Conceptual Proposals meet the requirements of the Law and the Guidelines. Please refer to IPD Memorandum IPD 05-02 available at http://www.virginiadot.org/business/resources/IPD_Memorandum%2005_02%200_dlh_051206.pdf.
2. Phase Two - Independent Review Panel (IRP): The IRP, which is appointed by the Secretary of Transportation, will review and evaluate the Conceptual Proposal(s) and provide a recommendation as to whether to advance one or more of the Conceptual Proposal(s).
3. Phase Three – Commonwealth Transportation Board (CTB) Approval: The CTB will review the Conceptual Proposal(s), along with the IRP's recommendation and recommend that VDOT either reject the Conceptual Proposal(s) or seek a Detailed Proposal from one or more of the Offerors.
4. Phase Four – Submission and Selection of Detailed Proposals: Offerors advancing to Phase Four will be requested to submit Detailed Proposals. VDOT shall evaluate the Detailed Proposals and select none, one or more proposals by the Commonwealth Transportation Commissioner for negotiation of an Interim and/or a Comprehensive Agreement.
5. Phase Five – Negotiation of Interim and/or Comprehensive Agreement: The process of completing negotiations of an Interim and/or Comprehensive Agreement.
6. Phase Six – Execution of Interim and/or Comprehensive Agreement: The final stage of review and includes the execution of an Interim and/or Comprehensive Agreement by the Commonwealth Transportation Commissioner and the selected Offeror.

VDOT will issue a Request for Detailed Proposals (RFDP) to the short listed Offerors in Phase Four of the PPTA procurement process. Prior to issuing a final RFDP, VDOT will host meetings with the short listed Offerors with the intent of allowing further development of concepts and issues raised during the preceding phases of the PPTA procurement process.

While the RFDP will contain specific requirements for Detailed Proposals, as well as a specific selection criteria process, VDOT anticipates that Detailed Proposals will include, among other things, conceptual design plans, a financial plan, a tolling schedule, and a schedule for development, construction and implementation. Based on the responses to the RFDP, the Commonwealth Transportation Commissioner will make a selection of a successful Offeror(s), if any, to initiate negotiations for an Interim and/or Comprehensive Agreement to finance, design, construct, operate, and maintain the Project.

DOWNTOWN TUNNEL/ MIDTOWN TUNNEL/ MLK EXTENSION

Project Description



2 BACKGROUND

2.1 Introduction

This section of the SFP contains general information about the Project and its background. It is noted that any reference made herein to distances, amounts, percentages, etc. are approximations only.

2.2 The Midtown Tunnel

The proposed Midtown Tunnel consists of a new tunnel under the Elizabeth River running parallel to the existing Midtown Tunnel and modifications to the existing tunnel to provide increased capacity for east-west travel linking Route 58 and I-264 in Portsmouth to the interchange at Brambleton Avenue/Hampton Boulevard in Norfolk.

Daily congestion occurs at the existing Midtown Tunnel in both the AM and PM peak hours, with traffic back-ups frequently extending into West Ghent on the Norfolk side and to Pinners Point on the Portsmouth side. The proposed Midtown Tunnel would enable two (2) travel lanes in the west bound direction; thereby allowing the existing Midtown Tunnel to accommodate two (2) travel lanes in the east bound direction. It would also provide greater flexibility for maintenance and emergency responses by allowing closure of one tunnel facility and diverting traffic to the adjacent tube for short-term maintenance operations. Traffic in both tunnels could also be directed in a single direction during emergency evacuations, providing more options for state and regional planners.

The proposed improvements to the existing Midtown Tunnel facility will include, among other things: new roadways, new parallel tunnel, drainage, communications/intelligent transportation systems, lighting, flood protection, fire detection and suppression, ventilation, and power systems.

2.3 The MLK Extension

The proposed MLK Extension consists of extending MLK south approximately 0.8 mile and constructing a new interchange at I-264 (four lane limited access freeway) to provide a direct freeway-to-freeway connection from I-264 to the Midtown Tunnel between the Cities of Portsmouth and Norfolk. The extension to I-264 would provide improved access to and from West Norfolk and would serve as an alternate route for I-264 traffic when the Downtown Tunnel is congested. A comparable reduction to traffic is expected on local streets in the immediate vicinity of the Project, north of I-264, including US Route 17. More significantly, the current heavy volume of trucks, which exceed 25 percent of peak hour traffic at some locations, would be reduced on local streets. This new connection would also improve system linkage with the recently completed Pinners Point interchange and improve access to existing port facilities.

The MLK Extension will add a new interchange at I-264, between the existing interchanges on I-264 at US Route 17 and Des Moines Avenue.

2.4 The Downtown Tunnel

The proposed improvements to the Downtown Tunnel consist of modifications to the existing northbound and southbound tunnels necessary for the existing facility to conform to the National Fire Protection Association Standard 502 “Standard for Road Tunnels, Bridges, and Other Limited Access Highways” (NFPA 502). These modifications will include but may not be limited to upgrades to: the existing water supply, ventilation, electrical, and emergency response systems, as well as any other system identified in NFPA 502 or its successor. Additional modifications may include communications, tolling, and intelligent transportation systems as required to operate the tunnel as part of an integrated regional system.

2.5 Map of Project

The Project is illustrated in Appendix C.

2.6 Progress to Date

An overview of the work undertaken by VDOT on the Project to date is briefly described below. Note that all completed studies, reports, and documents referenced in the SFP are provided on VDOT’s external website at <http://www.virginiadot.org/midtowntunnel>.

Environmental Studies	
Midtown Tunnel	<p><i>1996</i> The Federal Highway Administration (FHWA) approved the Final Environmental Impact Statement (FEIS) for the US Route 58/ Midtown Tunnel (including Pinners Point interchange).</p> <p><i>1997</i> FHWA issued a Record of Decision (ROD) but excluded the Midtown Tunnel because it was not part of a constrained long range plan. The preferred alternative was selected by the CTB and approved by FHWA as a limited access highway facility including a new parallel tunnel, located downstream of the existing tunnel, to provide for east-west linkage between US Route 58 and the I-264 in Portsmouth to Brambleton Avenue in Norfolk, VA.</p> <p><i>2007</i> VDOT completed a re-evaluation of the US Route 58/Midtown Tunnel EIS.</p> <p>FHWA issued a revised ROD on the Midtown Tunnel.</p>

Environmental Studies (continued)	
MLK Freeway Extension	<p>1990 Environmental Assessment (EA) was approved by FHWA.</p> <p>CTB selected the location of the proposed facility.</p> <p>1992 VDOT submitted the final EA. FHWA was unable to issue a Finding of No Significant Impact (FONSI) for the project because it was not included in a Constrained Long Range Plan.</p> <p>1998 VDOT recommended that the proposed design be submitted for approval by the CTB with minor modifications for private property access. The major design features for the proposed interchange were approved by the CTB.</p> <p>2007 An Interstate Justification Report (IJR) was conditionally approved by FHWA.</p> <p>VDOT initiated a new EA for the MLK Extension project. Completion of the EA and issuance of the FONSI is anticipated in summer 2008. The preferred alternative, which is being evaluated in the new EA, is proposed as the extension of US Route 58 from London Boulevard to a new interchange with I-264 in the City of Portsmouth. It is proposed as a limited access, four lane facility, and will provide a direct freeway-to-freeway connection from I-264 to the Midtown Tunnel between the Cities of Portsmouth and Norfolk.</p>
Downtown Tunnel	<p>VDOT has not performed any environmental work associated with the proposed improvements to the Downtown Tunnel. A determination shall be made if an environmental document is warranted prior to the release of the RFDP.</p>
Geotechnical Investigation and Characterization	
<p>Available online at VDOT's Geographic Information System (GIS) http://www.GIS.virginia-dot.org are the following:</p> <ul style="list-style-type: none"> • A total of 120 boring logs to include the Brambleton interchange, Midtown Tunnel, MLK Freeway, proposed MLK Freeway Extension and at each of the major interchanges/overpasses along I-264 between Portsmouth Boulevard and Elm Avenue dating back to the late 1950's. 	

Geotechnical Investigation and Characterization (continued)	
<ul style="list-style-type: none"> • A preliminary geotechnical investigation consisting of a total of 16 borings (11 Standard Penetration Test borings and 5 auger probe borings) was performed as part of a conceptual design study for the proposed MLK Freeway Extension dated January 1993. <p>Instructions for retrieving data within the GIS Database are provided on VDOT's website at http://www.virginiadot.org/midtowntunnel.</p> <p>Environmental studies were conducted during the mid 1980's and early 1990's to characterize potential contaminants within the shallow river sediments in the vicinity of the proposed new tunnel site. These studies are available on VDOT's website at http://www.virginiadot.org/midtowntunnel.</p> <p>VDOT is performing additional subsurface exploration and environmental sampling and testing to validate and augment the current geotechnical information. VDOT's plan for these efforts is provided in Appendix D. It is anticipated that final results of this geotechnical subsurface exploration and environmental characterization will be available by summer 2008.</p>	
Financial Overview	
Toll Agreement	<p>It is the Commonwealth's intent that this will be a toll facility.</p> <p>VDOT has submitted a Tolling and Pricing Opportunities Expression of Interest to FHWA, requesting authority to toll the Project.</p> <p>VDOT is planning to enter into a Cooperative Agreement, which provides the authority to toll, with FHWA prior to or at the time of execution of an Interim or Comprehensive Agreement. Completion of a Tolling Agreement will occur prior to tolling the Project.</p>
Public Funds	<p>Currently there are no state or federal public funds allocated for Offerors to use on this Project. Offerors should explore innovative financing methods including, but not limited to, opportunities related to public funds, Private Activity Bonds (PABs), or the Transportation Infrastructure Finance Innovation Act of 1998 (TIFIA). Information on federal funding opportunities is available at http://www.fhwa.dot.gov/innovativefinance/index.htm.</p>

3 PROJECT SCOPE

The Project includes the financing, design, construction, operation and maintenance of the subject facilities. The Offeror's Conceptual Proposal shall take into consideration the Project objectives and requirements listed herein. Short listed Offerors that are advanced to Phase Four may undertake further investigations and develop Detailed Proposals in accordance with the environmental, technical, and functional requirements that will be issued at the RFDP stage.

3.1 Project Requirements

The financing, design, construction, modification, operation, and maintenance for the Project shall be performed in accordance with applicable federal and state Laws and VDOT Standards, Specifications and Reference Documents to include, but not limited to the documents listed herein. Any reference to a "current" or "latest" VDOT Standard, Specifications and Reference Document stated herein, for purposes of Offeror's Conceptual Proposals, shall mean as of the date of the SFP release. Offerors will be responsible for verifying and using the latest version of VDOT Standards, Specifications and Reference Documents when submitting Detailed Proposals in response to VDOT's RFDP as shall be further prescribed in the RFDP.

3.1.1 Midtown Tunnel

The following requirements shall be adhered to for the proposed and existing Midtown Tunnel and its approaches, including the interchange at Brambleton/Hampton Boulevard in Norfolk:

Proposed New Midtown Tunnel shall:

- provide for two additional lanes;
- provide a minimum height of 18 feet for tunnel openings;
- install or provide for systems with current technology that are compatible with the existing Midtown Tunnel's current and proposed systems to include, but not limited to: control room map board system display and fire protection/suppression system improvements;
- provide an independent fire system in accordance with the most current version of NFPA 502 and other applicable standards;
- provide electrical substations, motor control systems and control rooms to include fire suppression systems suitable for electrical equipment environments;
- provide a system for reversing the tunnel traffic flow to accommodate bidirectional traffic for emergency situations;
- provide a crash house at each end of the tunnel to include towing equipment consisting of two (2) wreckers, one each, for normal and oversized vehicles;
- provide an elevated ventilation system designed to sustain a 100 year storm event. The ventilation system for the new tunnel shall be an independent structure, separate

- and distinct from the existing structure, both structures shall be mechanically and electrically interfaced into one system;
- include sediment holding basins capable of containing hazardous materials spills for remediation prior to discharge into the Elizabeth River and provide for oil water separation;
 - allow for redundancy of critical utilities, including but not limited to dual source feeds for tunnel power, water and communications services supplied from Portsmouth and Norfolk;
 - utilize fiber optics throughout the Project; and
 - provide for separate raceways for high and low voltage power, control power and communications services.

Improvements to Existing Midtown Tunnel shall:

- provide a more efficient over height detection and turnaround system at the interchange at Brambleton Avenue and Hampton Boulevard in Norfolk that minimizes traffic delays;
- include separate sediment holding basins capable of containing hazardous materials for remediation prior to discharge into the Elizabeth River and provide for oil water separation;
- include upgrades to key systems as identified in NFPA 502 to include: traffic control, ventilation, lighting, power, communications and drainage systems;
- include upgrades to electrical substations, motor control systems and control rooms to include fire suppression systems suitable for electrical equipment environments;
- include upgrades and tie-ins to ventilation system as noted under “Proposed New Midtown Tunnel”;
- include design improvements that provide for separate raceways for high and low voltage power, control power and communications services; and
- allow for the widening of the lanes beneath the existing crossing at the Brambleton interchange to enhance access to the new proposed Midtown Tunnel and the existing facility.

All system designs and upgrades for the existing Midtown Tunnel shall provide systems with current technology and shall be compatible with the new proposed Midtown Tunnel.

3.1.2 MLK Extension

Offerors should submit Conceptual Proposals which are consistent with the CTB approved alternative and the Conceptual Design Report for the MLK Extension by David Volkert & Associates, dated January 1993, and in accordance with the preferred alternative, Option 4 as shown in the IJR as developed by VDOT in June 2007 and conditionally approved by FHWA in December 2007.

3.1.3 Downtown Tunnel

The Downtown Tunnel shall be modified to bring the existing facility in compliance with the latest requirements in accordance with NFPA 502. Modifications shall include, upgrades to key systems, which include, but are not limited to: traffic control, ventilation, lighting, power, communications and drainage systems. Offerors should analyze the existing lane configurations, and propose opportunities to increase capacity levels within the existing tunnel.

3.1.4 Multi-Modal Innovations

Development, reconstruction or rehabilitation of each and all of the project components noted above should include specific considerations for the **future** implementation of multi-modal, High Occupancy Vehicle (HOV) and transit opportunities. The design and construction of the proposed new Midtown Tunnel shall not preclude the development of future facilities dedicated to providing multi-modal transportation alternatives.

3.1.5 Tolling

Any new facility on which a toll would be implemented must be capable of fully electronic toll collection techniques and technologies and employ open road tolling for the Project's main lines. Traditional toll collection systems may be an option for lanes outside of the main lines. Electronic toll equipment shall be compatible with the E-Z Pass or any successor network and VDOT's existing electronic toll collection system. Offerors will have the option of contracting with VDOT's Violation Enforcement and Electronic Toll Collection services.

3.1.6 Human Resources

Currently, one hundred and forty-seven (147) VDOT staff positions are assigned to the Midtown and Downtown Tunnels, which may be impacted by execution of an Interim and/or Comprehensive Agreement for this Project.

During the operations and maintenance phase of the Project, Offeror shall provide consideration of employment to qualified VDOT personnel, who may be displaced as a result of the advancement of this Project.

3.2 Regulatory Approvals

Offeror shall be responsible for the implementation of all National Environmental Policy Act of 1969 (NEPA) commitments and restrictions. The Project is subject to all appropriate federal, state, and local Laws, to include the requirements of the NEPA.

Offeror will be required to obtain all necessary regulatory clearances required to accomplish the Project. The Offeror will be responsible for obtaining and coordinating any necessary water quality permits and any modifications of water quality permits.

If VDOT approves any deviations or change in scope or design proposed by the Offeror, Offeror shall be responsible for providing VDOT with environmental data in support of

any re-evaluation of the NEPA document that is necessary due to such proposed deviation or change in scope or design. The Offeror shall reimburse VDOT for its costs in the preparation of any additionally required environmental documents.

Midtown Tunnel

Conceptual Proposals shall be consistent with the preferred alternative as described in the 1996 US Route 58/Midtown Tunnel Final EIS and the 2007 revised ROD. Offeror's are advised that at this time, the United States Army Corp of Engineers (USACE) has determined that the Craney Island Dredged Material Management Area is not available for placement of dredged materials generated from this Project.

MLK Freeway Extension

Detailed Proposals shall be consistent with the 2008 EA for the MLK Extension project. Completion of the EA and issuance of the FONSI is anticipated in summer 2008. The preferred alternative, which is being evaluated in the new EA, is proposed as the extension of US Route 58 from London Boulevard to a new interchange with I-264, between the existing US Route 17 and Des Moines Avenue, in the City of Portsmouth. It is proposed as a limited access, four-lane facility, and will provide a direct highway link between Portsmouth and Norfolk via the Midtown Tunnel.

Downtown Tunnel

VDOT has not performed any environmental work associated with the modifications to the Downtown Tunnel. VDOT will determine whether additional environmental review is warranted prior to the release of the RFDP.

3.2.1 Environmental Requirements

The overall design, construction, maintenance, management, and operation of the Project shall be undertaken in an environmentally responsible manner with respect to natural ecosystems, waterway views, and existing water resources (including flood management) and shall comply with:

- all applicable Governmental Approvals and Laws, guidelines and standards concerning environmental protection (including noise, water and air quality);
- professional engineering, construction, maintenance and operations practices and procedures accepted as industry standards for projects similar in nature, size, complexity and scope as the Project;
- meet or exceed the purpose and need statements and adhere to the commitments detailed in all approved environmental documents; and
- U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system or the United States Environmental Protection Agency/Department of Energy's "Energy Star" rating.

**DOWNTOWN TUNNEL/
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Solicitation Procedure



4 GENERAL PROCEDURES AND REQUIREMENTS

4.1 Short Listing

The Conceptual Proposals received in response to this SFP will be used to short list the most qualified Offerors who will be invited to submit Detailed Proposals. It is anticipated that no more than three (3) Offerors will be short listed. Evaluation of Detailed Proposals may lead to final selection of one or more Offerors with whom VDOT may enter into an Interim and/or Comprehensive Agreement to obtain the right and obligation to finance, design, construct, operate, and maintain the Project.

4.2 Schedule

VDOT currently anticipates conducting the procurement of the Project in accordance with the following list of milestones leading to an Interim and/or Comprehensive Agreement. This schedule is subject to revision and VDOT reserves the right to modify this schedule as it finds necessary, in its sole discretion.

<u>Procurement Phase</u>	<u>Date</u>
1. SFP Document Available to Offerors	05/30/08
2. Deadline for Questions or Clarifications	08/15/08
3. Conceptual Proposal Submission	09/29/08 (4:00 PM prevailing local time)
4. Quality Control Report Submitted to Secretary	10/15/08
5. Secretary Appoints Independent Review Panel	11/12/08
6. Local Comments Due	01/12/09
7. Independent Review Panel Recommendation	04/03/09
8. CTB Resolution	04/16/09
9. Request for Detailed Proposals (if applicable)	07/22/09
10. Detailed Proposal Submission (if applicable)	12/11/09 (4:00 PM prevailing local time)
11. Interim and/or Comprehensive Agreement (if applicable)	06/25/10

4.3 VDOT's Point of Contact and Project Reference

VDOT's sole Point of Contact (POC) for the Project shall be the person designated below. VDOT's POC is the only individual authorized to discuss this SFP with any interested parties, including Offerors. All communications with VDOT's POC shall be in writing, as required by the applicable provisions of this SFP. Offerors may not rely upon any oral responses to any inquiries.

VDOT's POC is:

Name: Mr. Raymond T. Partridge
 Title: Program Manager
 Address: Innovative Project Delivery Division
 Virginia Department of Transportation
 1401 East Broad Street
 Richmond, VA 23219
 Phone: (804) 371-0128
 Fax: (804) 786-7221
 E-Mail: raymond.partridge@vdot.virginia.gov

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

4.3.2 All written communications to VDOT from the Offerors shall specifically reference the correspondence as being associated with the "Downtown Tunnel/Midtown Tunnel/MLK Extension Project".

4.4 Advertising the SFP

The SFP shall be advertised on VDOT's website at <http://www.virginiadot.org/midtowntunnel>, and on eVA, Virginia's electronic procurement website (www.eva.state.va.us). The SFP shall also be advertised in major regional newspapers and industry publications in accordance with Innovative Project Delivery (IPD) Division Memorandum IPD 05-01.0, available for review at http://www.virginiadot.org/business/resources/IPD_Memorandum%2005_01%200_dlh_0509530.pdf.

Addenda to the SFP will only be posted on the VDOT website above. Offerors should monitor the VDOT website for the posting of any addenda to this SFP.

4.5 SFP Data and Further Information

Background data relating to the Project is available via VDOT's File Transfer Protocol (FTP) Server. In order to obtain this information, Offerors are required to complete, sign, and return all portions of the Confidentiality Agreement and Non Disclosure Agreement Forms, Appendix E and F. All forms and inquiries related to the SFP data and access to VDOT's FTP Server shall be coordinated through VDOT's POC.

4.6 Pre-Submittal Responsibilities

Each Offeror shall be solely responsible for examining the SFP, including any addenda, and any and all conditions which may in any way affect their proposal or the performance of the work on the Project, including but not limited, to the following responsibilities:

- 4.6.1** Examining and carefully studying the SFP, including any addenda and other information or data identified in the SFP.
- 4.6.2** Visiting the Project area and becoming familiar with and satisfying itself as to the general, local, and site conditions that may affect the cost, progress, or performance of its work on the Project.
- 4.6.3** Becoming familiar with and satisfying itself as to all federal, state, and local Laws and regulations that may affect the cost, progress, or performance of its work on the Project.
- 4.6.4** Determining that the SFP and any addenda thereto are sufficient to indicate and convey understanding of all terms and conditions for the performance of Offeror's work on the Project.
- 4.6.5** Providing prompt written notice of all conflicts, errors, ambiguities, or discrepancies that the Offeror discovers in the SFP and addenda, and any aspects of the SFP and addenda that the Offerors do not understand. Any failure to do so shall be at Offeror's sole risk, and no relief for error or omission will be provided by VDOT.

4.7 Delivery of Proposal

Conceptual Proposals are to be sealed in mailing envelopes or packages bearing the Offeror's name, address and the words "Public Private Transportation Conceptual Proposal Downtown Tunnel/Midtown Tunnel/MLK Extension Project" clearly written on the outside. All Conceptual Proposals must be received by the date and time as designated in Section 4.2. Conceptual Proposals must be delivered to the VDOT POC as designated below. Neither fax nor email submissions will be accepted. Hand delivered responses to the SFP must be received by the date and time as designated in Section 4.2, and must be delivered to:

Mr. Raymond T. Partridge
Program Manager
Innovative Project Delivery Division
Virginia Department of Transportation
1221 E. Broad Street, Fourth Floor
Reception Desk, Innovative Project Delivery Division
Richmond, VA 23219

Offerors are responsible for effecting delivery by the deadline above and late submissions will be rejected without consideration or evaluation, and will be returned unopened to the sender. VDOT accepts no responsibility for misdirected or lost Conceptual Proposals.

- 4.7.1** The Conceptual Proposals should be as clear and concise as possible in accordance with the requirements of this SFP, so that a proper evaluation can be made of the Offeror's capabilities and intent to complete the proposed Project.
- 4.7.2** Offerors submitting Conceptual Proposals to VDOT are required to deliver ten (10) identical hard copies, five (5) of which must bear original signatures and one (1) electronic copy (a ".pdf" file in the most current version of Adobe Acrobat), of their Conceptual Proposal on CD-ROM. Offerors passing VDOT's Phase One Quality Control review will be required to submit additional hard copies at VDOT's request for use in Phase Two of the PPTA procurement process.

4.8 Format of Proposal

Conceptual Proposals shall follow the format prescribed in this section and the current version of the Guidelines as referenced herein. Submittals that do not follow the format prescribed below may be considered non-responsive and may be eliminated from further consideration.

- 4.8.1** Conceptual Proposals should be prepared simply and economically, providing a straightforward, concise description of the Offeror's capabilities to complete the Project. Emphasis should be on completeness and clarity.
- 4.8.2** All pages of the Conceptual Proposal shall be numbered in the lower right hand corner. Offerors shall use cross referencing rather than repetition throughout the Conceptual Proposal. The Conceptual Proposal shall contain a table of contents which shall follow the format described herein.
- 4.8.3** Conceptual Proposals shall be placed in a three-ring binder. All documentation submitted with the Conceptual Proposal shall be contained in a single volume. Conceptual Proposals shall also meet the following requirements:
- Consist of no more than one hundred fifty (150) pages (VDOT will remove and discard all pages in excess of the stipulated page limit). The following items shall not be counted against the 150 page limit: Letter of Submittal; Executive Summary; tabs; Certification Regarding Debarment Forms, Appendix G; financial statements and reports requested in Section 10.4.1.1; Work History Form, Appendix I; and Risk Register Form, Appendix J;
 - Except for charts, exhibits, and other illustrative and graphical information, all information shall be prepared on 8.5"X 11" white paper. Charts, schedules, exhibits and other illustrative and graphical information may be on 11" x 17" paper, but must be folded to 8.5" X 11";
 - Typed on one (1) side only; and

- Separated by numbered tabs with sections corresponding to the order set forth in Section 4.8.4. Tabs should not contain Project-specific information, or they will count against the page limit.
- All printing, except for the front cover of the Conceptual Proposal and any appendices, must be:
 - Times New Roman, with a font of 12-point; and
 - Offeror may use Times New Roman 10 point font for filling out information on the Resume Form, Appendix H and the Work History Forms, Appendix I.

4.8.4 Each Conceptual Proposal shall be organized as follows:

1. Letter of Submittal (maximum Four Pages)
2. Executive Summary (maximum Five Pages)
3. Table of Contents
4. Responses to Conceptual Proposal Evaluation Criteria:
 - Section 10.4.1: Priority 1 Qualifications Criteria
 - .1 Financial Capacity
 - .2 Performance Security Experience
 - .3 Financial Experience
 - .4 Project Leaders in Oversight and Administration
 - .5 Tunnel Construction, Maintenance and Operations
 - .6 Toll Facility Operations
 - Section 10.4.2: Priority 2 Qualifications Criteria
 - .1 Work History
 - .2 Project Qualifications
 - Section 10.4.3: Priority 3 Qualifications Criteria
 - .1 Prior Working Relationships
 - .2 Conceptual Finance Plan
 - .3 Performance Security and Insurance Coverage Approach
 - Section 10.4.4: Priority 4 Information Criteria
 - .1 Innovations and Ideas
 - .2 Risk Allocation
 - .3 Project Understanding and Approach
 - .4 Organizational Structure

4.9 Formal Presentation and Interviews

Offerors may be required to give oral presentations of their Conceptual Proposal to the IRP and/or the public. The format of these presentations may include a formal presentation by Offerors, followed by questions from the IRP pertaining to the Conceptual Proposals or the presentations. The IRP may also ask Offerors to address concerns expressed through the public comment process. Such presentations will provide opportunities to educate VDOT and the public and/or clarify aspects of the Project. The presentations will also allow the IRP to seek clarification of Project elements, the Conceptual Proposal's response to the Project objectives and needs, complete deliverable requirements and provide Offerors with the opportunity to further explain their Conceptual Proposal. If there is an issue to which the Offerors are unable to respond

during the formal presentation, the IRP may, at their discretion, grant the Offerors a reasonable period of time in which to submit a written response.

5 QUESTIONS AND CLARIFICATIONS

All questions and requests for clarification regarding this SFP shall be submitted in writing to VDOT's POC designated in Section 4.3. No requests for additional information, clarification or any other communication should be directed to any other individual. VDOT's responses to questions or requests for clarification shall be in writing and may be accomplished by an addendum to this SFP. VDOT will not be bound by any oral communications, or written interpretations or clarifications that are not set forth in an addendum. VDOT, at its sole discretion, shall have the right to seek clarifications from any Offeror to fully understand information contained in the Conceptual Proposal. All questions submitted by the Offerors will be published on the VDOT website, in the form in which they were received.

6 RIGHTS AND OBLIGATIONS OF VDOT

In connection with this procurement, VDOT reserves to itself all rights (which rights shall be exercisable by VDOT in its sole discretion) available to it under applicable Law.

6.1 Specific Rights and Obligations of VDOT

In addition to all rights reserved as specified by Law, VDOT further reserves to itself, without limitation or with or without cause and with or without notice, the following:

- 6.1.1** The right to cancel, withdraw, postpone or extend this SFP in whole or in part at any time prior to the execution by VDOT of an Interim and/or Comprehensive Agreement, without incurring any obligations or liabilities.
- 6.1.2** The right to issue a new SFP.
- 6.1.3** The right to reject any and all submittals, responses and proposals received at any time.
- 6.1.4** The right to modify all dates set or projected in this SFP.
- 6.1.5** The right to terminate evaluations of responses received at any time.
- 6.1.6** The right to suspend and terminate the procurement process for the Project at any time.
- 6.1.7** The right to revise and modify, at any time prior to the proposal submittal date, factors it will consider in evaluating responses to this SFP and to otherwise revise its evaluation methodology.
- 6.1.8** The right to waive or permit corrections to data submitted with any response to this SFP until such time as VDOT declares in writing that a particular stage or phase of its review of the responses to this SFP has been completed and closed.
- 6.1.9** The right to issue addenda, supplements, and modifications to this SFP.

- 6.1.10** The right to permit submittal of addenda and supplements to data previously provided with any response to this SFP until such time as VDOT declares in writing that a particular stage or phase of its review of the responses to this SFP has been completed and closed.
- 6.1.11** The right to hold meetings and conduct discussions and correspondence with one or more of the Offerors responding to this SFP to seek an improved understanding and evaluation of the responses to this SFP.
- 6.1.12** The right to seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to the SFP, including the right to seek clarifications from Offerors.
- 6.1.13** The right to permit Offerors to add or delete firms and/or key personnel.
- 6.1.14** The right to add or delete the Offeror's responsibilities from the information contained in this SFP.
- 6.1.15** The right to appoint and change appointees of the Independent Review Panel.
- 6.1.16** The right to use assistance of outside technical, financial, and legal experts and consultants in the evaluation process.
- 6.1.17** The right to waive deficiencies, informalities and irregularities in a proposal, accept and review a non-conforming proposal or seek clarifications or supplements to a proposal.
- 6.1.18** The right to disqualify any Offeror that changes its submittal without VDOT approval.
- 6.1.19** The right to respond to all, some, or none of the inquiries, questions and/or request for clarifications received relative to the SFP.
- 6.1.20** The right to use all or part of an unsuccessful Conceptual Proposal if the Offeror of said proposal accepts a payment, if applicable.
- 6.1.21** The right to suspend, discontinue and/or terminate Interim and/or Comprehensive Agreement negotiations with any Offeror at any time prior to the actual authorized execution of such agreement by all parties, subject to appropriate documentation.
- 6.1.22** The right to negotiate with an Offeror without being bound by any provision in the proposal.
- 6.1.23** The right to enter into one or more Interim and/or Comprehensive Agreements with one or more Offerors, as permitted by the PPTA, in furtherance of the development and operation of the Project or any of its components, or to modify or abandon procurement of the Project.
- 6.1.24** The right to request revisions to the Conceptual Proposal.

- 6.1.25** The right to short list from among the highest rated Offerors, and to provide an RFDP only to those short listed Offerors. VDOT anticipates short listing no more than three (3) highest rated Offerors. VDOT may increase or decrease the number of short listed Offerors, if it is in the best interest of VDOT to do so.
- 6.1.26** The right to terminate Offerors' access to the VDOT's FTP Server based on any violation of its confidentiality agreement or breach of security.

6.2 Assumption of Liability

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

- 6.2.1** In no event shall VDOT be bound by, or be liable for, any obligations with respect to the Project until such time (if at all) an Interim and/or Comprehensive Agreement, in form and substance satisfactory to VDOT, has been executed and authorized by VDOT and, then, only to the extent set forth therein.
- 6.2.2** Any and all information made available to the Offerors is made for convenience purposes only and is without representation or warranty of any kind.

7 COMPREHENSIVE AGREEMENT – MATERIAL TERMS

VDOT issues this SFP, inclusive of all appendices and addenda (collectively the "SFP Documents") as a preliminary step in the PPTA procurement process, which, if carried through to the conclusion, will result in VDOT entering into an Interim and/or Comprehensive Agreement with the successful Offeror, who will obtain the right and obligation to finance, design, construct, operate and maintain the Project. The material terms of the Interim and/or Comprehensive Agreement which VDOT proposes to execute for the Project, as well as a draft Comprehensive Agreement will be included with the RFDP. The RFDP will, among other things, detail the technical requirements for the design, construction, maintenance and operations components of the Project; the scope of the services to be provided by the successful Offeror; and proposed commercial terms.

8 MISCELLANEOUS

8.1 Virginia Freedom of Information Act

- 8.1.1** All proposals submitted to VDOT are subject to the disclosure requirements of the PPTA, Section 2.2-4342 of the Virginia Public Procurement Act, and the Virginia Freedom of Information Act (VFOIA) (Section 2.2--3700 et seq.). Offerors are advised to familiarize themselves with the provisions of each Act referenced herein to ensure that documents identified as confidential will not be subject to disclosure under VFOIA. In no event shall the Commonwealth, the Commonwealth Transportation Commissioner, or VDOT

be liable to an Offeror for the disclosure of all or a portion of a Conceptual Proposal submitted pursuant to this request.

8.1.2 If a responding Offeror has special concerns about information which it desires to make available to VDOT but which it believes constitutes a trade secret, proprietary information, or other confidential information exempted from disclosure, such responding Offeror should specifically and conspicuously designate that information as such in its proposal and state in writing why protection of that information is needed. The Offeror should make a written request to VDOT's POC. The written request shall:

1. Invoke such exemption upon the submission of the materials for which protection is sought;
2. Identify specifically and conspicuously the data or other materials for which the protection is sought;
3. State the reasons why protection is necessary; and
4. Indicate that a similar process with the appropriate officials of the affected local jurisdictions has or will be conducted. Failure to take such precautions prior to submission of a proposal may subject confidential information to disclosure under the VFOIA.

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

8.1.4 In the event that VDOT receives a request for public disclosure of a portion of a proposal, VDOT will determine whether or not the requested materials are exempt from disclosure. In the event that VDOT elects to disclose the requested materials, it will endeavor to provide notice to the Offeror of its intent to disclose.

8.1.5 Offerors are on notice that VDOT will post on its webpage all responsive Conceptual Proposals and other relevant information and agreements, in accordance with applicable Laws.

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

8.2 Requirement to Keep Team Intact

The Key Personnel proposed by the Offeror shall remain on Offeror's team for the duration of the procurement process and, if the Offeror is selected and enters into an Interim and/or Comprehensive Agreement, the requirement will be as more specifically defined in the Comprehensive Agreement. If circumstances require a proposed change, it must be submitted in writing to VDOT's POC. VDOT will determine whether to authorize a change, which authorization will not be unreasonably withheld.

Unauthorized changes to the Offeror's Key Personnel at any time during the procurement process may result in the elimination of the Offeror from further consideration.

8.3 Disadvantaged Business Enterprises/Small, Women and Minority Owned Businesses

It is anticipated there will be Disadvantaged Business Enterprise (DBE) and/or desired Small, Minority and Women-Owned Business Enterprises (SWAM) goals for this Project. The participation goals for this Project will be set forth in the RFDP, wherein a commitment will be required from Offeror's to achieve the goals.

8.4 Administrative Requirements

In addition to the specific submittal requirements set forth elsewhere in this SFP, all Offerors shall comply with the following:

- 8.4.1** All business entities, except for sole proprietorships, are required to be registered with the Virginia State Corporation Commission (a Business Registration Guide is available on the Internet at <http://www.state.va.us/scc/division/clk/brg.htm>). Foreign Professional Corporations and Foreign Professional Limited Liability Companies must possess a Commonwealth of Virginia Certificate of Authority from the State Corporation Commission to render professional services. Any business entity other than a professional corporation, professional limited liability company or sole proprietorship must be registered in the Commonwealth of Virginia with the Department of Professional & Occupational Regulation, Virginia Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects (http://www.state.va.us/dpor/ape_regs.htm). Board regulations require that all professional corporations and business entities that have branch offices located in Virginia which offer or render any professional services relating to the professions regulated by the Board be registered with the Board. Registration involves completing the required application and submitting the required registration fee for each and every branch office location in the Commonwealth. All branch offices that offer or render any professional service must have at least one full-time resident professional in responsible charge who is licensed in the profession offered or rendered at each branch. All firms involved that are to provide professional services must meet this criteria prior to a contract being executed by VDOT.
- 8.4.2** VDOT will not consider for award any proposals submitted by any Offerors and will not consent to subcontracting any portions of the proposed contract to any subconsultants in violation of the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.
- 8.4.3** All Offerors must have internal control systems in place that meet federal requirements for accounting. These systems must comply with requirements of 48CFR31, "Federal Acquisition Regulations, Contract Cost Principals and Procedures," and 23CFR172, "Administration of Negotiated Contracts."
- 8.4.4** VDOT assures compliance with Title VI of the Civil Rights Act of 1964, as amended. The consultant and all subconsultants selected for this Project will be required to submit a

Title VI Evaluation Report (EEO-D2) when requested by VDOT to respond to the SFP. This requirement applies to all consulting firms with fifteen (15) or more employees.

- 8.4.5** VDOT does not discriminate against an Offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state Law relating to discrimination in employment.
- 8.4.6** Please indicate in the Letter of Submittal, Section 10.2, and by executing and returning the attached Certification Regarding Debarment Forms, provided in Appendix G, if your firm, subconsultant, subcontractor, or any person associated therewith in the capacity of owner, partner, director, officer or any position involving the administration of federal or state funds:
1. Is currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any State or federal agency;
 2. Has been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
 3. Has a proposed debarment or suspension pending; or
 4. Has been indicted, convicted, or had a civil judgment rendered against it or them by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

Any of the above conditions will not necessarily result in denial of award, but will be considered in determining Offeror responsibility. For any condition noted, indicate to whom it applies, initiating agency, and dates of action. Providing false information may result in federal criminal prosecution or administrative sanctions. Certifications should be submitted directly behind the Letter of Submittal.

- 8.4.7** Offerors shall note and comply with the requirements relative to the eVA Business-to-Government Vendor system. The eVA Internet electronic procurement solution, web site portal (<http://www.eva.state.va.us>), streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution through either eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. For more detail information regarding eVA, registrations, fee schedule, and transaction fee, use the website link: <http://www.eva.state.va.us>. All Offerors must register in eVA; failure to register will result in a proposal being rejected.

9 CONFLICT OF INTEREST

9.1 Conflict of Interest Determination

9.1.2 VDOT will apply the procedures set forth in the Innovative Project Delivery Division Memorandum 07-2.0, dated August 1, 2007, for identification and review of potential organizational conflicts of interest related to VDOT procurement of contracts under the PPTA or design-build legislation. This memorandum is available at VDOT's website at <http://www.virginiadot.org/business/bu-ipd-memo.asp>.

9.1.3 Offerors shall note that portions of the SFP Documents will include work product developed by the following firms:

1. **H. W. Lochner, Inc.** This firm is currently performing work under the Statewide Environmental Documents & Related Services (On-Call) Contract No. 23620 with VDOT for the development of the Environmental Assessment for the MLK Freeway Extension.
2. **Halcrow Inc.** This firm currently is performing work under the Staff Augmentation Services for PPTA Activities Contract No. 2662 Business Management Services with VDOT for assisting VDOT with procurement documents; negotiation strategies and negotiations; business and policy decisions; contract management and administration; development, negotiation, and execution of Interim and/or Comprehensive Agreements; and reports and contract language.
3. **Capital Project Strategies, LLC.** This firm is currently performing work under the Staff Augmentation Service for Innovative Project Delivery Business Management Services Contract No. 26692 with VDOT for review and comment on the SFP for the Project.
4. **KPMG Corporate Finance LLC.** This firm is currently performing work under the Staff Augmentation Service for Public-Private Partnership Activities/Financial Analysis and Assistance Services Contract No. 26853 with VDOT for review and comment on the SFP for the Project.
5. **IBI Group** This firm is currently performing services for the Innovative Finance and Revenue Operations Division through On-Call Toll Consulting Services Contract No. 21259 with VDOT.
6. **Charles River Associates (CRA)** This firm is currently performing services for the Innovative Finance and Revenue Operations Division through On-Call Toll Consulting Services Contract No. 21259.
7. **Public Resources Advisory Group (PRAG)** This firm is currently performing services for the Innovative Finance and Revenue Operations Division through an Advisory Services Contract No. 20200 with VDOT.

8. **Fugro Atlantic, Inc. (Fugro)** This firm is performing certain marine survey, geotechnical exploration and subsurface characterization services for the Project, as a member of Craney Island Design Partners LLC, and under Contract #2007-24 through an agency of the Commonwealth of Virginia.

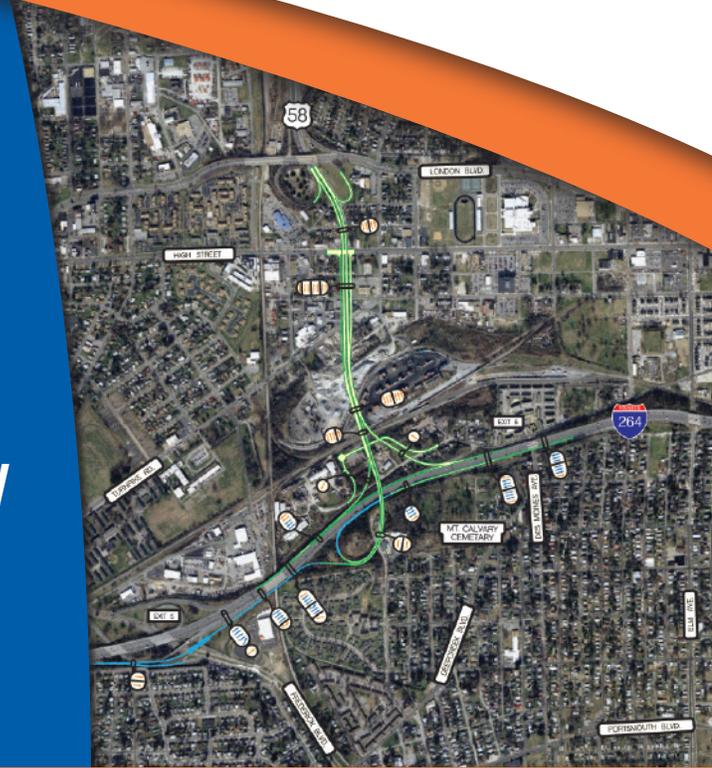
The firms listed above will not be allowed to participate as a PPTA team member for this Project. Any proposal received in violation of this requirement may be rejected.

9.2 Ethics in Public Contracting Act

VDOT may, in its sole discretion, disqualify the Offeror from further consideration for the award of the contract if it is found by VDOT that there is a violation of the Ethics in Public Contracting Act, Section 2.2-4367 of the Virginia Code, or any similar statute involving the Offeror in the procurement of the contract.

DOWNTOWN TUNNEL/ MIDTOWN TUNNEL/ MLK EXTENSION

Proposal Criteria and Assessment



10 CONTENTS OF CONCEPTUAL PROPOSAL

In order to facilitate the evaluation by VDOT and the IRP of the Offeror's qualifications and of the Project's feasibility, the Conceptual Proposals should provide sufficient information so that a quality assessment can be rendered. Section 10 describes the type of information that must be included in the Conceptual Proposals. The format for the presentation of such information within the Conceptual Proposal is described in Section 4.8.

Offerors shall be aware that VDOT reserves the right to conduct an independent investigation of any information, including prior experience, identified in a proposal by contacting project references, accessing public information, contacting independent parties, or any other means. VDOT also reserves the right to request additional information from an Offeror during the evaluation of its Conceptual Proposal.

10.1 Confidentiality

Confidentiality requests should be consistent with Section 8.1 of this SFP. It is VDOT's policy to be transparent throughout the entire procurement process. The classification of the entire Conceptual Proposal as confidential is not acceptable. A conceptual requirement for use of public funds should be disclosed by the Offeror in the Executive Summary and will not be deemed confidential.

10.2 Letter of Submittal

Each Offeror shall provide on the Offeror's letterhead signed by an authorized representative of the Offeror's organization, which individual shall be the contact point for all communications from VDOT related to the SFP or the Project (Letter of Submittal). The letter shall not exceed four (4) pages in length and shall meet the following requirements:

- Include the authorized Representative's title, address, phone and fax numbers, and e-mail addresses;
- Provide name and address of lead firm and consortium firms who are to be part of the Offeror's team;
- Certification Regarding Debarment forms as provided in Appendix G;
- If the Offeror is not yet a legal entity or is a joint venture or other enterprise which consists of parties who will be jointly and severally liable for all the private entity's obligations under the Comprehensive Agreement, then all such parties (including but not limited to the lead contractor and lead designer), or, if applicable, all joint venture partners/members shall sign the letter;
- All signatures shall be original and signed in ink;
- Include the written commitment of all signators to be jointly and severally liable for all obligations of the private entity under the Comprehensive Agreement; and
- Describe any parent guarantees that Offeror will provide to secure its performance of its obligations under the Interim and/or Comprehensive Agreement, and any proposed limits on the liability of the private entity or its guarantors.

10.3 Executive Summary

Each Offeror shall provide an Executive Summary. The Executive Summary shall not exceed five (5) pages and should include the following items:

- 10.3.1** Brief description of all significant aspects of the Conceptual Proposal and the implementation team, to include the Offeror's objectives in the development and operation of the Project.
- 10.3.2** Declaration as to whether public financial support is anticipated in the Offeror's approach for implementation of the conceptual finance plan.
- 10.3.3** Declaration of Offeror's intent, if selected, to enter into an Interim and/or Comprehensive Agreement with VDOT for the Project in accordance with the terms of this procurement.
- 10.3.4** Declaration that the offer presented in the Conceptual Proposal will remain in full force and effect until such time as submission of the Detailed Proposals.
- 10.3.5** Declaration that information provided in the Conceptual Proposal meets appropriate state and federal, standards, statutes and regulations, or reasonably anticipated modifications of state or federal statutes, regulations or standards.

10.4 Conceptual Proposal Evaluation Criteria

Offerors are advised that the Conceptual Proposal evaluation criteria contained herein has been modified from the Guidelines. These modifications were made in order to meet the specific needs of the Project and VDOT. Further, the evaluation criteria listed herein supersede the criteria listed in the Guidelines.

Offerors should limit their Conceptual Proposal responses to the request for qualifications and information identified below. Responses should focus on critical issues for the Project, the objectives of the Conceptual Proposals and on the stated evaluation criteria listed herein.

The IRP will review and evaluate each Conceptual Proposal advancing to Phase Two based on the Offerors' qualifications to finance, design, construct, maintain and operate the Project over the long term through the demonstration of significant and relevant experience and capabilities meeting the Project objectives. VDOT will provide an evaluation of each Conceptual Proposal to the IRP for their consideration.

The criteria will consider, among other things, the Offerors' relevant experience with the development and financing of transportation infrastructure projects of similar complexity and scope; the operations and maintenance of toll highways, and tunnel facilities; and the operations, maintenance and management of highway corridors and integrated networks. Additionally, Offerors will be evaluated on information provided on specific topics as

noted in Section 10.4.4 from which VDOT desires to gain a better understanding of the Offeror's approach to the development and operation of the Project.

The Conceptual Proposal evaluation criteria have been prioritized into four (4) levels to reflect VDOT's main objectives and priorities during Project development and its evaluation of the Proposals in response to the SFP. Priority levels one (1) through three (3) are based on the Offerors' qualifications, while Priority level four (4) is based on information related to Project risks, Offerors' working relationships, overall understanding and approach of addressing Project objectives and other pertinent factors that VDOT and the IRP deem important in evaluating Offerors for advancement to the next phase of the procurement process.

Section 10.4.1 Priority 1 Qualifications Criteria		
.1	Financial Capacity	<p>The Offeror must demonstrate that it has the financial resources and capabilities to (a) provide necessary equity; (b) obtain debt and/or additional equity financing; (c) provide guarantees, as required, as they relate to this Project; and (d) otherwise undertake this Project.</p> <p>Documentation requested:</p> <p>For all team members who will be providing equity and/or providing the performance security for the initial construction of the Project, (to include any parent or related companies from whom financial guarantees will be provided) the following documentation must be provided:</p> <ol style="list-style-type: none"> 1. Audited financial statements for each of the last five (5) years prepared: <ol style="list-style-type: none"> a. in accordance with U.S. Generally Accepted Accounting Principles (GAAP) or International Financial Reporting Standards (IFRS); b. in English; c. in US dollars; and d. including balance sheet, profit and loss statements, and statement of changes in financial position and accompanying notes to financial statements. <p>If the audited financial statements are prepared in accordance with an accounting standard other than U.S. GAAP or IFRS, a letter must be provided by a Certified Public Accountant (or equivalent professional accountant) discussing the major differences between the standards upon which these financial statements are prepared and U.S. GAAP or IFRS.</p>

		<ol style="list-style-type: none"> 2. Interim financial statements for the most recent period since the last fiscal period. 3. Most recent Securities and Exchange Commission 10-K and 10-Q reports, if such reports have been filed. 4. Current and planned financial commitments to other projects, any off-balance sheet liabilities and an assessment of the extent to which these commitments may affect the Offeror's ability to raise the necessary finance for the Project. 5. Commitment letters from parent company or related parties who are proposed to provide financial guarantees to the Project.
.2	Performance Security Experience	<p>What is the Offeror's demonstrated success in posting at least one (1) performance bond (or otherwise provided equivalent security) in an amount in excess of \$75 million (US \$) on at least one (1) but not to exceed five (5) major infrastructure projects within the last five (5) years?</p> <p>With respect to the team member(s) who will be providing the performance security on this Project, the following documentation for each representative project must be provided:</p> <ol style="list-style-type: none"> 1. Name of project 2. Description of project 3. Location of project 4. Type and amount of security provided 5. Name of team member posting security 6. Year in which this security was posted 7. Third party reference (Name, organization, phone number, email) <p>This information should be provided on the Work History Form 1, Appendix I.</p>
.3	Financial Experience	<p>a. On an aggregate basis, identify members of the team that have been involved in successfully financing at least two (2) long-term Public Private Partnership (P3) transportation projects valued in excess of \$500 million total (US\$) initial capital costs as an equity investor within the last five (5) years.</p> <p>Documentation requested:</p> <p>With respect to the Offeror's financing experience, the following documentation for each of the two (2) projects must be provided (in US\$):</p>

		<ol style="list-style-type: none"> 1. Name of team member involved 2. Name of project 3. Description of project 4. Location of project 5. Total project costs 6. Year of financial close 7. Value of financing 8. Description of financing 9. Value of equity invested 10. Third party reference (Name, organization, phone number, email) <p>This information should be provided on the Work History Form 1, Appendix I.</p> <p>b. Describe the extent and depth of the Offeror's experience in financing projects similar to the Project.</p> <p>Documentation Requested:</p> <p>With respect to the Offeror's financing experience, the following information must be submitted for each representative project (maximum ten (10) projects):</p> <ol style="list-style-type: none"> 1. Team member (firm) name 2. Name of project 3. Description of project 4. Location of project 5. Year of financial close 6. Value of financing 7. Description of financing 8. Role in financing 9. Third party reference (Name, organization, phone number, email) <p>This information should be provided on the Work History Form 1, Appendix I.</p>
.4	Project Leaders in Oversight and Administration	<p>What is the relevant experience of the Offeror's Project leaders (i.e. foremost decision makers, program leaders for major components of the Project) in the oversight and administration of complex infrastructure projects?</p> <p>Identify key project leaders and their direct and relevant P3 project and programmatic qualification and experience in performance of material obligations in the following areas:</p> <ol style="list-style-type: none"> 1. Finance

		<ol style="list-style-type: none"> 2. Design 3. Construction 4. Quality Assurance and Quality Control 5. Operation 6. Maintenance <p>Key project leaders identified in response to these criteria will be deemed “Key Personnel”. The information regarding Key Personnel should be provided on the Resume Form, Appendix H.</p>
.5	Tunnel Construction, Maintenance and Operations	<p>What is the direct and relevant experience of the Offeror’s team in the design, construction, operations and maintenance of complex tunnel infrastructure, including existing and new facilities?</p> <p>Provide specific relevant experience of the Offeror and its lead team members which will be responsible for the design and construction of the new tunnel infrastructure, including its record of success in the development of comparable projects and responsibilities. Identify the design and construction teams’ prior working relationships.</p> <p>Provide specific relevant experience of the Offeror and its team members who will be responsible for the operations and maintenance of design and operational interfaces of mechanical, electrical and control systems and utilities; and the new and existing tunnel infrastructure. Identify direct and relevant experience related to the operation of a reversible facility during an emergency and/or evacuation event.</p> <p>Provide at least three (3) examples of tunnel projects that included the Offeror’s Design team in a leading role. Include a minimum of one (1) of the three (3) projects that involved an immersed tube tunnel design.</p> <p>Provide at least three (3) examples of tunnel projects that included the Offeror’s Construction team in a leading role. Include a minimum of one (1) of the three (3) projects that involved construction of an immersed tube tunnel.</p> <p>This information should be provided on the Work History Form 2, Appendix I.</p> <p>Lead team members identified in response to these criteria will be deemed “Key Personnel”. The information regarding Key Personnel should be provided on the Resume Form, Appendix H.</p>
.6	Toll Facility Operations	<p>a. What is the extent and depth of the Offeror’s direct and relevant experience in undertaking toll operations for a project or projects of similar scope and magnitude as this Project in the last ten (10) years?</p>

		<p>Documentation requested:</p> <p>With respect to the Offeror's tolling experience the following information should be submitted for each project (for a maximum of ten (10) projects):</p> <ol style="list-style-type: none"> 1. Name of team member involved 2. Name of project 3. Location of project 4. Description of project 5. Description of tolling (manual toll booths, electronic tolling, video tolling, variable tolling, etc.) 6. Description of tolling responsibilities 7. Third party reference (Name, organization, phone number, email) <p>Note: At a minimum, Offeror must demonstrate in at least one (1) of the above projects that it has experience operating at least one (1) toll road in the last five (5) years.</p> <p>This information should be provided on the Work History Form 1, Appendix I.</p> <p>b. Knowledge Of The Tolling Industry - The extent and depth of the Offeror's (proposed operator's or Concessionaire's) knowledge of the tolling industry.</p> <p>Documentation requested:</p> <p>The team member that will be responsible for the tolling operation must provide a conceptual plan (maximum of three pages) and narrative for toll operations in a primarily electronic toll collection environment that will:</p> <ol style="list-style-type: none"> 1. Employ current / emerging technology to maximize collection of tolls for use of the facility; 2. Maintain interoperability with the existing network of tolled facilities in Virginia as well as the E-ZPass (or any successor) network; and 3. Achieve high levels of user satisfaction.
Section 10.4.2 Priority 2 Qualifications Criteria		
.1	Work History	What projects of similar scope, complexity and risk profile have the Offeror and its team members played a significant leadership role in its development and operation?

		<p>List and describe a maximum of ten (10) projects that each firm has been involved in, which best illustrates current qualifications relevant to the unique components of this Project.</p> <ol style="list-style-type: none"> 1. A minimum of five (5) relevant projects demonstrating long term operations and maintenance experience, including three (3) projects with tunnel operations and maintenance. 2. A minimum of two (2) projects must include direct and relevant experience in design and construction of elevated structures in urban, commercial and industrial environments. <p>Provide the overall history of performance, including schedule completion, cost and budget control, and assessment of liquidated damages, on all ten (10) projects as indicated above and undertaken by the Offeror, the design-build contractor and the operator.</p> <p>In addition, provide information as to whether the Offeror, design-build contractor or the operator have defaulted on any contracts in the last seven (7) years. Provide details if any.</p> <p>This information should be provided on the Work History Form 2, Appendix I.</p>
.2	Project Qualifications	<p>What is the relevant experience of the Offeror's team members in the finance, design, construction, operations and maintenance of projects similar to the Project, excluding tunnel construction and operations previously noted in Section 10.4.1.6?</p> <p>Provide pertinent information about the experience and qualifications on key personnel and consortium firms to be engaged in development of material aspects of the Project in the following areas:</p> <ol style="list-style-type: none"> 1. Finance 2. Design 3. Construction, including Experience Modification Rate (EMR) 4. Quality Assurance and Quality Control 5. Operations, including EMR 6. Maintenance, including EMR 7. Handover (transfer of owner assets to contractor) and Handback (transfer of assets back to owner at end of term) <p>Team members identified in response to these criteria will be deemed "Key Personnel". The information regarding Key Personnel should</p>

		be provided on the Resume Form, Appendix H.
Section 10.4.3 Priority 3 Qualifications Criteria		
.1	Prior Working Relationships	<p>What are the team members' prior working relationships?</p> <p>Provide a narrative discussing prior working relationships that the Offeror has had with any other proposed member of its team, including relationships between the design and construction teams and between the Offeror and finance teams.</p>
.2	Conceptual Finance Plan	<p>What is the Offeror's approach to developing a reasonable and viable financial plan that fully funds total project costs?</p> <p>With a focus on achieving the Project objectives, the extent to which the Conceptual Finance Plan submitted demonstrates the following:</p> <ol style="list-style-type: none"> 1. An understanding of long-term P3 financing of major infrastructure projects; 2. An understanding of viable financing options available in the US market; 3. An understanding of the unique financing characteristics of the Project; 4. The plan is achievable in the current U.S. financial market; and 5. Innovation in addressing VDOT's Project objectives at a conceptual level with regards to: maximizing private investment while minimizing public funds without adversely affecting other planned projects financed in the CTB Six Year Improvement Program or Statewide Transportation Improvement Program, user fees, tolls, and risks. <p>Documentation Requested:</p> <p>The Offeror must provide a qualitative description (maximum three (3) pages) of the Offeror's approach to financing the development, maintenance and operation of the Project. At a minimum, this discussion should address:</p> <ol style="list-style-type: none"> 1. Potential sources of funding and a brief description of the listed funding sources; 2. Potential payment mechanisms for the Project; 3. Financial support that may be available from team members; 4. Approaches to user fee and toll regulation including a projected range of initial toll rates; and 5. Roles and responsibilities for the public and private sector

		parties as it relates to financing.
.3	Performance Security and Insurance Coverage Approach	<p>Describe Offeror's conceptual approach to providing performance security for this Project, such as the type and amount of letters of credit, performance and payment bonds, subcontractor default insurance, etc.</p> <p>Describe proposed insurance coverage, including types and limits that Offeror considers appropriate for the design-build phase and for the operation, maintenance and handback phases of the Project. Provide at least three (3) recent examples of P3 transportation projects where these types of insurance have been provided and give details how the private entity ensured performance to the Owner and lenders. Explain why such approach was chosen.</p> <p>With respect to each team member, identify who will be providing the insurance on this Project and provide the following documentation for each representative project (not to exceed five (5) projects):</p> <ol style="list-style-type: none"> 1. Name of project 2. Description of project 3. Location of project 4. Type and amount of security provided 5. Type and limits of insurance coverage provided 6. Name of team member posting insurance 7. Year in which this security was posted 8. Third party reference (Name, organization, phone number, email) <p>This information should be provided on the Work History Form 1, Appendix I.</p>
Section 10.4.4 Priority 4 Information Criteria		
.1	Innovations and Ideas	<p>What innovative concepts or value added ideas will the Offeror contribute to the Project to enhance the financial feasibility, development and/or operation of the facility?</p> <p>Provide a brief narrative discussing any proposed product, service, or value added idea for the Project that will enhance VDOT's abilities to complete the Project and meet the Project's objectives. The narrative should include an explanation of Offeror's rationale for any concept listed and how it adds value to the Project.</p>
.2	Risk Allocation	Complete the model risk registers contained in Appendix J.

	<p>Risk Register 1 relates to Project risks, the consequences of which have the potential to arise before Financial Close.</p> <p>Risk Register 2 relates to Project risks, the consequences of which have the potential to arise after Financial Close.</p> <p>Offerors are not restricted to identification of Project risks that are contemplated to be assigned to the private entity under the Interim and/or Comprehensive Agreement, but should instead identify all Project risks, whether or not such risks are commonly assigned to a private entity under a P3 arrangement.</p> <p>Offerors shall include a full description of each risk, using a separate line for each, and including positive opportunities as well as potentially negative occurrences where appropriate.</p> <p>Offerors shall include the consequence of the risk to the Project in the appropriate column, for example a consequence may be to delay the Project, to create an unsafe condition or an environmental hazard.</p> <p>Offerors shall indicate whether, in their opinion, a given risk may best be managed by VDOT or by private entity or shared. A shared risk shall be disaggregated, where possible, to include separate descriptions at a level of detail that would permit specific assignment of a risk.</p> <p>Offerors shall complete their proposed mitigation strategy in the final column of each risk register and shall use this opportunity to make reasoned suggestions for the risk allocations they propose, explaining why the allocation would best suit the Project objectives.</p> <p>Where Offerors suggest that a particular risk should best be assigned to VDOT, Offerors shall identify the mitigation that is considered most appropriate for VDOT to adopt; where assigned to the private entity, Offerors shall identify the mitigation that they would propose and where shared, the mitigations to be adopted by both parties shall be described.</p> <p>Offerors shall assign their relative estimate of the severity and probability of each risk, using the 3-point scale (low, medium and high) and that such assignment of severity and probability shall be assessed in accordance with ALARP principles.</p> <p>Risks entered on Risk Register 1 and the suggested assignment and mitigations may help to define the risk allocation between VDOT and the private entity in any Interim Agreement and/or Comprehensive Agreement prior to Financial Close. All such risks would be expected to expire at Financial Close.</p>
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		<p>Risks entered on Risk Register 2 and the suggested assignment and mitigations may help to define the risk allocation between VDOT and the private entity in any Comprehensive Agreement after Financial Close. All such risks would be expected to expire at Handback.</p> <p>Evaluation will be based on the appropriateness of risk identification description and classification and the reasonableness, effectiveness and appropriateness of mitigations including a demonstration that management and assignment of risk is to the party best able to manage the risk.</p> <p>The risk registers may be extended to multiple 11x17 sheets and do not count towards the 150 page limitation. However, Offerors should note that the objective is a clear and succinct description of the top few risks in each category.</p>
.3	Project Understanding and Approach	<p>What is the Offeror's understanding of the complexities of the Project components and a conceptual approach to meeting the challenges of the Project?</p> <p>Provide a narrative identifying the Offeror's general understanding of the Project scope and how it contributes to meeting the Project's objectives, including but not limited to development of a transportation facility that may be integrated into the operations of a regional transportation network and that increases capacity, is safe and efficient and serves as an emergency evacuation route.</p> <p>Provide a narrative identifying the Offeror's conceptual approach to the following Project components:</p> <ol style="list-style-type: none"> 1. Project management; 2. Environmental permitting and mitigation, including Offeror approach to coordinating with marine stakeholders; 3. Public involvement, awareness & communication, including the Offeror's approach to fostering and maintaining a strong relationship with the users and surrounding communities; 4. Quality assurance and quality control; including context sensitive design solutions; 5. Design, including LEED and Energy Star rating systems, and context sensitive solutions; 6. Construction, including the percentage of work Offeror plans to self-perform, and Offeror's approach to maintaining a free flow of traffic during construction activities; 7. Right of way acquisition and relocation; and

		<p>8. Utilities relocation.</p> <p>Provide a narrative describing the Offeror's conceptual approach to the following Operations and Maintenance components:</p> <ol style="list-style-type: none"> 1. Transition between construction and service commencement, including transfer of existing assets to Offeror (Handover requirements) and undertaking human resources responsibilities for transitioning existing VDOT operations and maintenance personnel under new management structure; 2. Tolling operations and systems; 3. Public relations and communication; 4. Traffic, safety, congestion management and incident management; 5. System integration and integrated network; 6. Handback requirements; 7. Normal and capital maintenance; and 8. Management and coordination between existing and new tunnel facilities.
.4	Organizational Structure	<p>What is the overall adequacy of the Offeror's organizational structure, including the allocation of the roles and responsibilities of Key Personnel and consortium firms to facilitate completion of the Project?</p> <p>Provide information as to the form of lead Offeror's organizational (LLC, corporation, etc.) structure, ownership, management and legal framework of the Offeror's team.</p> <p>Provide information, on other Key Personnel and consortium firms with substantial and material roles and responsibilities (Material Participants), as to the form of organization, ownership, management and legal framework. Material Participants should include financing, design, construction, operations and maintenance.</p>

11 EVALUATION PROCESS

11.1 Evaluation Rating System

Conceptual Proposals will be evaluated by applying the rating system as set forth below.

As noted in Section 10, VDOT has developed levels of priorities in descending order of importance for evaluating the qualifications, performance, capabilities and other pertinent information provided by the Offerors. Evaluation of Conceptual Proposal responses within Priority Level 1 will have a higher value than Conceptual Proposal responses in

Priority Levels 2, 3 and 4. Conceptual Proposals, as rated by the IRP, with an unacceptable rating (defined as red in the rating system) in Priority Level 1 or Priority Level 2 shall not be advanced to Phase Three.

The rating system that will be used by the IRP for the assessment of the Conceptual Proposals is detailed in Table 11.1. The rating system will have four rating levels for the evaluator. Within each of the rating levels, an evaluator may provide specific information differentiating the basis of their evaluation and whether one Offeror is more qualified, but is rated within the same rating level. For example, if four Offerors each are rated a Green proposal response for Priority Level 1, this would not necessarily signify that all four Offerors are equally ranked in Priority Level 1. Based on the information provided in the Conceptual Proposal for Priority Level 1, an evaluator has the discretion to rank each Offeror within Priority Level 1, notwithstanding the fact that he/she may have rated all Offerors as a Green for such priority level.

Based on this evaluation, the IRP will then provide recommendations to the Commonwealth Transportation Commissioner and the CTB, during Phase Three, as to whether none, one, or more Conceptual Proposals should be advanced to Phase Four.

Evaluation Criteria and a rating system have not yet been determined for the RFDP. If an Offeror is selected to advance to Phase Four the evaluation and selection criteria will be provided in the RFDP.

TABLE 11.1 – VDOT EVALUATION RATING SYSTEM	
VDOT Rating	Evaluation Description
Blue	Exceeds specified minimum qualifications, performance or capability requirements in a way beneficial to the Commonwealth.
Green	Meets specified minimum qualifications, performance or capability requirements necessary for acceptable contract performance.
Yellow	Does not clearly meet some specified minimum qualifications, performance or capability requirements necessary for acceptable contract performance, but any proposal inadequacies are correctable.
Red	Fails to meet specified minimum qualifications, performance or capability requirements. Proposal with an unacceptable rating in Priority Level 1 and Priority Level 2 shall not be advanced to Phase Three.

**DOWNTOWN TUNNEL/
MIDTOWN TUNNEL/
MLK EXTENSION**



APPENDIX A

DEFINITIONS

ALARP (“As low as reasonably practicable”) means a principle used for defining a level of risk that can be achieved and that is acceptable to all those that may be affected by the risk being realized.

Commissioner means the Commonwealth Transportation Commissioner or any successor in function.

Concessionaire means the individual, company, firm, partnership, corporation, association or joint venture contemplated to contract with VDOT in conjunction with this SFP and pursuant to the execution of an Interim and/or Comprehensive Agreement.

Conceptual Proposals (Proposals) means Offeror’s submission of proposals in response to the Department’s request for such proposals under Phase One of the evaluation and procurement process.

Consultant means any Person at the time retained by or on behalf of the Department or the Concessionaire, which Person is experienced and has a national and favorable reputation in the matters for which such Person is so employed.

Contractor means any Person with whom the Concessionaire has entered into any contract to perform any part of the Work or provide any materials, equipment or supplies for the Project and/or the Utility Relocations included in the Work, on behalf of the Concessionaire, and any other Person with whom any Contractor has further subcontracted any part of the Work, at all tiers.

Critical Infrastructure (CI) means systems and assets, whether physical or virtual, so vital to Virginia that the incapacity or destruction of such systems and assets would have debilitating impact on security, economic security, public health or safety, or any combination thereof.

Critical Infrastructure Information (CII) is the designation used by VDOT to identify information that is not appropriate for public release without a need-to-know. Critical infrastructure means a system or asset so vital that its incapacity or destruction would have a debilitating impact on security, economic security, public health or safety. Critical infrastructure includes but is not limited to: tunnel and bridge facilities, ferries, Smart Traffic Centers, VDOT Central and District Offices, data systems, security systems, and Information Technology Infrastructure.

Critical Infrastructure Information/Sensitive Security Information Program (CII/SSI Program) – means a program established for the development, management, maintenance, and review of procedures to be used to identify, classify and protect Critical Infrastructure Information and Sensitive Security Information throughout VDOT.

CTB means the Commonwealth Transportation Board, a board of the State affiliated with the Department.

Detailed Proposals means short listed Offerors' submission of proposals in response to the Department's request for such proposals under Phase Four of the evaluation and procurement process.

Draft Comprehensive Agreement (Draft CA) is defined in **Section 7** of the SFP.

EIS means that certain signed final environmental impact statement, record of decision and re-evaluation for the Project prepared and approved by FHWA. The EIS for the Midtown Tunnel was signed on July 10, 2007. The Environmental Assessment for the MLK Freeway Extension is anticipated to be signed in the Summer/Fall 2008.

Evaluation Team is defined in **Section 10.4** of the SFP.

Experience Modification Rating (EMR) means a mandatory process that modifies the published rates for rating classifications by taking into account the actual reported losses and payrolls of an individual business. It is a financial incentive to employers to minimize the financial cost of workplace injuries. The rate is based on two major issues: the number of claims and the cost of each claim reported over an experience period. The experience period is usually three full policy years, ending one year prior to the effective date of the modification. To illustrate, a modification effective January 1, 2008 uses payrolls and losses for the policies effective January 1, 2004; January 1, 2005; and January 1, 2006 .

Federal Highway Administration (FHWA) means the branch of the United States Department of Transportation which funds and oversees new highways and highway improvement projects.

Financial Closing Date (Financial Close) means the closing date of the issuance of tax-exempt bonds or the issuance of taxable debt and/or equity, the proceeds of which, in either case, are sufficient together with other available funds to finance the completion of the design and construction of the Project or the related Phase, as applicable

Financial Plan (Conceptual Financial Plan) means Concessionaire's conceptual plan which describe planned use and source of funds to cover anticipated Project costs and expenditures related to the finance, design, construction, operation, maintenance and handback phases of work , including annual updates for which such plan and annual updates meet the requirements of Section 1904(a) of SAFETE-LU and FHWA Major Projects Guidance, March 2007.

Finding of No Significant Impact (FONSI) means a document by a federal agency, complying with the National Environmental Policy Act, which presents the reasons why an action will not have a significant effect on the human environmental and for which an Environmental Impact Statement will not be prepared. It shall include the

environmental assessment or a summary of it and shall note any other environmental documents related to it. If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.

Generally Accepted Accounting Principles (GAAP) means a collection of methods used to process, prepare, and present public accounting information representing such accepted accounting practice as, in the opinion of the Accountant, conforms at the time to generally accepted accounting principles in the United States of America

Governmental Approvals and Laws means all local, regional, state and federal agreements, studies, findings, permits, approvals, authorizations, certifications, consents, decisions, exemptions, filings, leases, licenses, registrations, rulings and other governmental authorizations required to be obtained or completed under applicable Laws prior to undertaking any particular activity contemplated by the Comprehensive Agreement. The term “Regulatory Approvals” includes any supplements to the EIS.

Governmental Authority means any court, federal, state, department, commission, board, bureau, agency or other regulatory, administrative, or governmental entity or authority having jurisdictional authority in accordance with State or Federal Laws.

Hampton Roads Transportation Authority (HRTA) means the “responsible public entity” as defined in the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) created by Chapter 896 of the 2007 Acts of Assembly. Jurisdictions that are part of the authority include the counties of Isle of Wight, York and James City and the cities of Norfolk, Newport News, Chesapeake, Suffolk, Portsmouth, Virginia Beach, Hampton, Williamsburg and Poquoson. Although they were established to impose taxes and fees to support transportation projects in the region, a February 2008 Virginia Supreme Court decision found that authorities of this type could not impose taxes.

Handback (Handback Requirements) is defined in **Section 10.4.2.2.7** of the SFP.

Handover (Handover Requirements) is defined in **Section 10.4.2.2.7** of the SFP.

Implementation Guidelines (Guidelines) means such guidelines presenting the goals and objectives as governed by the Public Private Transportation Act (PPTA) of 1995 (§ 56-556 et seq. of the Code), as amended.

Innovation means any material proposed or actual change, any proposed product, service, or idea for the Project that will allow Department’s base proposal (**Sections 2 and 3**) and Department’s Project Objectives (**Section 1.3**) to be enhanced.

International Financial Reporting Standards (IFRS) means standards and interpretations adopted by the International Accounting Standards Board (IASB) which state how particular types of transactions and other events should be reported in financial statements. Major financial centers in various countries of each continent apply these

standards to promote uniformity in financial reporting and practices and to generate financial statements that are understandable in all of the countries they operate.

Key Personnel is defined in **Section 10.4.1.5** of the SFP.

Law(s) mean any current or future order, writ, injunction, decree, judgment, law, ordinance, decision, opinion, ruling, statute, code, rule or regulation of any Governmental Authority.

Letter of Submittal is defined in **Section 10.2** of the SFP.

Material Participants is defined in **Section 10.4.4.5** of the SFP.

National Fire Protection Association (NFPA) 502 means a standard which provides fire protection and fire life safety requirements for limited access highways, road tunnels, bridges, elevated highways, depressed highways, and roadways that are located beneath air-right structures.

NEPA means the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., as amended and as it may be amended from time to time.

Project means collectively, the provision for a new two-lane tunnel under the Elizabeth River parallel to the existing Midtown Tunnel; NFPA 502 maintenance and safety improvements to the existing Midtown Tunnel and modifications to the interchange at Brambleton and Hampton Boulevard in Norfolk; NFPA 502 maintenance and safety improvements to the existing Downtown Tunnel; and extending the MLK from London Boulevard to Interstate 264 (I-264), with an interchange at High Street and as further defined in **Article 3** of the SFP.

Project Management Plan means the project management plan required by Section 1904(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub.L. 109-59, 119 Stat. 1144), which amended 23 U.S.C. § 106(h) with respect to Major Projects (defined therein to be projects with an estimated total cost of \$500 million or more that receive Federal financial assistance).

Regulatory Approvals means all local, regional, state and federal agreements, studies, findings, permits, approvals, authorizations, certifications, consents, decisions, exemptions, filings, leases, licenses, registrations, rulings and other governmental authorizations required to be obtained or completed under applicable Laws prior to undertaking any particular activity contemplated by this Agreement. The term “Regulatory Approvals” includes any supplements to the EIS.

Representative means, with respect to any Person, any director, officer, employee, official, lender (or any agent or trustee acting on its behalf), partner, member, owner, agent, lawyer, accountant, auditor, professional advisor, Consultant, engineer, contractor, other Person for whom such Person is at law responsible or other representative of such Person and any professional advisor, Consultant or engineer designated by such Person as its “Representative.”

Responsible Public Entity has the meaning assigned to such term in Section 56-557 of the PPTA and, for purposes hereof, means the Virginia Department of Transportation.

Risk or Risk Event means an uncertain event or condition that, if it occurs, has a positive or a negative effect on a project objective or a measure of the probability and consequence of not achieving a defined project goal or objective. An event with negative effect or outcome is a hazard or threat and an event with a positive effect or outcome is an opportunity.

Risk Assessment means the formalized process of identifying risk events, of evaluating their consequences and probability of occurrence, and of preparing strategies as appropriate for preventative and contingent actions.

Risk Register means a formalized record of risks identified from the risk assessment process including full descriptive details of mitigation and control measures, risk owners and with appropriate cross-references. The Risk Register is the primary means of recording and monitoring the risk management process.

Sensitive Security Information (SSI) is the designation used to identify information related to maritime critical infrastructure that is not appropriate for public release without a need-to-know and as further defined in 49 CFR PART 1520.

SFP Documents mean the documents, whether attached or incorporated by reference, furnished by the Department as part of the Solicitation for Conceptual Proposals for the Project.

Solicitation for Conceptual Proposals (SFP) means the Department's request for such proposals under Phase One of the procurement process for the Project.

State means the Commonwealth of Virginia.

Utility or **utility** means a public, private, cooperative, municipal and/or government line, facility or system used for the carriage, transmission and/or distribution of cable television, electric power, telephone, telegraph, water, gas, oil, petroleum products, steam, chemicals, sewage, storm water not connected with the highway drainage and similar substances that directly or indirectly serve the public. The term "Utility" specifically excludes (a) storm water lines connected with the highway drainage, and (b) traffic signals, street lights, and electrical systems for roadways.

Utility Owner or **utility owner** means the owner or operator of any Utility (including both privately held and publicly held entities, cooperative utilities, and municipalities and other governmental agencies).

Utility Relocation means the removal, relocation and/or protection in place (including provision of temporary services as necessary) of any and all utility facilities that have to be removed, relocated and/or protected in place in order to permit construction of the Project.

VDOT means Virginia Department of Transportation.

Virginia Code means the Code of Virginia of 1950, as amended.

Work means all Concessionaire's design-build services, operation and maintenance services, and other services required to be furnished and provided by or on behalf of the Concessionaire as contemplated under an executed Comprehensive Agreement, including all administrative, design, engineering, real property acquisition support services, occupant relocation, construction, Utility Relocations, utility accommodation, procurement, supply, installation, testing, verification, labor, materials, equipment, construction management services, documentation and other duties and services, except for those efforts which the Comprehensive Agreement expressly specifies will be performed by persons other than the Concessionaire; and major maintenance work.

APPENDIX B

Hampton Roads Transportation Authority

Chapter 896 of the 2007 Acts of Assembly, commonly referred to as House Bill 3202, established land use requirements, and performance measures for transportation. (See this link for the statute text: <http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0896>.) Also see www.HB3202.virginia.gov for additional information.

The Hampton Roads Transportation Authority (HRTA) was created by Chapter 896. Jurisdictions that are part of the authority include the counties of Isle of Wight, York and James City and the cities of Norfolk, Newport News, Chesapeake, Suffolk, Portsmouth, Virginia Beach, Hampton, Williamsburg and Poquoson. HRTA members are the chief elected officials of those communities or their elected designee.

The HRTA has broad authority over transportation in the region. It can impose and collect tolls only for any new or improved highway, bridge, tunnel, or transportation facility named in the legislation. The amount of any such toll may be varied from facility to facility, by lane, by congestion levels, by day of the week, time of day, type of vehicle, number of axles, or any similar combination, and a reduced rate may be established for commuters.

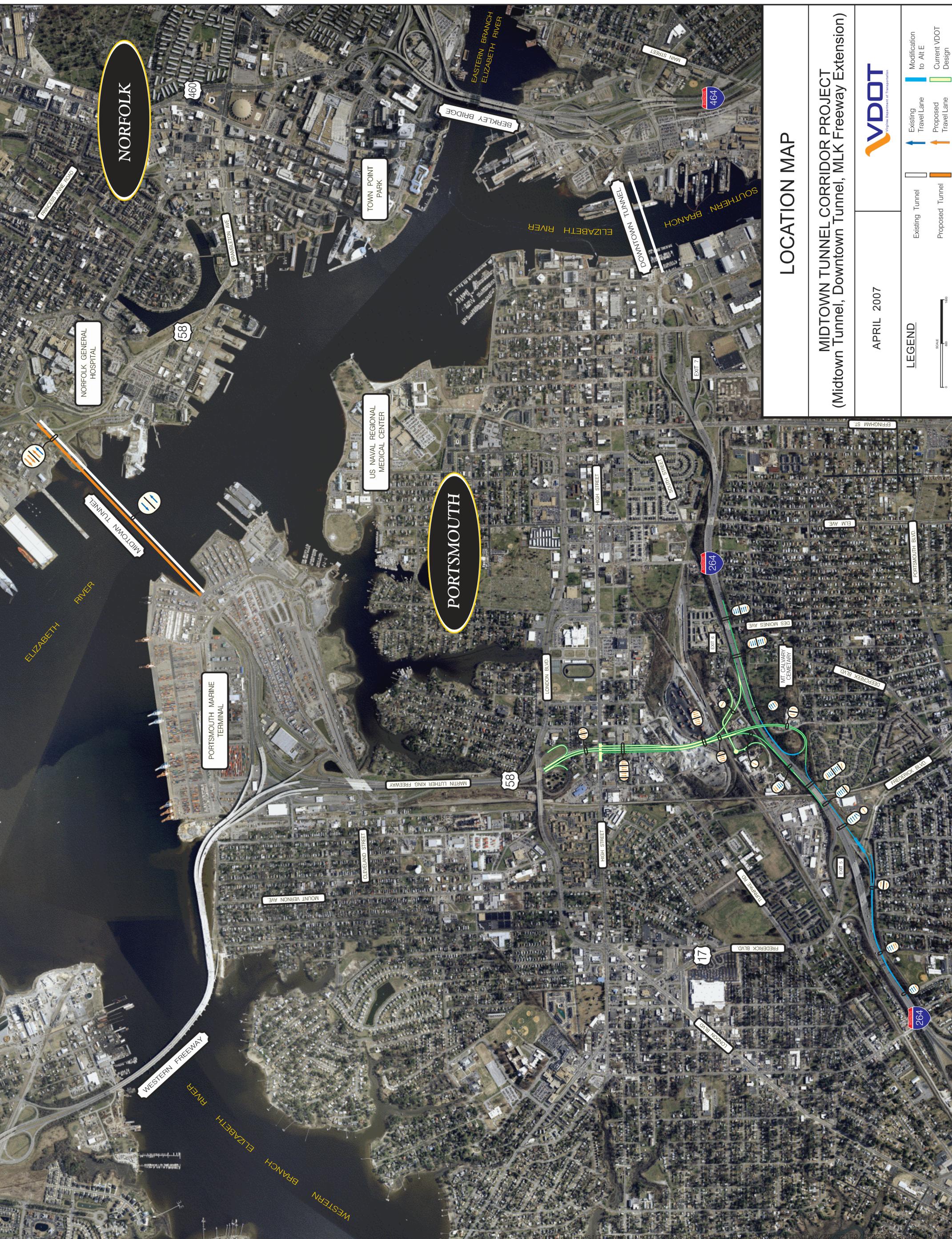
Although HRTA was established to impose taxes and fees to support transportation projects in the region, a February 2008 Virginia Supreme Court decision found that authorities of this type could not impose taxes.

Furthermore, the HRTA was designated a “responsible public entity” as defined in the Public-Private Transportation Act of 1995 (§ 56-556 et seq.). The HRTA was directed to phase construction of the transportation projects included in the federally mandated 2030 Regional Transportation Plan, or any successive plan. First Phase projects include:

- Route 460 Upgrade;
- I-64 Widening on the Peninsula;
- I-64 Widening on the Southside;
- Downtown Tunnel/Midtown Tunnel/MLK Freeway Extension;
- Southeastern Parkway/Dominion Blvd/Route 17;
- I-664 Widening in Newport News;
- I-664 Widening on the Southside;
- I-664 Monitor Merrimac Memorial Bridge Tunnel Widening.

Second Phase projects include:

- I-564 from I-64 to the Intermodal Connector;
- I-564 Connector to the Monitor Merrimac Memorial Bridge Tunnel;
- Craney Island Connector.



NORFOLK

PORTSMOUTH

LOCATION MAP

MIDTOWN TUNNEL CORRIDOR PROJECT
 (Midtown Tunnel, Downtown Tunnel, MLK Freeway Extension)

APRIL 2007



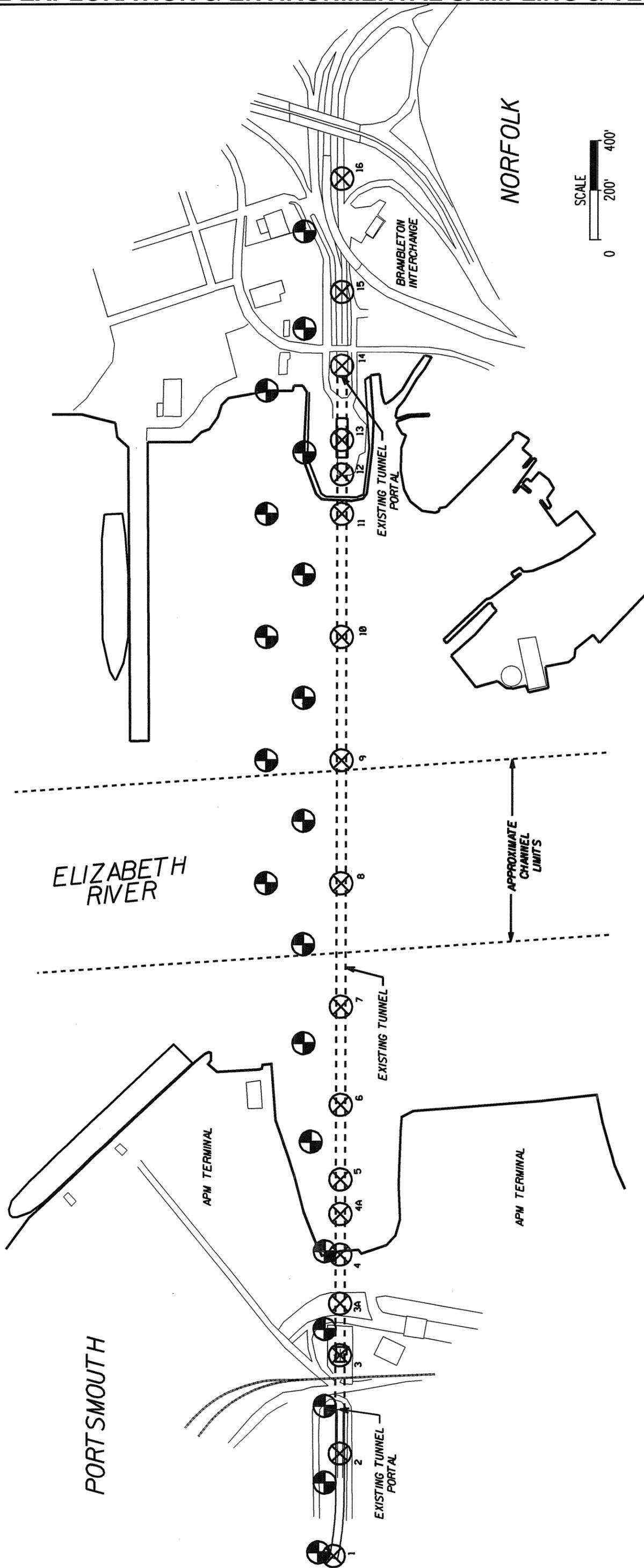
LEGEND

- Existing Tunnel
- Proposed Tunnel
- Existing Travel Lane
- Proposed Travel Lane
- Modification to A/E
- Current VDOT Design



LEGEND

- ⊗ ORIGINAL BORING LOCATION (CIR.1961)
- ⊕ PROPOSED BORING LOCATION



MIDTOWN TUNNEL PRELIMINARY TEST BORING LOCATION PLAN

APPENDIX E

Confidentiality Agreement

This Confidentiality Agreement ("Agreement") is made and entered into as of _____, 200__ (Effective Date) by and between the Virginia Department of Transportation (VDOT), the address of which Department is 1401 East Broad Street, Richmond, Virginia 23219, and [RECIPIENT] ("Recipient") with its principal place of business at_____.

WHEREAS, VDOT is the owner of confidential & proprietary records and other information relative to the Downtown Tunnel/Midtown Tunnel/MLK Extension Project (hereinafter "Records");

WHEREAS, such Records have been determined by VDOT to be exempt from disclosure under the Freedom of Information Act (FOIA - §2.2-3700 et seq.) and are being disclosed to Recipient only under the terms and conditions of this Agreement;

WHEREAS, both parties to this Agreement consider the disclosure of Records to Recipient to be necessary and desirable for the purpose of facilitating discussion and evaluation of proposals filed for contracts to be awarded under the Public-Private Transportation Act of 1995, as amended (the Act, or PPTA) and/or other related activities; and

WHEREAS, this Agreement is being entered into by and between the parties in order to protect the confidentiality and non-disclosure of Records by Recipient.

NOW, THEREFORE, the parties agree as follows:

1. **Records.**

A. VDOT and/or its consultant, contractor, offeror, etc., propose to disclose certain of its Records to Recipient. Records shall include (i) memoranda, staff evaluations, or other records prepared by or for VDOT for the evaluation and negotiation of proposals filed under PPTA; and (ii) any other documents or records otherwise exempt from public disclosure by VDOT procurement and applicable Law..

B. Records shall also include such information disclosed or submitted, orally, in writing, or by any other media, to Recipient by VDOT and/or consultants. Nothing herein shall require VDOT to disclose any of its information.

2. Recipient's Obligations.

A. Recipient agrees that the Records are to be considered confidential and proprietary to VDOT and Recipient shall hold the same in confidence, shall not use the Records other than for the purposes of its business with VDOT, and shall disclose it to no one, except officers, employees or consultants of Recipient who have agreed to observe the terms of this Agreement and for whom Recipient shall ensure compliance with the Agreement. Recipient will not disclose, publish or otherwise reveal any of the Records received from VDOT and/or its agent to any other party whatsoever except with the specific prior written authorization of VDOT.

B. Ownership of the Records. All Records are and remain the property of VDOT. Records furnished in tangible form shall not be duplicated by Recipient. Upon VDOT's written request, Recipient shall return all Records received in written or tangible form, including copies, or reproductions and any notes or memoranda of conversations relating thereto, including any copies thereof or other media containing such Records, within ten (10) calendar days of such request. At Recipient's option and VDOT's approval, any documents or other media developed by Recipient containing Records may be destroyed by Recipient. Recipient shall provide VDOT's authorized Point of Contact (POC) a notarized affidavit certifying destruction of such Records within ten (10) calendar days thereafter.

3. Term of Agreement and Termination Requirements.

The obligations of Recipient under this Agreement shall begin on the Effective Date of this agreement. Obligations will be in effect in continuum unless terminated earlier by both parties, with written and signed notice of termination executed. Upon expiration or termination of this Agreement, Records as defined in Section 1 of this agreement and all copies thereof made by Recipient will be returned to VDOT within ten (10) calendar days. Further, the obligation not to disclose shall not be affected by bankruptcy, receivership, assignment, attachment or seizure procedures, whether initiated by or against Recipient, nor by the rejection of any agreement between VDOT and Recipient, by a trustee of Recipient in bankruptcy, or by the Recipient as a debtor-in-possession or the equivalent of any of the foregoing under the Code of Virginia.

4. Governing Law and Equitable Relief.

This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Virginia and Recipient consents to the exclusive jurisdiction of the State courts located there for any dispute arising out of this Agreement. Recipient agrees that in the event of any breach or threatened breach by Recipient, VDOT may obtain, in addition to any other legal remedies which may be available, such equitable relief as may be necessary to protect VDOT against any such breach or threatened breach.

5. Limitations on Confidentiality.

A. Nothing in this Agreement shall be interpreted as placing any obligation of confidentiality and nonuse by Recipient with respect to any information that:

1. is or becomes publicly available to Recipient without breach of this Agreement; if rightfully received by Recipient without obligations of confidentiality;
2. can be demonstrated to have been in the public domain as of the Effective Date of this Agreement, or legitimately comes into the public domain through no fault of the Recipient;
3. can be demonstrated to have been known to the Recipient prior to execution of this Agreement and was not acquired, directly or indirectly, from VDOT or from a third party under a continuing obligation of confidentiality;
4. is required to be disclosed pursuant to law or court order; provided that Recipient provides prior notice to VDOT and provides sufficient time to VDOT to assert any exclusions or privileges that may be available by law; or
5. is developed by Recipient without breach of this Agreement; provided, however, such Records shall not be disclosed until thirty (30) days after written notice of intent to disclose is given to VDOT's POC along with the asserted grounds for disclosure.

B. The Recipient will forward all written or oral requests for disclosure of Records to VDOT immediately upon receiving said request. .

C. This Agreement terminates and supersedes all prior understandings or agreements, oral or written, between VDOT and Recipient relating to the subject matter of this Agreement. This Agreement may not be changed, modified, or discharged, released, abandoned, or otherwise terminated in whole or in part, except by an instrument in writing signed by a duly authorized representative of VDOT and Recipient.

D. Recipient may not sell, assign, or transfer, either voluntarily or by operation of law this Agreement or any interest herein without VDOT's express prior written consent. This Agreement shall inure to the benefit of and shall be binding upon VDOT and Recipient and VDOT's and Recipient's respective successors and permitted assigns.

6. **Severability.**

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

7. **Notices.**

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the designated VDOT POC named below by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services.

Mr. Raymond Partridge
Innovative Project Delivery Division
Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219

8. **No Implied Waiver.**

Either party's failure to insist in any one or more instances upon strict performance by the other party of any of the terms of this Agreement shall not be construed as a waiver of any continuing or subsequent failure to perform or delay in performance of any term hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date above written.

VDOT's Designated Representative

Date

Recipient's Designated Representative

Date



APPENDIX F
Critical Infrastructure Information/Sensitive Security Information (CII/SSI)
Multi-Purpose Non-Disclosure Agreement

Retain a copy of all pages of this form for future reference

VDOT requires CII/SSI be protected and not disclosed to unauthorized persons.

PART A: To Be Completed By Individual VDOT or Company Employee

I agree with the following as a condition of being granted access to CII/SSI:

CII/SSI, which is valuable and sensitive, is protected by law and by strict VDOT policies. The intent of these laws and policies is to assure that CII/SSI will remain confidential - that is, it will be used only as necessary to accomplish VDOT's mission. Disclosure of CII/SSI in any manner that permits interception by unauthorized persons could compromise safety and security and is prohibited. CII/SSI may be released only to persons with a need-to-know.

exclusion from further VDOT related work; and legal liability. My obligations with respect to the confidentiality and security of all CII/SSI disclosed to me shall survive the termination of any agreement or relationship with VDOT. My execution of this agreement shall not nullify or affect in any manner any other agreement, non-disclosure or otherwise, which I have executed or may execute with VDOT or the Commonwealth of Virginia.

I might have access to this information in various formats including but not limited to documents and drawings, physical structures, and computer based systems. I have no right or ownership interest in any VDOT CII/SSI. VDOT may at any time revoke my authorization allowing access to CII/SSI.

I am obligated to protect this information from unauthorized disclosure in accordance with the terms of this agreement. I will only use CII/SSI that I obtain to perform my legitimate VDOT related duties. I will conduct myself in a strict conformance to applicable laws and VDOT policies governing CII/SSI. I will safeguard the confidentiality of all CII/SSI at all times. I will be responsible for my misuse or my wrongful disclosure of CII/SSI.

Willful violation of this agreement may subject me to discipline which might include, but is not limited to, removal from current VDOT projects;

Each provision of this agreement is severable. If any administrative or judicial tribunal should find any provision of this agreement to be unenforceable, all other provisions shall remain in full force and effect.

I make this agreement in good faith, without mental reservation or purpose of evasion.

Printed Name	Date
VDOT District/Division OR Company Name	Phone Number
Company Address	
Signature	Signature of Authorized Agent (Not required for VDOT employees)

PART B: To Be Completed By Company Agent Only:

In addition to the provisions above, I certify:

All employees of this company involved with this VDOT project, regardless of location, who will have access to CII/SSI, myself included, will complete Part A of the Critical Infrastructure Information/Sensitive Security Information Multi-Purpose Non-Disclosure Agreement. The Agreement will be signed by me and accepted by VDOT prior to being granted access to CII/SSI. We will only access CII/SSI for which we have a need-to-know.

We will safeguard the confidentiality of all CII/SSI at all times. We will conduct ourselves in strict conformance to applicable laws and VDOT policies governing CII/SSI. Obligations with respect to the confidentiality and security of all CII/SSI disclosed to us shall survive the termination of any agreement or relationship with VDOT.

Authorized Company Agent:

Signature of Authorized Agent	Date
Printed Name	Title
Company Name	Phone Number
Company Address	
VDOT Contract Name and Number	

This form is valid for the identified project for a period of two years, while employed by the same company.

APPENDIX F



Critical Infrastructure Information/Sensitive Security Information (CII/SSI) Multi-Purpose Non-Disclosure Agreement

Handling CII/SSI

In accordance with applicable law and the Virginia Department Transportation CII/SSI Guide as in effect from time to time.

You are responsible for safeguarding Critical Infrastructure Information/Sensitive Security Information (CII/SSI) in your custody or under your control.

The extent of protection afforded CII/SSI shall be sufficient to reasonably foreclose the possibility of its loss or compromise.

The terms of this clause (*Handling CII/SSI*), including this paragraph, must be included in any dissemination of any document, in whole or in part, that contains CII/SSI.

Protection - CII/SSI shall be protected at all times, either by appropriate storage or having it under the personal observation and control of a person authorized to receive it. Each person who works with protected CII/SSI is personally responsible for taking proper precautions to ensure that unauthorized persons do not gain access to it.

Use and Storage - During working hours, reasonable steps shall be taken to minimize the risks of access to CII/SSI by unauthorized personnel. After working hours, CII/SSI shall be secured in a secure container, such as a locked desk, file cabinet or facility where contract security is provided.

Reproduction - Documents or material containing CII/SSI may be reproduced to the minimum extent necessary consistent with the need to carry out official duties provided that the reproduced material is marked and protected in the same manner as the original material.

Disposal - Material containing CII/SSI shall be disposed of by any method that prevents unauthorized retrieval (e.g. shredding, burning, returning to original source, etc.).

Transmission - CII/SSI shall be transmitted only by VDOT courier, US first class, express, certified or registered mail, or through secure electronic means.

APPENDIX F

Downtown Tunnel/Midtown Tunnel/MLK Extension Project FTP Site – Electronic Data Storage CII/SSI Information Sheet

The information contained within the FTP site relating to the “Downtown Tunnel/Midtown Tunnel/MLK Extension Project” is considered Critical Infrastructure Information (CII) and/or Sensitive Security Information (SSI) as addressed under Virginia Code 2.2-3705.2 and the Virginia Department of Transportation (VDOT) CII/SSI Guide Version 6.0 March 2006 and is intended for authorized users only, who have been granted access to the CII/SSI information contained therein.

Virginia Code 2.2-3705.2 exempts specific information from the Virginia Freedom of Information Act. Specifically Virginia Code 2.2-3705.2, subsections 3, 4, and 6 as listed below, individually or collectively pertain to the information contained within the FTP site relating to the “Downtown Tunnel/Midtown Tunnel/MLK Extension Project”.

Subsection 3. Documentation or other information that describes the design, function, operation or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.

Subsection 4. Plans and information to prevent or respond to terrorist activity, the disclosure of which would jeopardize the safety of any person, including (i) critical infrastructure sector or structural components; (ii) vulnerability assessments, operational, procedural, transportation, and tactical planning or training manuals, and staff meeting minutes or other records; and (iii) engineering or architectural records, or records containing information derived from such records, to the extent such records reveal the location or operation of security equipment and systems, elevators, ventilation, fire protection, emergency, electrical, telecommunications or utility equipment and systems of any public building, structure or information storage facility, or telecommunications or utility equipment or systems. The same categories of records of any governmental or nongovernmental person or entity submitted to a public body for the purpose of antiterrorism response planning may be withheld from disclosure if such person or entity in writing (a) invokes the protections of this subdivision, (b) identifies with specificity the records or portions thereof for which protection is sought, and (c) states with reasonable particularity why the protection of such records from public disclosure is necessary to meet the objective of antiterrorism planning or protection. Such statement shall be a public record and shall be disclosed upon request. Nothing in this subdivision shall be construed to prohibit the disclosure of records relating to the structural or environmental soundness of any building, nor shall it prevent the disclosure of information relating to any building in connection with an inquiry into the performance of that building after it has been subjected to fire, explosion, natural disaster or other catastrophic event.

Subsection 6. Engineering and architectural drawings, operational, procedural, tactical planning or training manuals, or staff meeting minutes or other records, the disclosure of which would reveal surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational and transportation plans or protocols, to the extent such disclosure would jeopardize the security of any governmental facility, building or structure or the safety of persons using such facility, building or structure.

Recipients of information on the FTP site shall be required to execute a CII/SSI Multi-Purpose Non-Disclosure Agreement in accordance with CII/SSI Guide. That Agreement includes, among other things, the following undertaking by the recipient:

“Willful violation of this agreement may subject me to discipline which might include, but is not limited to, removal from current VDOT projects; exclusion from further VDOT related work; and legal liability. My obligations with respect to the confidentiality and security of all CII/SSI disclosed to me shall survive the termination of any agreement or relationship with VDOT”.

Any unauthorized use or misuse of the FTP site or CII/SSI information contained therein or using the CII/SSI information contained therein outside the scope of work may result in the above listed VDOT sanctions and/or prosecution under Virginia Code or Federal laws pertaining to CII/SSI.

In accordance with VDOT’s CII/SSI Guide Version 6.0 March 2006, the following handling, storage and reproducing requirements will be followed;

- CII/SSI shall be protected at all times, either by appropriate storage or having it under the personal observation and control

This form is valid for the identified project for a period of two years, while employed by the same company.

APPENDIX F

of a person authorized to receive it. Each person who works with protected CII/SSI is personally responsible for taking proper precautions to ensure that unauthorized persons do not gain access to it.

- During working hours, reasonable steps shall be taken to minimize the risks of access to CII/SSI by unauthorized personnel. After working hours, CII/SSI shall be stored in a secure container, such as a locked desk, file cabinet or facility where contract security is provided.
- CII/SSI shall be transmitted only by VDOT courier; US first class, express, certified or registered mail, or through secure electronic means.
- CII/SSI in electronic format should be released in a protected format such as a locked PDF or password protected WORD document.
- Material containing CII/SSI shall be disposed of by any method that prevents unauthorized retrieval and in accordance with established records retention policy.
- Documents or materials containing CII/SSI may be reproduced to the minimum extent necessary to carry out official duties provided that the reproduced material is marked and protected in the same manner as the original material.

Please refer to the CII/SSI Guide for additional guidance as to the use and handling of CII/SSI.

Additionally, the following guidelines for releasing documents designated as CII/SSI will be adhered to; No CII/SSI information will be released to anyone who has not been granted access by VDOT to the CII/SSI information. If a need arises that CII/SSI information needs to be released, the VDOT project manager for the “Downtown Tunnel/Midtown Tunnel/MLK Extension Project” will be notified and the appropriate Non Disclosure Agreement (NDA) form will be completed and signed in addition to the requestor of the CII/SSI information receiving a copy of this informational sheet, prior to the release of the CII/SSI information.

APPENDIX G

**Certification Regarding Debarment
Lower Tier Covered Transactions**

Project: Downtown Tunnel/Midtown Tunnel/MLK Extension Project

- 1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

- 2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the Offeror for contracts to be let by the Commonwealth Transportation Board.

Signature Date Title

Name of Firm

APPENDIX H

RESUME FORM

Brief Resume of Key Personnel/Offeror's team members anticipated for this project.
a. NAME & TITLE:
b. PROJECT ROLE:
c. NAME OF FIRM WITH WHICH ASSOCIATED:
d. YEARS EXPERIENCE: With this firm: With other firms: In role as stated in letter "b":
e. EDUCATION: Educational Institution: Degree(s): Year: Specialization:
f. ACTIVE REGISTRATION: Year First Registered: Discipline: Location of Registration:
g. CERTIFICATIONS:
h. EXPERIENCE AND QUALIFICATIONS RELEVANT TO THE PROPOSED PROJECT:

APPENDIX J
Risk Register 1 – Risks that have Potential Consequence BEFORE the Financial Closing Date

Risk category	Risk topic	Project Risk/opportunity - Offeror to describe Project risk regardless of contemplated allocation under Agreement	Assignment (V, C, S)	Potential consequence to the Project BEFORE Close of Finance	Severity (H,M,L)	Probability (H,M,L)	Offeror's strategy to mitigate Project risk (and/or where appropriate Offeror's suggestion for VDOT action to mitigate Project risk)
1 Planning / Approvals	1.1 Permitting and approvals						
	1.2 MPO/FHWA approvals						
	1.3 Navigable waters						
	1.4 Other						
2 Legislative / Policy	2.1 Legislative change						
	2.2 Regional/ Local support						
	2.3 Political/policy change						
	2.4 Public information and relations						
	2.5 Other						
3 Commercial	3.1 Public funding						
	3.2 Contract failure / dispute						
	3.3 Market interest						
	3.4 Tolling potential						
	3.5 Traffic and revenue						
	3.6 Cost/availability of finance						
	3.7 General economic conditions						
	3.8 Construction inflation						
	3.9 Bonding and insurance						
	3.10 Competing Facilities						
	3.11 Connecting Facilities						
	3.12 Other commercial opportunities						
	3.13 Other						
4 Environmental	4.1 NEPA Process						
	4.2 Permitting						
	4.3 Hazardous materials						
	4.4 Historic/Cultural Resources						
	4.5 Other						
5 ROW / Utilities	5.1 Unknown utilities						
	5.2 Uncooperative utilities						
	5.3 ROW Acquisition						
	5.4 Other						
6 Design	6.1 Project scope						
	6.2 Design criteria and Technical Provisions						

APPENDIX J

Risk Register 1 – Risks that have Potential Consequence BEFORE the Financial Closing Date

Risk category	Risk topic	Project Risk/opportunity - Offeror to describe Project risk regardless of contemplated allocation under Agreement	Assignment (V, C, S)	Potential consequence to the Project BEFORE Close of Finance	Severity (H,M,L)	Probability (H,M,L)	Offeror's strategy to mitigate Project risk (and/or where appropriate Offeror's suggestion for VDOT action to mitigate Project risk)
	6.3 Reference information data						
	6.4 Design approvals						
	6.5 Technological obsolescence						
	6.6 Other						
7 Construction	7.1 Construction feasibility						
	7.2 Labor or material shortages						
	7.3 Differing site conditions						
	7.4 Construction specifications						
	7.5 QA/QC						
	7.6 Construction review / oversight						
	7.7 Worker health and safety						
	7.8 Navigation Impacts						
	7.9 Traffic management						
	7.10 Other						
8 Operations	8.1 Incident management						
	8.2 Operational standards						
	8.3 Capacity improvements						
	8.4 Tunnel security CII/SII						
	8.5 Tolling						
	8.6 Systems integration						
	8.7 Hazardous cargo						
	8.8 User incident rate						
	8.9 Other						
9 Maintenance	9.1 Maintenance standards						
	9.2 Latent defects in existing						
	9.3 Maintenance reserve account						
	9.4 Handover/Handback						
	9.5 Other						
10 Other	10.1						
	10.2						

Notes

- 1) Assignment of Risk is V = VDOT, C = Concessionaire, S = Shared
- 2) Severity and Probability H = High, M = Medium, L = Low

APPENDIX J
Risk Register 2 – Risks that have Potential Consequence AFTER the Financial Closing Date

Risk category	Risk topic	Project Risk/opportunity - Offeror to describe Project risk regardless of contemplated allocation under Agreement	Assignment (V, C, S)	Potential consequence to the Project AFTER Close of Finance	Severity (H,M,L)	Probability (H,M,L)	Offeror's strategy to mitigate Project risk (and/or where appropriate Offeror's suggestion for VDOT action to mitigate Project risk)
1 Planning / Approvals	1.1 Permitting and approvals						
	1.2 MPO/FHWA approvals						
	1.3 Navigable waters						
	1.4 Other						
2 Legislative / Policy	2.1 Legislative change						
	2.2 Regional/Local support						
	2.3 Political/policy change						
	2.4 Public information and relations						
	2.5 Other						
3 Commercial	3.1 Public funding						
	3.2 Contract failure / dispute						
	3.3 Market interest						
	3.4 Tolling potential						
	3.5 Traffic and revenue						
	3.6 Cost/availability of finance						
	3.7 General economic conditions						
	3.8 Construction inflation						
	3.9 Bonding and insurance						
	3.10 Competing facilities						
	3.11 Connecting facilities						
	3.12 Other commercial opportunities						
	3.13 Other						
4 Environmental	4.1 NEPA Process						
	4.2 Permitting						
	4.3 Hazardous materials						
	4.4 Historic/Cultural Resources						
	4.5 Other						
5 ROW / Utilities	5.1 Unknown utilities						
	5.2 Uncooperative utilities						
	5.3 ROW Acquisition						
	5.4 Other						
6 Design	6.1 Project scope						
	6.2 Design criteria and Technical Provisions						

APPENDIX J

Risk Register 2 – Risks that have Potential Consequence AFTER the Financial Closing Date

Risk category	Risk topic	Project Risk/opportunity - Offeror to describe Project risk regardless of contemplated allocation under Agreement	Assignment (V, C, S)	Potential consequence to the Project AFTER Close of Finance	Severity (H,M,L)	Prob-ability (H,M,L)	Offeror’s strategy to mitigate Project risk (and/or where appropriate Offeror’s suggestion for VDOT action to mitigate Project risk)
	6.3	Reference information data					
	6.4	Design approvals					
	6.5	Technological obsolescence					
	6.6	Other					
7 Construction	7.1	Construction feasibility					
	7.2	Labor or material shortages					
	7.3	Differing site conditions					
	7.4	Construction specifications					
	7.5	QA/QC					
	7.6	Construction review / oversight					
	7.7	Worker health and safety					
	7.8	Navigation Impacts					
	7.9	Traffic management					
	7.10	Other					
8 Operations	8.1	Incident management					
	8.2	Operational standards					
	8.3	Capacity improvements					
	8.4	Tunnel security CII/SSI					
	8.5	Tolling					
	8.6	Systems integration					
	8.7	Hazardous cargo					
	8.8	User incident rate					
	8.9	Other					
9 Maintenance	9.1	Maintenance standards					
	9.2	Latent defects in existing					
	9.3	Maintenance reserve account					
	9.4	Handover/Handback					
	9.5	Other					
10 Other	10.1						
	10.2						

Notes

- 1) Assignment of Risk is V = VDOT, C = Concessionaire, S = Shared
- 2) Severity and Probability H = High, M = Medium, L = Low

APPENDIX K

Website Links

Virginia Department of Transportation, Public-Private Transportation Act:

<http://www.virginiadot.org/business/ppta-default.asp>

Midtown Tunnel Corridor Project Webpage

<http://www.virginiadot.org/midtowntunnel>

This webpage will contain project information to include, but not limited to the following:

- GIS Database Instructions
- 1996 Route 58/Midtown Tunnel Final EIS
- 1996 Route 58/Midtown Tunnel 1997 Record of Decision
- Revised Midtown Record of Decision, July 2007
- FHWA Conditionally Approved Interstate Justification Report Letter, December 2007
- FHWA Conditionally Approved Interstate Justification Report, June 2007
- MLK Freeway Extension Conceptual Design Report
- Value Engineering Study, December 2007
- Project History
- Local Development
- ULI Advisory Services Report

Any additional information received that is not deemed CII/SSI will be posted on this page such as the Environmental Assessment for MLK Freeway Extension.

National Fire Protection Association Standard 502 (NFPA 502)

http://www.nfpa.org/freecodes/free_access_agreement.asp?id=50208

U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system or the United States Environmental Protection Agency/Department of Energy's "Energy Star" rating

http://www.governor.virginia.gov/initiatives/ExecutiveOrders/2007/EO_48.cfm

FHWA Innovative Finance

<http://www.fhwa.dot.gov/innovativefinance/index.htm>

FHWA Construction Program Management and Inspection Guide

<http://www.fhwa.dot.gov/construction/cpmi04tc.htm>