



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

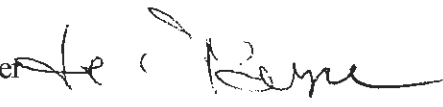
April 25, 2014


TO: Senator Kathy Harrington
NC Senate
16 W. Jones St., Room 2113
Raleigh, North Carolina 27601-2808

Representative Frank Iler
NC House of Representatives
300 N. Salisbury Street, Room 637
Raleigh, North Carolina 27603-5925

Senator Bill Rabon
NC Senate
16 W. Jones Street, Room 2108
Raleigh, North Carolina 27601-2808

Representative John A. Torbett
NC House of Representatives
300 N. Salisbury Street, Room 538
Raleigh, North Carolina 27603-5925

FROM: David Tyeryar
Chief Financial Officer 

Rodger Rochelle 
NCDOT Technical Services Administrator

In accordance with NCGS 136-18(39a)(f)(5), the Department of Transportation respectfully submits the attached report to the Joint Legislative Transportation Oversight Committee regarding the I-77 Managed Lanes Public Private Partnership in Mecklenburg and Iredell Counties.

Please feel free to contact David Tyeryar at 919-707-4320 or Rodger Rochelle at (919) 707-2901 with any questions.

Attachment

cc: Anthony Tata, Secretary of Transportation
Nick Tennyson, Chief Deputy Secretary
Keith Weatherly, Deputy Secretary for Legislative Affairs and Policy (w)
Jason Soper, Legislative Director (w)
Amna Cameron, Fiscal Research (w)
Clayton Somers, Executive Director, North Carolina Turnpike Authority (w)

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I-77 HOT Lanes Project
Report to the North Carolina Joint Legislative Transportation Oversight Committee
April 25, 2014

This report is delivered to address the requirements of N.C.G.S. Section 136-18(39a)(f)(5).

I. Project description

In 2009, the North Carolina Department of Transportation (NCDOT), in cooperation with the Mecklenburg-Union Metropolitan Planning Organization (MUMPO), conducted a Fast Lanes Study that analyzed 12 corridors in a 10 county region. The Charlotte City council identified the I-77 corridor in Charlotte-Mecklenburg as a candidate for High Occupancy Toll (HOT) lanes, also known as managed lanes.

The I-77 corridor is critical to the region as it serves as the major North-South connection and is the only interstate connection between Charlotte and Statesville and points north. The I-77 HOT Lanes Project (Project) is critical for providing immediate travel time relief, long term travel time reliability, long-term mobility and long-term economic growth in the region. Between 2000 and 2010, Mecklenburg and Iredell Counties have grown at a rate approximately 50% above the rate of growth statewide and the rate of growth in the northern towns along this corridor have grown at a rate of roughly 60% higher than the rate of growth for Mecklenburg County. This growth has rendered the I-77 corridor one of the most congested corridors in the state, with travel time delays ranging upwards to 45 minutes. The Project scope outlined below provides a comprehensive congestion management solution for approximately 26 miles of the I-77 corridor through the use of HOV3+ policy and managed lanes and supports future expansion of transit. The Project implements managed lanes through a public-private partnership (P3). See Appendix 1 for a map of the Project corridor.

Section	HOT Lanes Per Direction	Section Limits
South	2	2.5 miles on I-77 from Exit 11 to Exit 13 and 1.25 miles on I-277 with direct managed lanes connector to I-277
Central	2	15 miles from Exit 13 (I-77/I-85 interchange) to Exit 28 (Catawba Avenue)
North	1	8 miles from Exit 28 to Exit 36 (NC 150)

Managed lanes give drivers a choice to pay a toll to avoid waiting in traffic, while helping ease congestion on the free lanes for other drivers. The proposed I-77 project includes converting the existing High Occupancy Vehicle (HOV) lanes and adding capacity to the roadway. The existing HOV lanes and new lanes will be High Occupancy managed lanes that allow free use for eligible carpoolers (three passengers or greater known as HOV3+), buses, and motorcyclists, while allowing other drivers to pay a toll to use those lanes. Tolls will vary to control the

number of vehicles in the managed lanes and help ensure free-flowing traffic (within 10 mph of the posted speed limit) even during morning and evening rush hours. The price will be higher during peak periods when demand is greater, and lower during less congested periods. Drivers will always have the choice to use free lanes to avoid paying a toll. This project will not remove any existing general purpose lanes.

The Developer will utilize all-electronic tolling technology that is interoperable with NC Quick Pass, SunPass and E-ZPass. HOV3+ vehicles, Charlotte Area Transit System (CATS) buses, motorcycles and emergency vehicles are exempt from paying tolls, while commercial trucks are prohibited from using the managed lanes. A number of other states including Virginia, Florida, Texas, Colorado and California are already using managed lanes.

II. Number of years that tolls will be in place

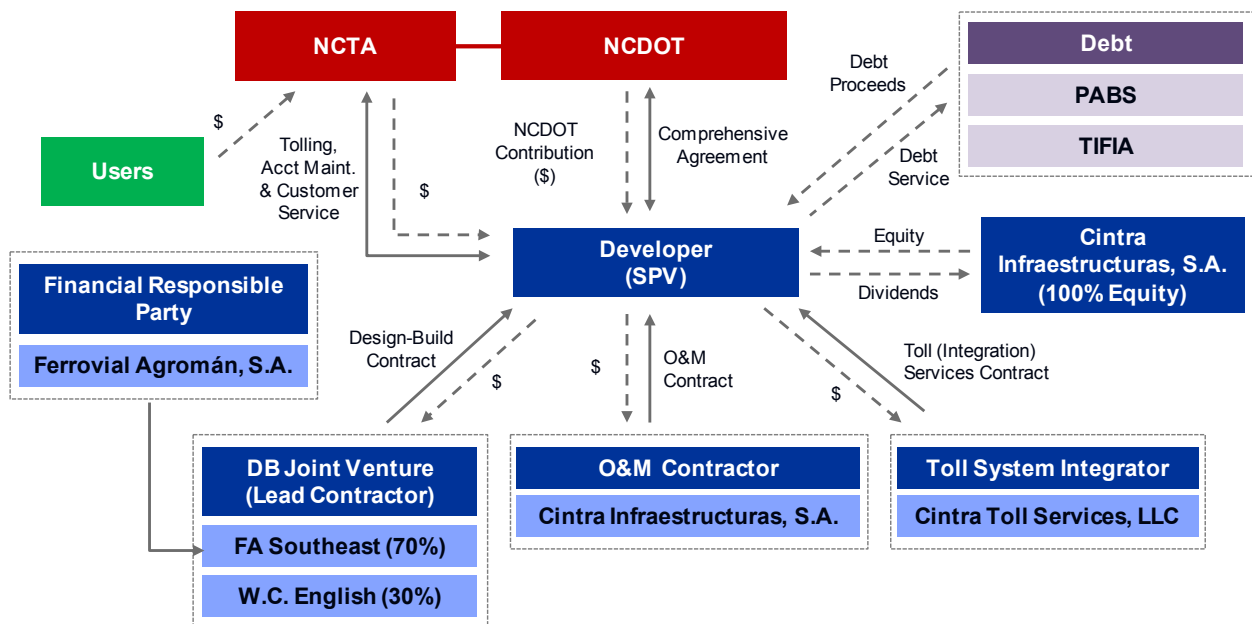
The Developer is responsible for the design, construction, financing, operations and maintenance of the Project. The construction period is estimated at 3.5 years to conclude in 2018, and the operations period will be 50 years to conclude in 2068. In February 2014, NCDOT signed a memorandum of understanding with the Federal Highway Administration (FHWA) approving the use of tolling for the Project.

During the 50-year operations period, the Developer will collect tolls using dynamic tolling and bear substantial revenue risk. Pursuant to N.C.G.S. 136-18(39a)(f)(3), the Developer will conduct a public hearing to address toll rates and toll setting methodology. The North Carolina Turnpike Authority (NCTA) will be responsible for toll collection, account maintenance and customer service. In exchange, NCTA will deduct specified transaction costs from each transaction prior to forwarding the revenue on to the Developer.

III. Name and location of firms and parent companies, if applicable, including firm responsibility and stake, and assessment of audited financial statements

The Apparent Best Value Proposer is Cintra Infraestructuras, S.A. (Cintra). Please see below for a summary of Cintra's team followed by the proposed organizational structure. See Appendix 2 for more details on financial capacity of the project team. It is important to note that numerous local and regional subcontractors, professional engineering firms, material suppliers and Disadvantaged Business Enterprise firms will be utilized in the design, construction, and maintenance of the facility.

Entity	Role	Location
Ferrovial Agromán	Financial Responsible Party of FA Southeast	US Headquarters: Austin, Texas
Cintra Infraestructuras, S.A.	100% Equity Member of the Developer and O&M Contractor	US Headquarters: Austin, Texas
FA Southeast, LLC	70% Equity Member of Design-Build Joint Venture	Austin, Texas
W.C. English	30% Equity Member of Design-Build Joint Venture	Lynchburg, Virginia
Cintra Toll Services, LLC	Toll System Integrator	Austin, Texas
The Louis Berger Group	Lead Design Firm	Morristown, New Jersey



IV. Analysis of firm selection criteria

Four potential bidders were shortlisted and participated in more than 70 one-on-one meetings with NCDOT. These meetings led to more than 10 drafts of the final contract documents, which laid out the instructions for bidding, design, construction, and maintenance performance requirements, and the overarching agreement. These documents reflect the minimum contract requirements and public protections that NCDOT requires. In addition, NCDOT stated that the maximum contribution from traditional state and federal funding would be capped at \$170 million.

Each of the four bidders conducted exhaustive analyses to determine if they could meet these contract requirements, while ensuring that the long term contract would generate enough revenue to offset their initial investment. Bidders to varying degrees requested additional state and federal funding beyond the \$170 million and/or requested relaxation of contract requirements. NCDOT continued its rigorous analysis of the project and determined that the \$170 million public contribution was a reasonable cap and that the public protections contained in the contract were prudent and would not be compromised.

By the proposal submission deadline of March 31, 2014, NCDOT received one proposal (from Cintra). From April 1 through April 10, NCDOT and its advisors evaluated the proposal against rigorous financial and technical criteria as stipulated in the Request for Proposals (RFP). Upon satisfying the more than 300 pass/fail and responsiveness criteria, Cintra was announced as the Apparent Best Value Proposer on April 11, 2014.

Evaluation of the financial proposal's pass/fail and responsiveness was based on 175 criteria, including:

- Financial capacity information (e.g. profitability, capital structure, ability to service existing debt, ability to invest other commitment and contingencies and material changes from the Statement of Qualifications (SOQ) evaluation, if applicable)
- Financial Plan sufficiency (e.g. Public Funds Amount and Developer Ratio Adjustment Mechanism (DRAM) affordability, execution of the Comprehensive Agreement, achievement of financial close, approval of lead underwriter and bond counsel)
- Indicative investment grade credit ratings from two rating agencies
- TIFIA facilities in accordance with the TIFIA term sheet
- Required commitment and/or support letter
- Assurance that private equity will be in place
- Compliance with federal toll regulation
- Letters of support from a qualified surety or bank/ financial institution
- Delivery and compliance of proposal security

Evaluation of the technical proposal's pass/fail and responsiveness was based on 129 criteria, including:

- Commitment to meeting goals for Disadvantaged Business Enterprise firms utilization
- Required administrative information, certifications, signed statements and documents
- General project management approach, design-build technical solutions, and operations and maintenance technical solutions
- Letter indicating acceptance of joint and several liability for Developer's obligations under the Comprehensive Agreement (CA) Documents (if applicable)
- Executed contracts or term sheets outlining the key commercial terms between the Proposer and 1) Design-Build Contractor; 2) Lead Operations and Maintenance (O&M) Contractor (as applicable)
- Statement that the Major Participants, including Equity Members, and key personnel listed in the Proposer's SOQ have not changed since the Proposer's submission of the SOQ, or a copy of NCDOT's written consent of any change

- NCDOT’s approval of the Pre-Proposal Submittals (e.g. alternative technical concepts, preliminary tolling plan, pavement designs, etc.)
- Conflict of Interest Disclosure Statement
- Certificates of insurance policies or written capability evidence from an insurance company(ies), broker(s) or agent(s) in accordance with the CA Documents

See Appendix 3 for more details on the evaluation process and evaluation criteria as described in the Instructions to Proposers (ITP).

V. Name of any firm or individual under contract to provide counsel or financial analysis to the Department or Authority. The Department shall disclose payments to these contractors related to completing the agreement under this subdivision

The procurement process has followed best practices to ensure that all requisite policy objectives and protections are upheld. The team of advisors assisting on NCDOT’s first competitive public-private partnership included legal, financial, and technical firms with expertise in similar transactions as noted below.

Role	Company Under NCDOT Contract	Payment (to date)
Commercial and Financial Advisor*	KPMG Corporate Finance LLC	\$3.39 million
Legal Advisor*	Nossaman LLP	\$2.30 million
Traffic and Revenue Advisor	Stantec	\$0.93 million
Technical Requirements Advisor	Parsons Brinckerhoff	\$4.24 million
Insurance Advisor*	Ames and Gough	\$0.01 million
Commercial, Legal, and Policy (prior)	Ray Strategies	\$0.24 million

*Includes payments made through previous contract with Ray Strategies

VI. Demonstrated ability of the project team to deliver the project, by evidence of the project team's prior experience in delivering a project on schedule and budget, and disclosure of any unfavorable outcomes on prior projects

Cintra is an internationally-recognized toll road concessionaire and operator with long-standing concessions and projects. All Cintra-managed P3 projects in the United States are toll road concessions and are a mix of existing toll roads and new construction (e.g. North Tarrant Expressway, LBJ Express, SH 130). In the U.S., Cintra has committed \$1.8 billion of equity and manages \$12 billion of direct private investment in infrastructure projects.

Cintra’s international experience includes the the Scut-Algarve (Portugal), M-45 (Spain) and M4-M6 (Ireland) projects, which were delivered 3, 4 and 10 months ahead of schedule. In addition to numerous submission requirements (technical and financial qualifications, personnel resumes, safety records, etc.), numerous reference checks on the Company, key personnel and management staff were conducted. These reference checks were performed focusing on client satisfaction, experience, professionalism and the ability to deliver the project on schedule and budget over at least a five year period. There were no unfavorable statements made regarding Cintra, the team, or their personnel during the course of these reference checks.

VII. Detailed description of method of finance, including sources of funds, State contribution amounts, including schedule of availability payments and terms of debt payments

A plan of finance demonstrates how the Developer plans to fund construction period costs as well as operating costs, major maintenance, working capital, debt service, and investor returns. Cintra is contributing 86% of project capital (\$315 million of private debt and \$234 million of private equity), while NCDOT is contributing \$88 million of public funds (14%). Cintra’s price to design, construct and acquire right of way is \$504 million, compared to NCDOT’s estimate of \$534 million.

The sources and uses of this total \$655.1 Million investment are outlined below.

Sources	\$m	%	Uses	\$m	%
Public Funds Amount (PFA)	88.2	13.5%	Construction	448.0	68.4%
Senior Debt (PABs)	100.0	15.3%	Right of Way (ROW)	5.4	0.8%
TIFIA Debt	215.0	32.8%	ITS	51.0	7.8%
TIFIA Capitalized Interest	16.5	2.5%	Overhead + Advisors	54.6	8.4%
Interest Income	1.2	0.2%	PABs Interest	17.8	2.7%
Equity	234.2	35.7%	TIFIA Capitalized Interest	16.5	2.5%
			Reserves	25.0	3.8%
			Equity LC and Fees	16.0	2.4%
			Bid Costs	20.8	3.2%
Total Sources	655.1	100.0%	Total Uses	655.1	100.0%

Highlights of Cintra's financial plan include the following:

- Cintra Infraestructuras, S.A. is committing 100% of the equity, backed by a letter of credit (LC) until funded in cash
- Excluding the Public Funds Amount (PFA), total leverage is 57%/43% (Debt/Equity) and represents a conservative structure in the P3 market. Ratio of total debt to total investment is 48%
- Weighted average cost of capital (WACC) at substantial completion is 7.4%
- Initial funding of reserves includes a \$10 million Debt Service Reserve and a \$15 million Major Maintenance Reserve
- NCDOT will be the conduit issuer for Private Activity Bonds (PABs) per USDOT guidelines, but not the debt obligor
- Bank of America Merrill Lynch and Citigroup will be lead underwriters for the PABs
- PABs and TIFIA received indicative ratings of BBB-/BBB (Fitch/DBRS)
- PABs average life is 22 years and duration is 13 years, assuming no refinancing
- PABs interest is paid in cash, while TIFIA interest is capitalized during construction
- No revenue is forecasted prior to substantial completion (June 30, 2018)
- Cintra has assumed refinancing (at its own risk) in the base case financial model

The requested PFA of \$88.2 million is below the anticipated maximum amount of \$170 million set by NCDOT. The PFA is subject to adjustment (up or down) at financial close to reflect the outcome of certain shared risks. (See section VIII).

In addition, NCDOT will pay Cintra a fixed fee of \$1 million per year (escalated for inflation) during the operations period to provide maintenance services within the corridor including the general purpose lanes adjacent to the new managed lanes. This is commensurate with current practice of the outsourced maintenance contract along this corridor, rather than a new expense.

A letter of interest (LOI) for the Project has been submitted to TIFIA and an indicative term sheet negotiated. The Project and proposed financial structure have received a favorable response to this point. Now that the Apparent Best Value Proposer has been determined, the Developer has been invited to make an oral presentation to TIFIA, scheduled for May 2014, at which time the Developer will further finalize the loan process.

VIII. Information on assignment of risk shared or assigned to State and private partner

A tenet of effective P3 delivery is that risks should be borne by the party best able to manage them. Accordingly, some risks are fully transferred to Cintra, some are shared between NCDOT and Cintra, and some are retained by NCDOT.

For the Project, major technical risks that will be borne by the Cintra include the following: schedule, permitting, design and construction, toll system integration and performance, operations and maintenance (O&M) performance of the managed lanes, routine O&M work on the general purpose (GP) lanes, and traffic and revenue risks. While Cintra is responsible for

routine O&M on the GP lanes, NCDOT retains responsibility for major capital rehabilitation work on the GP lanes, rendering pavement performance on the GP lanes a shared responsibility. NCDOT also retains responsibility for performing winter maintenance.

Terms of financing and responsibility to deliver committed financing rest largely with Cintra. However, prior to financial close, the following risks (and benefits) will be shared: base interest rate movements (PABs and TIFIA), credit spread movements (PABs), certain quantitative TIFIA terms, and escalation in the design-build price if financial close is delayed beyond a certain point. After financial close, NCDOT is eligible to receive revenue sharing payments from Cintra if toll revenues exceed predetermined levels and to benefit from certain refinancing gains.

Reference Appendix 4 for more details on risk allocation.

To satisfy the credit rating agencies (and in lieu of contributing additional public funds upfront), NCDOT has agreed to provide contingent funding called the Developer Ratio Adjustment Mechanism (DRAM), which may be paid to Cintra to cover shortfalls in operating costs and/or debt service if toll revenues are insufficient in a given period. Contingent DRAM funding is capped at \$75 million in aggregate and at \$12 million in any given year and is not projected to be needed in Cintra's base case financial model.

As a condition to commercial close, Cintra is required to post a letter of credit in the amount of \$15 million to secure its obligation to achieve financial close within 210 days from commercial close (subject to extension under certain circumstances). Prior to commencing construction work, Cintra must post performance security in the amount of 50% of the design-build contract price and a payment bond in the amount of 100% of the value of the design-build contract price.

In the unlikely case of an incurable Developer default, and if the lenders to the project are unable to bring in a replacement developer, NCDOT would be responsible for termination compensation in the amount of the lesser of (a) 80% of senior debt or (b) fair market value less NCDOT's damages from the default, which damages could be significant (e.g., additional costs to maintain and operate the project for the remainder of the contract term). The fair market value of the asset in this instance is likely to be lower than the base case value and such compensation regime is commensurate with other P3 transactions. Cintra's equity would likely be fully forfeited in this case.

IX. Information on the feasibility of finance as obtained in traffic and revenue studies

To support the deliverability of the finance plan, Cintra hired C&M Associates, an independent transportation consulting firm, to serve as the its Traffic and Revenue Advisor and to develop traffic and revenue forecasts of the managed lanes for the 50-year term of the concession. C&M developed its network model for the corridor using the Metrolina Regional Model (MRM) developed by the Mecklenburg-Union Metropolitan Planning Organization (MPO). C&M additionally used the MRM population and employment forecasts as the primary source for estimating traffic growth in the I-77 corridor. The model was calibrated using traffic counts, travel time data, and Bluetooth origin-destination data collected by Cintra and NCDOT.

Fitch, a prominent credit rating agency, reviewed the investment-grade C&M study and performed additional proprietary analysis to support an indicative investment grade credit rating of BBB-, which is consistent with transactions of this nature in the P3 industry.

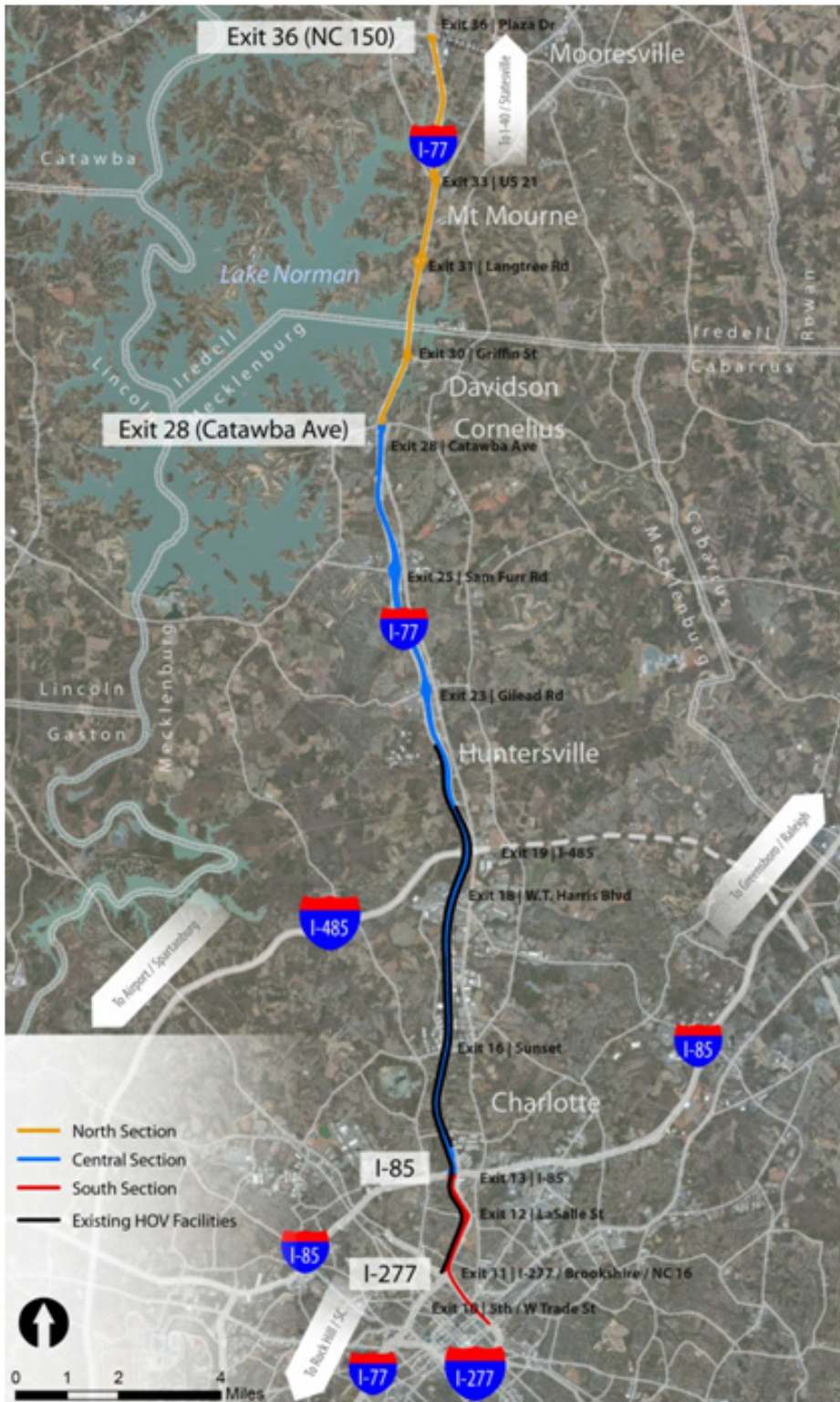
DBRS, a nationally recognized rating agency eligible for TIFIA, also reviewed the investment-grade C&M study and projections and assigned an indicative investment grade credit rating BBB/BBB low for PABs and TIFIA, respectively, further supporting the project’s capacity to repay its debt.

Next steps

Binding agreements will be accomplished in two phases: commercial close, then financial close. There are a number of interim steps along the way, summarized by the following target milestones:

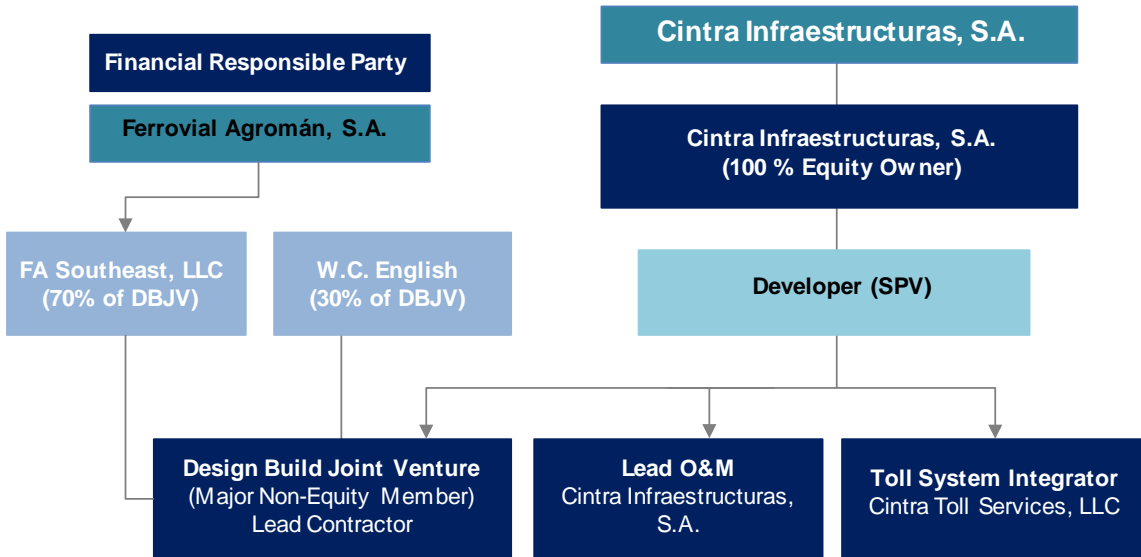
April 25, 2014	Submit report to Joint Legislative Transportation Oversight Committee
April 25, 2014	Submit report to Joint Legislative Commission on Governmental Operations
May 1, 2014	Kick-off meeting with Local Government Commission
May 15, 2014	First meeting with Cintra to finalize commercial close contracts
June 3, 2014	Second meeting with Cintra to finalize commercial close contracts
June 25, 2014	Anticipated commercial close
Summer 2014	Negotiation with TIFIA, finalization of credit ratings and consultants’ reports, preparation for PABs issuance
Q4 2014	Anticipated financial close

APPENDIX 1 TO I-77 JLTOC REPORT – Project Map



APPENDIX 2 TO I-77 JLTOC REPORT – Overview of Bid Team and Financial Capacity

Overview of Bid Team:



Equity Owners: Cintra Infraestructuras, S.A.

Financial Responsible Party: Ferroviál Agromán, S.A. (for FA Southeast)

Design Build Joint Venture: FA Southeast, LLC (backed by Ferroviál Agromán) and W.C. English Incorporated

Cintra Infraestructuras, S.A. (Cintra)

Cintra is a corporation formed in Spain, headquartered in Madrid, with a subsidiary branch office in Austin, Texas. The company will be the principal equity investor and party with the controlling interest in the consortium. Cintra will have 100% equity ownership of the project and primary responsibility for development, operations and maintenance, and ROW acquisition.

Financial capacity highlights include:

- For FY 2013, revenue growth was up 32% over FY 2012, while EBITDA margins remained stable at approximately 23%.
- FY 2013's strong performance was reflected through the higher than industry average ROE of 2.9% vs (3.8%), respectively.
- No credit ratings for Cintra exist. In May 2013, S&P raised the corporate credit rating of Cintra's parent company Ferroviál S.A. from a "BBB-" to a "BBB", outlook stable.
- The net profit for FY 2012 and FY 2013 were not comparable with FY 2011, due mainly to the impact of divestments which took place in 2011.

- As of December 13, 2013, the planned financial commitments for Cintra for the next five years are approximately \$379.0m (Currency conversion rate used is 1.38 as published by the European Central Bank as at 12/31/2013).
- November 2012: Cintra has been ranked world's number one transportation developer by invested capital, according to the magazine Public Works Financing (PWF). This ranking can be viewed in Public Works Financing number 275 from October 2012.

Ferrovial Agromán, S.A. (Ferrovial Agromán)

Ferrovial Agromán, founded in 1927, is a Spanish corporation headquartered in Madrid with its U.S. operations headquartered in Austin, Texas. The company will be the financial responsible party for FA Southeast, LLC in this project. Ferrovial Agromán is the parent company of FA Southeast, LLC. Both Cintra and Ferrovial Agromán are owned by Ferrovial S.A., a design, construction, financing, operation and maintenance firm which develops large-scale infrastructure projects.

Financial capacity highlights include:

- Ferrovial Agromán's operating margin grew consistently to 8.6% for FY 2013, from 5.9% in FY 2011. Operating margin for FY 2013 was higher than industry averages.
- Return on equity has remained consistently higher than industry average from FY 2011 to FY 2013.
- As of December 31, 2012, Ferrovial Agromán and its Dependent Companies had furnished bank guarantees totaling \$3.8b (\$4.2b in 2011). These were mainly required for construction contract performance security.
- Ferrovial Agromán for FY 2011-2013 has a significant amount of cash on hand which makes up a large portion of total current assets; the net cash position is comprised of mainly cash and bank balances and current accounts with related parties.

FA Southeast, LLC (FA Southeast)

FA Southeast was legally formed in 2010 (starting its operations in 2013) to provide civil engineering and construction management services in the design and construction of toll roads in the eastern U.S. The company is wholly owned by Ferrovial Agromán. FA Southeast has a 70% equity stake in the Project Design Build Joint Venture.

Financial capacity highlights include:

- FA Southeast's operations began in 2013.
- FA Southeast for FY 2013 has a significant amount of cash on hand which makes up a large portion of total current assets.
- Current ratio and quick ratio are in line with industry averages at around 1.0x for 2013. FA Southeast's operating margin was below industry average at 3.9% versus 5.8%.

W.C. English, Incorporated (English)

English, based in Lynchburg, Virginia, was incorporated in 1954 and provides construction services on a contract basis. English has a 30% equity stake in the Project Design Build Joint Venture.

Financial capacity highlights include:

- Financial statements were provided for FY 2010 - 2012, but were not available for FY 2013.
- Total revenues showed a 20.4% increase in FY 2012, whereas industry average revenue growth was only 9.4%.
- Total debt outstanding is minimal.
- EBITDA decreased from FY 2011 to FY 2012, but was higher than FY 2010. This was mainly due to increases in operating expenses over the same period.
- In 2012, various customers claimed liquidated damage liabilities of \$1.76 million against the company due to time overruns related to two contracts (FY 2011 recorded claimed liquidated damage liabilities of \$3.1 million related to six contracts). No further liability has been recorded nor have the related contract receivables been reduced since management believes that the probability of any loss in excess of the allowance for doubtful accounts is remote.

Appendix 3 - Evaluation Process and Criteria Excerpts from Instructions to Proposers

SECTION 5.0 EVALUATION AND DETERMINATION OF APPARENT BEST VALUE PROPOSER

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

The Proposal evaluation process will include an initial review of each Proposal (Technical Proposal and Financial Proposal) for responsiveness and pass-fail criteria, an evaluation of Volumes 1 and 2 of the Technical Proposal, an evaluation of the Financial Proposal and a best value determination. The steps in the process and evaluation criteria are set forth in Sections 5.2 through 5.10. The evaluation and selection process is subject to modification by NCDOT, in its sole discretion.

5.1 Organization of the NCDOT Evaluation Committees

Evaluation of Proposals will be conducted by NCDOT's Technical Review Committee ("TRC") and Financial Review Committee ("FRC"), with assistance from advisory groups, including an Administrative/Legal Advisory Group, a Technical Proposal Pass/Fail and Responsiveness Advisory Group, a Financial Proposal Pass/Fail and Responsiveness Advisory Group, a Technical Proposal Evaluation Advisory Group, and a Financial Proposal Evaluation Advisory Group.

The TRC and FRC will be comprised of representatives from NCDOT. The advisory groups will be comprised of representatives from NCDOT and other qualified individuals. The TRC and FRC may also be assisted by advisors, including NCDOT representatives and outside consultants who will offer advice on the technical, financial and legal aspects of each Proposal. The primary responsibility of these advisors will be to assist the TRC and FRC in making the educated and informed assessment of the individual strengths and weaknesses of the Proposals. In addition, observers from federal, state or other agencies with specific interests and responsibilities associated with the Project may be invited to observe aspects of the evaluation process. All evaluators and outside consultants and observers will be required to sign confidentiality statements and will be subject to NCDOT conflict of interest control requirements.

The review of the Financial Proposals and Technical Proposals will be done independently and may be done concurrently with one another. No NCDOT representative or advisor will be associated with both the TRC and FRC, with the exception of members of the Administrative/Legal Advisory Group.

5.2 Pass/Fail and Responsiveness Evaluation

Upon receipt, the Technical Proposals and the Financial Proposals will be made available for review by the relevant pass/fail and responsiveness advisory groups. They will be reviewed (a) for the Proposal's conformance to the RFP instructions regarding organization and format and responsiveness to the requirements set forth in the RFP and (b) based on the pass/fail criteria set forth below. Any Proposal that fails to achieve

a passing score on any of the pass/fail portions of the evaluation may be considered non-responsive and may not be eligible for recommendation for award. Responsiveness shall be assessed on the basis of overall responsiveness, with NCDOT retaining the sole discretion to disregard or waive minor irregularities, omissions, nonconformities and discrepancies.

Regarding the recommendations of the pass/fail and responsiveness advisory groups, the TRC and FRC may accept the recommendations provided by the advisory groups, may request the advisory groups to reconsider their recommendations, or may develop its own recommendations.

In the event that a Proposal contains or omits information that may potentially result in a “fail” determination, the Authorized Representative may request additional or clarifying information from Proposer prior to a final pass/fail determination.

Those Proposals not responsive to the RFP, or that do not pass the pass/fail criteria, may be excluded from further consideration, and the Proposer will be so advised. NCDOT may also exclude from consideration any Proposer whose Proposal contains a material misrepresentation. NCDOT reserves the right to waive minor informalities, irregularities, discrepancies, omissions and apparent clerical mistakes which are unrelated to the substantive content of the Proposals.

5.2.1 Technical Proposal Pass/Fail Evaluation

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

(a) The Proposer has provided an executed DBE Commitment Certification (Form G).

(b) The information, certifications, signed statements and documents as identified in Exhibit B, Section 7.0 are included in the Technical Proposal and do not identify any material adverse information.

(c) The Technical Proposal contains the required materials as identified in Exhibit B, Sections 4.0, 5.0 and 6.0.

(d) If Proposer anticipates execution of the CA by a special purpose entity, Proposer has delivered either (i) pro formas of the special purpose entity organizational formation documents (i.e. certificate of formation/charter, bylaws/partnership agreement/operating agreement or (ii) indicative term sheets of such organizational formation documents, in either case that will be used to establish the entity should NCDOT select it as Apparent Best Value Proposer.

(e) If the Developer is to be a partnership, a joint venture, or other form of legal entity with joint and several liability of its members, Proposer has provided a letter signed by each Equity Member and any other member who will make up the Developer

indicating they accept joint and several liability for Developer's obligations under the CA Documents.

(f) Proposer has delivered executed contracts, or if a contract has not been executed, detailed, signed term sheets or heads of terms outlining the key commercial terms, between the Proposer (or proposed Developer) and (as applicable):

- Design-Build Contractor; and
- Lead O&M Contractor (unless the Proposer or proposed Developer will self-perform at least thirty percent of the value of the O&M Work and expressly so indicates).

(g) Proposer has provided a statement that the Major Participants, including Equity Members, and key personnel listed in the Proposer's SOQ have not changed since the Proposer's submission of the SOQ, or the Proposer has previously advised NCDOT of a change, NCDOT has consented to such change, and the Proposal attaches a true and correct copy of NCDOT's written consent thereto.

(h) The Proposer has received NCDOT's approval of the Pre-Proposal Submittals.

(i) Proposer has delivered a properly completed and executed Conflict of Interest Disclosure Statement (Form I).

(j) Proposer has delivered either certificates of insurance policies evidencing proof of insurance coverages required by the CA Documents, or written evidence from an insurance company(ies), broker(s) or agent(s) indicating the signatories have read the CA Documents and insurance requirements set for the therein and that the entities required to obtain insurance under the CA Documents have the capability of obtaining such insurance in the coverages and under the conditions listed in the CA Documents.

5.2.2 Financial Proposals Pass/Fail Evaluation

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

(a) Based on the information furnished in response to Exhibit C, Section 4.0, Proposer's financial condition and capabilities shall not have materially adversely changed from its financial condition and capabilities as evidenced by the financial and other data submitted in the SOQ, such that Proposer continues to have the financial capacity to develop, design, construct, operate, and maintain a project of the nature and scope of the Project. Factors that will be considered in evaluating Proposer's financial capacity include the following:

- i. Profitability;
- ii. Capital structure;

- iii. Ability to service existing debt;
- iv. Ability to invest equity; and
- v. Other commitments and contingencies.

If NCDOT determines that a Proposer no longer appears to have the financial capability to fulfill its obligations under the CA Documents, it may offer Proposer the opportunity to meet the financial requirement through one or more Guarantors acceptable to NCDOT.

(b) Proposer's Financial Proposal demonstrates the following:

- i. that it identifies sufficient financing for the Project, including all design, construction, operation, maintenance and Renewal Work;
- ii. that it is sufficiently developed and (1) has attracted sufficient commitment and/or support letters from the Lender(s) and Lead Underwriter(s), as applicable; (2) that the Lender(s) and Lead Underwriter(s), as applicable, have completed certain due diligence (i.e. legal, insurance, and technical due diligence) and (3) has attracted sufficient support and commitments from equity investors, in each case, to satisfy NCDOT that there is no material risk on financial grounds of any performance failure, including failure to perform any of the following:
 - A. Execution and delivery of the CA;
 - B. Achievement of Financial Close;
 - C. Completion of the design and construction of the Project by the Substantial Completion Deadline set forth in the CA and in accordance with the CA requirements; and
 - D. Operation and maintenance of the Project throughout the Term in accordance with the requirements of the CA, including ETCS and Handback Requirements.
- iii. that it contains key milestones that are consistent with the Preliminary Project Baseline Schedule submitted pursuant to Exhibit B, Section 4.5 and the milestone deadlines set forth in Exhibit 7 to the CA.
- iv. that Proposer has received NCDOT's approval of the Lead Underwriter(s), bond counsel or Lead Underwriter's counsel (if bonds are used by the Proposer as part of its Financial Proposal).

(c) The Proposer's Financial Proposal includes TIFIA facilities in accordance with the TIFIA Term Sheet;

(d) The Proposer's Financial Proposal is likely to result in Financial Close and meets a minimum level of feasibility.

(e) Proposer has provided the required commitment and/or support letters evidencing the willingness of the Lender(s) and Lead Underwriter, as applicable, to provide funding pursuant to Exhibit C, Section 5.4.

(f) Proposer has provided assurance that private equity will be in place in the amounts required in order to fully fund the Project in accordance with Section 4.1.3.1 of the CA, including the required letters from Proposer's Equity Members and Financially Responsible Parties (if applicable) evidencing their commitment to provide equity funding pursuant to Exhibit C, Section 5.5.

(g) The Proposal is in compliance with the Toll Regulation attached to the CA as Exhibit 4.

(h) The Financial Proposal contains all the materials required by Exhibit C.

(i) The DRAM Aggregate Cap Amount is in compliance with the requirements set forth in Exhibit C, Section 7.3.

(j) Proposer has delivered a letter(s) of support from a qualified surety or bank/financial institution, or both (if applicable) for the Payment Bonds and Performance Security, as described in Exhibit C, Section 8.0.

(k) Proposer has delivered the Proposal Security in the form of a complete, properly executed proposal bond that complies with the requirements of Exhibit C, Section 9.1 or letter of credit that complies with the requirements of Exhibit C, Section 9.2.

If PABs are included as part of a Financial Proposal, approval of the issuance by NCDOT, in its role as conduit issuer, shall not be required as of the Financial Proposal Due Date in order for the Financial Proposal to be considered committed financing.

5.3 Best Value Determination

5.3.1 General

The best value determination will be based on the amount of the Concession Payment or Public Funds Amount (as applicable) and the Risk Adjusted DRAM Aggregate Cap Amount, adjusted for quality of the Technical Proposal. Proposers will provide both the nominal amount and net present value of the Concession Payment or Public Funds Amount as required in Form J. Net present value shall be calculated using 5% as the discount rate. The lowest Adjusted Proposal (largest negative number if any one or more Proposals results in a negative Adjusted Proposal or smallest positive number if all Proposals result in a positive Adjusted Proposal) will determine the Apparent Best Value Proposer and the ranking of Proposers.

The “Total Net Present Value of Concession Payment” from Box 4 of Form J will be entered into the formula below as a negative number and the “Total Net Present Value of Public Funds Amount” from Box 2 of Form J will be entered into the formula below as a positive number. The “DRAM Aggregate Cap Amount” from Box 5 of Form J will be entered into the formula below as a positive number.

$$\text{Adjusted Proposal (\$)} = [[\text{PFA or (CP)}] + \text{Risk Adjusted DRAM Cap}] - \text{TQC}$$

Where: CP = Total Net Present Value of Concession Payment, if applicable (\$)

PFA = Total Net Present Value of Public Funds Amount, if applicable (\$)

Risk Adjusted DRAM Cap = DRAM Aggregate Cap Amount (\$), multiplied by 0.15

TQC = Technical Score Quality Credit (\$), which is determined by multiplying the Technical Score x \$375,000

The Technical Score will range between 0 and 200 points.

5.3.2 Technical Score

After or concurrent with the pass/fail and initial responsiveness review, Volumes 1 and 2 of the Technical Proposal will be evaluated by the TRC, with assistance from the Technical Proposal Evaluation Advisory Group, based on the factors set forth below and as detailed within Exhibit B.

The Technical Score will be calculated based on the TRC evaluation score for the Volume 1 and 2 of the Technical Proposal as described in Section 5.4. The evaluation of the Technical Proposal will be divided into three parts: (a) General Project Management elements as further described in Section 5.4.1 (with a maximum of 25 points); (b) Design-Build Technical Solutions elements as further described in Section 5.4.2 (with a maximum of 125 points); and (c) Operations and Maintenance Technical Solutions elements as further described in Section 5.4.3 (with a maximum of 50 points).

5.4 Evaluation of Technical Proposal

The evaluation factors for Volumes 1 and 2 of the Technical Proposal are as follows:

- (a) General Project Management;
- (b) Design-Build Technical Solutions; and
- (c) Operations and Maintenance Technical Solutions.

5.4.1 General Project Management (maximum 25 points)

Objectives: An organization that is designed with clear lines of responsibility, appropriate personnel and well-defined roles that respond to the Project obligations. The General Project Management evaluation subfactors, presented in no specific order of importance or evaluation weighting, are:

- (a) Management structure and personnel;
- (b) Organizational systems;
- (c) Public information and communications management;
- (d) Environmental management;
- (e) DBE performance plan;
- (f) Schedule, cost control and risk management;
- (g) Safety; and
- (h) Quality management.

5.4.2 Design-Build Technical Solutions (maximum 125 points)

Objective: A well-defined and executable approach for design and construction that incorporates technical solutions with innovative features that achieve the obligations of the Project. The Design-Build Technical Solutions evaluation subfactors, in order of importance and evaluation weighting, are:

- (a) Roadway, bridges and surface structures and permanent drainage;
- (b) Construction sequencing and traffic management;
- (c) Erosion and sedimentation control;
- (d) Signing, delineation, pavement markings, signalization and lighting; and
- (e) ITS systems.

5.4.3 Operations and Maintenance Technical Solutions (maximum 50 points)

Objective: A well-defined and executable approach for operations and maintenance, providing a well operated and maintained facility responding to the needs of the Project, the adjacent communities and the traveling public. The Operations and Maintenance Technical Solutions subfactors, in order of importance and evaluation weighting, are:

- (a) HOT lanes tolling operations and ETCS performance;
- (b) Routine maintenance;
- (c) Renewal Work; and
- (d) Roadway operations.

5.5 Evaluation of Financial Proposal

After or concurrent with the pass/fail and initial responsiveness review, the Financial Proposal will be evaluated by the FRC, with assistance from the Financial Proposal Evaluation Advisory Group, to provide the applicable information from the Financial Proposal required to perform the calculations set forth in Section 5.3.1.

5.6 Requests for Clarification

NCDOT may, at any time, issue one or more requests for clarification to the individual Proposers, requesting additional information or clarification from a Proposer, or may request a Proposer to verify or certify certain aspects of its Proposal. Proposers shall respond to any such requests within three Business Days (or within such other time as specified by NCDOT) from receipt of the request. The scope, length and topics to be addressed in clarifications shall be prescribed by, and subject to the discretion of, NCDOT.

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

5.7 Proposal Revisions (Best and Final Offer)

NCDOT may, at any time after receipt of Proposals and prior to announcement of the Apparent Best Value Proposer, determine that it is appropriate to request changes to the Proposals ("Proposal Revisions"). Only Proposers that submitted responsive Proposals will be permitted to submit Proposal Revisions. If Proposal Revisions are requested, NCDOT will follow the procedures for revised proposals described in 23 CFR Part 636. NCDOT may request Proposal Revisions with or without discussions as described therein from all Proposers that submitted a responsive Proposal. The request for Proposal Revisions will identify any revisions to the RFP and will specify terms and conditions applicable to the Proposal Revisions, including identifying a time and date for delivery. In the event that Proposal Revisions are requested, the term "Proposal," as used in the RFP, shall mean the original Proposal, as modified by the Proposal Revision. A Proposer may, but is not required to, respond to a request for a Proposal Revision. In the event a Proposer elects not to respond to a request for a Proposal Revision, such Proposer shall not be eligible for award of the CA, but (a) such Proposer shall remain eligible for the stipend (provided it has satisfied all other conditions thereto and eligibility requirements set forth in this ITP and the Stipend Agreement) and (b) the

Proposal Security shall not be subject to forfeiture and will be returned to such Proposer.

Upon receipt of Proposal Revisions, the TRC and FRC, with assistance from the Technical or Financial Pass/Fail and Responsiveness Advisory Groups, Technical Proposal Evaluation Advisory Group, or Financial Proposal Evaluation Advisory Group as appropriate, will re-evaluate the Proposals as revised, and will revise ratings and value estimates as appropriate following the process described above.

5.8 Identification of Apparent Best Value Proposer and Announcement of Apparent Best Value Proposer

Once the TRC and FRC have determined an Adjusted Proposal value for each Proposal and assigned rankings to the Proposals based on the Adjusted Proposal, NCDOT will announce the Apparent Best Value Proposer and rankings of the Proposers. The Adjusted Proposal and scoring of each Proposer will be signed and sealed and put into escrow until execution of the CA. Within 5 Business Days after execution of the CA, NCDOT shall disclose the Adjusted Proposal and scoring of all Proposers.

5.9 Recommendation to Secretary of Transportation

If the CA Documents are finalized in a manner satisfactory to NCDOT, the Authorized Representative will provide a recommendation for award and execution of the CA to the Secretary of Transportation.

EXHIBIT B

TECHNICAL PROPOSAL INSTRUCTIONS

1.0 General Instructions

Proposers shall submit the information required by this Exhibit B in the organization and format specified herein. The Technical Proposal shall be organized in the order listed in Exhibit E (except for appendices that may be included in the appropriate volume), and shall be clearly indexed. Each component of the Technical Proposal shall be clearly titled and identified.

All forms named herein are found in Exhibit D unless otherwise noted. All blank spaces in the Proposal forms must be filled in as appropriate. No substantive change shall be made in the Proposal forms.

Evidence of signature authority shall be provided for all individuals signing forms. The additional information attachment to Form A-1 identifies requirements regarding evidence of signature authorization for the Proposal Letter and other submissions with the Proposal. Similar authorization shall be provided for all other signatories.

2.0 Format and Contents

The Technical Proposal shall be contained in three volumes, as more fully described in Exhibit B:

- (a) Volume 1 - Executive Summary, Narrative and appendices
- (b) Volume 2 - Preliminary Plans and appendices
- (c) Volume 3 – Administrative Materials and Forms, and appendices.

Volume 1 of the Technical Proposal shall be limited to an aggregate of 80 pages. The Executive Summary and the appendices to Volume 1 will not count against the 80-page limit.

The required contents and organization of the Technical Proposal are presented in this Exhibit B and summarized in the Proposal checklist provided in Exhibit E. Proposers must provide all the information set out in this Exhibit B, in the order prescribed in this Exhibit B, and tabbed, or otherwise conspicuously indexed, to the provisions of this Exhibit B. A copy of the checklist for the Technical Proposal shall be included in each volume of the Technical Proposal showing compliance with all the prescriptions for the Technical Proposal. Proposers shall not amend the order or change the contents of the checklist except to provide the required cross reference to its Proposal. The Technical Proposal shall not contain any information relating to the Project development costs or

the Public Funds Amount, Concession Payment or DRAM Aggregate Cap Amount, as applicable.

3.0 Technical Proposal

3.1 Volume 1

3.1.1 Executive Summary

The Executive Summary shall contain sufficient information for reviewers to become familiar with the Technical Proposal and Proposer's ability to satisfy the technical requirements of the Project. The Executive Summary shall not exceed 15 single-sided pages. It shall, at a minimum, include the following:

- (a) An explanation of the organization and contents of the Technical Proposal;
- (b) A summary of any changes to information provided in Proposer's SOQ;
- (c) A summary of all Major Participants and identification of any changes in Proposer's organization, Equity Members, and Key Personnel since submission of the SOQ;
- (d) A summary of the following:
 - 1. A summary of the proposed management, decision making, and day-to-day operational structure of Proposer;
 - 2. A summary of Proposer's approach to quality management of the Project throughout the Term;
 - 3. A summary describing Proposer's approach for working with NCDOT and third parties, including the approach to resolving conflicts;
 - 4. A summary of Proposer's approach to addressing public information, interactions and communications for the Project;
 - 5. A summary of Proposer's approach to satisfy the safety, environmental and DBE requirements of the Project;
 - 6. A summary of Proposer's Project schedule, key milestones, anticipated milestones for development, design, construction, and commencement of revenue operations, and maintenance of the Project;
 - 7. A summary of Proposer's approach for delivering the design and construction components of the Project;

8. A summary description of Proposer's plan and any innovative concepts, approved ATCs;
9. A summary of Proposer's approach to construction sequencing, traffic management and mobility during construction;
10. A summary of Proposer's approach to addressing tolling, including system integration and interoperability during the Term; and
11. A summary of Proposer's approach to operations, maintenance, renewal work and handback.

Each Proposer shall attach to the Executive Summary the following two organization charts:

- (i) A table indicating the roles of the Equity Members and Major Participants (other than Equity Members) and their shares of ownership of any joint venture or other entities; and
- (ii) A chart showing the relationship between any of the Equity Members and Major Participants (other than Equity Members) and any Guarantors and Financially Responsible Parties.

The table and chart shall not count towards the page limit for the Executive Summary.

3.1.2 General Project Management, Design-Build Technical Solutions, and Operations and Maintenance and Management Technical Solutions Narrative

The remainder of the narrative contained in Volume 1 shall address the General Project Management information contained in Section 4.0, the Design-Build Technical Solutions contained in Section 5.0, and the Operations and Maintenance Technical Solutions information contained in Section 6.0, and a narrative supporting the contents of Volume 2 of the Technical Proposal (plans and appendices).

3.2 Volume 2

Generally, Volume 2 shall contain the plan sheets, schematics and other drawings that depict the Proposer's Design-Build Technical Solutions and Operations and Maintenance Technical Solutions providing, at a minimum, the information required under Section 5.0 and Section 6.0, respectively. Volume 2 shall not be used to provide additional narrative that is otherwise required in Volume 1. Volume 2, may, however, be used for supporting items, such as ATC letters and graphs.

3.3 Volume 3

Unless expressly provided otherwise, Volume 3 shall contain the Administrative Materials and Forms as required in Section 7.0 or other provisions of the ITP.

4.0 General Project Management

General Project Management shall set out Proposer's organizational structure and management approach to all Project activities including design, construction, traffic management, tolling, operations (including ITS), maintenance (routine and capital), quality, handback, documentation, DBE participation, scheduling, testing, auditing/reporting, risk analysis, and mitigation, user service and community outreach. Information presented shall apply to all phases of the Work. For tolling, operations, maintenance, and community outreach, the information presented shall be for the Term. The General Project Management approach shall address the information requested in Sections 4.1 through 4.8.

4.1 Management Structure and Personnel

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

- (a) An organization chart outlining the structure of Proposer's Project management organization (including the design, construction, operations, maintenance, tolling, and quality sub-organizations) and a description of the roles allocated, responsibilities, interrelation and Work to be accomplished by each member of the management team and each sub-organization, including identified subcontractors and suppliers (at all tiers);
- (b) Information describing how each of the Key Personnel will fit into the organization, including a description of each key person's function and responsibility relative to the Project; and
- (c) Information regarding the current and projected workload and backlog of Proposer team (including all Major Participants), and a description of Proposer's plan and overall ability to provide the experienced personnel, equipment, and facilities required to successfully complete all aspects of the Project on a timely basis and within any applicable time frames set forth in the CA Documents and/or the Technical Provisions.

4.2 Organizational Systems

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

- (a) A detailed description of how Proposer's team members and personnel will work together to provide a unified design, construction, operations, maintenance, and quality approach to all elements of the Work;
- (b) A description of Proposer's team decision-making process, how internal disputes between team members will be resolved, and how Proposer will avoid adverse impacts to the Project (cost, schedule, or quality) in the event of such disputes;
- (c) A description of the methods to be used to establish lines of communication and documentation within Proposer's team, including communication among the sub-organizations and management personnel;
- (d) A description of how Proposer intends to communicate with and interface with NCDOT, its consultants, applicable third parties, and relevant federal, State, regional and local agencies (including submittals and reports);
- (e) A description of how the quality process will be structured for the Project, and how the quality process will function independently of design, construction, operations and maintenance;
- (f) A description of how the Proposer will meet and monitor the condition and operational performance of the Project; and
- (g) A description of how the Proposer will assure a seamless toll user experience and transportation experience throughout the Term.

4.3 Public Information and Communications Management

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

- (a) A description of the qualifications and experience of the Public Information Coordinator; and
- (b) A description of the approach to addressing public information and communications for the Project.

4.4 Environmental Management

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

- (a) A description of the qualifications and experience of the Environmental Compliance Manager described in Section 2.14.1.8 of the Technical Provisions;

- (b) Identification of the environmental commitments, permits, mitigation, potential re-evaluations and documentation, necessary to complete the Project;
- (c) A description of the Proposer's methods to develop Environmental Permits, Issues and Commitment (EPIC) sheets and ensure those permits, issues and commitments are integrated into design, construction, operations and maintenance; and
- (d) Identification of the potential environmental risk and description of the approach to mitigate, eliminate or reduce those risks.

4.5 Preliminary DBE Performance Plan

The General Project Management approach shall include a Preliminary DBE Performance Plan describing how Proposer will comply with the DBE requirements for the Project. The Preliminary DBE Performance Plan shall include at least the following:

- (a) A description of the approach to achieving the DBE goal for the Project;
- (b) A description of the approach to encourage participation of DBE firms;
- (c) A description of the approach to outreach and assistance for potential DBE firms who are, or may be eligible to become certified, and participate as DBEs; and
- (d) A description of how Proposer will assist and support technical, management and business capabilities of participating DBE firms by incorporating mentoring, training and assistance efforts for DBE firms wishing to expand their capabilities.

4.6 Schedule, Cost Control, and Risk Management

The General Project Management approach shall describe the proposed Project schedule methodology, cost control and risk management, and include at least the following:

- (a) A description of the approach used for preparing, controlling and updating the Project Schedule, for calculating progress performance on a monthly basis, and preparing monthly payment requests;
- (b) A description of the approach used for preparing and updating the Schedule of Values;
- (c) A description of the approach to integrate subcontract activities into Proposer's scheduling and reporting system;

- (d) A description of the approach to managing resources and activities, both those of Proposer and subcontractors, in order to achieve the Project Schedule, and if necessary to recover schedule slippage;
- (e) A narrative describing the Preliminary Project Baseline Schedule. The Preliminary Project Baseline Schedule shall be included in the appendix to Volume 1 and follow the guidelines for the Preliminary Project Baseline Schedule set forth in Section 2.2.1 of the Technical Provisions. The Preliminary Project Baseline Schedule shall be a high level Critical Path Method schedule representing the Proposer's plan for completing the Work in accordance with the milestone deadlines set forth in Exhibit 7 to the CA;
- (f) A narrative describing the preliminary Renewal Work Schedule. The preliminary Renewal Work Schedule shall be included in the appendix to Volume 1 and shall generally show the approach to scheduling the Renewal Work to indicate the timing of period maintenance activities, rehabilitation activities and other Renewal Work, planned capacity improvements, and planned upgrades from Final Acceptance until the end of the Term for the HOT Lanes;
- (g) A description of Proposer's document, cost control, and schedule management system to be used to control, review and coordinate the cost and schedule of the Work during the Term, including during design, construction, operations, and maintenance;
- (h) A description of Proposer's approach to utility coordination and scheduling of Utility Adjustments;
- (i) A description of Proposer's approach to furnishing Project Right of Way services and scheduling Project Right of Way acquisition; and
- (j) A description of the approach to identify, assess, manage, mitigate and allocate Project-specific risks. The Technical Proposal shall include at a minimum:
 - 1. Identification of significant risk categories, such as capacity, planning, design, construction completion, operations, maintenance, demand, inflation, financing, legislative policy, technology, and residual value;
 - 2. Description of the potential consequences of the identified risks;
 - 3. Description of the probability of identified risks;

4. Proposed procedures and tools to conduct a risk sensitivity analysis; and
5. Proposed or desirable allocation of risks among Proposer and its team members.

4.7 Safety

The safety component of the General Project Management approach shall include:

- (a) A description of the preliminary Safety Plan meeting the requirements set forth in Section 23.1.4.3 of the Technical Provisions;
- (b) An industrial safety record on Form D for each Major Participant that will perform or supervise installation and/or construction Work for the Project, including information for any entity in which such team member holds a controlling interest. If any such entity does not have an industrial safety history (for example if the firm is newly formed), Form D is not required for such entity, but a statement shall be provided explaining why the form is not included. Should any of these parties have been a member of a joint venture and have a controlling interest in such joint venture on past projects, the safety record of the joint venture in full shall be included as part of Form D. As used herein, “**controlling interest**” means the possession, directly or indirectly, of the power to cause the direction of the management of the entity, whether through voting securities, by contract, family relationship or otherwise. The completed Form D shall be included in the appendix to Volume 1; and
- (c) A description of how Proposer proposes to coordinate with governmental agencies on issues related to fire, security, and life safety.

4.8 Quality Management

The Quality Management approach shall describe Proposer's quality approach to design, construction, tolling, operation and maintenance for the Project, including at least the following:

- (a) For the design quality component, a description of the design deliverable process and a description of the internal process for design reviews, a description of quality assurance and quality control functions. The design quality component shall also present Proposers approach to reporting relationships and responsibilities, including NCDOT oversight procedures to be implemented; conformance with federal oversight requirements; how design quality management will be documented; and how changes will be made to correct design deficiencies; and

- (b) For the construction quality component, a description of the approach to acceptance testing and inspection, and how construction deficiencies and non-compliance issues will be documented and corrected. The construction component shall also describe how the program will integrate with the design activities, including NCDOT oversight and all quality-related activities and conformance with federal oversight requirements.
- (c) For the tolling quality component, a description of the approach to self-monitoring degradation of the HOT Lanes as described in Exhibit 4 of the CA and conformance with interoperability requirements. The tolling component shall also present the Proposer's approach to the relationships and responsibilities with NCTA.
- (d) For the operations and maintenance quality component, a description of the approach to the self-monitoring program in order to ensure a safe and reliable roadway system with the main objective of maximizing public safety, reliability, roadway availability, and overall compliance with the Performance Requirements for operation and maintenance. The operations and maintenance component shall describe how the program will integrate quality assurance activities into daily oversight, including NCDOT oversight and quality assurance programs.

5.0 Design-Build Technical Solutions

Design-Build Technical Solutions shall present Proposer's approach to Design-Build Technical Solutions as required in Sections 5.1 through 5.5.

The Design-Build Technical Solutions shall include information identified herein relevant to Proposer's plan sheets, schematics and other drawings, and proposed approach to the topics identified, and that meet the requirements set forth, in Sections 5.1 through 5.5. Proposer's plan sheets, schematics and other drawings shall be presented in 11 by 17-inch format, except that those that depict interchanges may be submitted in a format not to exceed 22 by 34 inches with a scale of 1 inch – 100 feet.

Proposer must specifically state whether any approved ATCs are included, with reference to the ATC identification number, and shall describe how the ATC is used and provide cross-references to other elements of the Technical Proposal that are affected by the ATC. Each Proposer shall also identify characteristics of its Technical Proposal and plan sheets, schematics and other drawings which vary from NCDOT's Reference Concept (provided in the Reference Information Documents) or which exceed Project requirements. Further, Proposer may provide supporting documentation for the change outlining the overall benefits to the Project. Responsibility for changes in alignments or other elements proposed by Proposer's schematic is addressed in the CA.

5.1 Roadway, Bridges and Surface Structures, and Permanent Drainage

Roadway concepts shall include:

- (a) Proposer's pavement design including details of the proposed design method, material types, roadway classifications, traffic loading and design life considerations. The design year for such concept shall be 30 years;
- (b) A description and discussion on the Proposer's proposed design for the Project for the I-85/I-77 interchange and the extent to which the Proposer's proposed design for the Project will impede or facilitate (1) any future improvements to this interchange as depicted in the feasibility concept posted to the FTP Site and (2) future direct connectivity to managed lanes on I-85;
- (c) A description and discussion on the Proposer's proposed design for the Project for the I-277/I-77 interchange and the extent to which the Proposer's design for the Project will impede or facilitate any future improvements to this interchange as depicted in the feasibility concept posted to the FTP Site;
- (d) A description of all existing roadways and structures to be closed, demolished, left as is, or incorporated into the Project;
- (e) A description of the Project design's impact on utilities and minimizing any costs thereof; and
- (f) Proposer's design plans, schematics and other drawings, which shall include:
 - 1. General Project roadway information including Project limits, design speeds, functional classification(s), and minimum design values met;
 - 2. Project horizontal alignments including PI station/location, degree of curve, radius, length of curve, PC and PT (graphical location) and bearings;
 - 3. Project planimetrics including curbs and barriers, driveways, edge of pavement, and surface roadways' edge of shoulders;
 - 4. Directional arrows indicating the number of lanes;
 - 5. Project ingress/egress points;
 - 6. Project Toll Segments;
 - 7. Proposed Right of Way limits and control of access limits;

8. Project profiles for “independent alignments” as defined in Section 10 of the Technical Provisions including existing/natural ground, vertical clearance, grades, VPI station, vertical curve length and K-values; and
9. Typical sections including existing ground, pavement cross slope, super elevation, lane and shoulder widths, and slope ratio for fills and cuts.

Bridges and surface structures concepts shall include:

- (a) A description of the Voluntary Aesthetic Elements;
- (b) A description of bridges and surface structures (including representative permanent and sound barrier walls) for the Project; and
- (c) Proposer’s schematic shall include:
 1. Sufficient detail to indicate bridge locations and limits, bridge types, foundation types, controlling vertical clearances, and typical span arrangements; and
 2. Preliminary wall types, proposed locations and limits for retaining and noise walls.

Permanent drainage concepts shall include:

- (a) Plans for the overall surface water collection system identifying the proposed location of major drainage trunk lines and outfall locations to accommodate the Project;
- (b) Exhibit drawing(s) defining the approximate limits of temporary construction easements and drainage easements necessary for completion of the Project drainage work; and
- (c) Plans for adequate cross slopes that ensure that no calculated hydraulic spread intrudes into the Travelway and that adequate design features are included to minimize the potential for hydroplaning.

5.2 Construction Sequencing and Traffic Management

The Technical Proposal shall include a description of the construction staging and traffic control and sequencing proposed to accommodate traffic during the construction of the Project. The construction traffic control shall include the following:

- (a) The overall traffic management and control and sequencing approach;

- (b) Conceptual construction staging diagrams including initial and ultimate proposed treatment of ramps and staging of major drainage trunk line(s);
- (c) A description of how business and residential accesses will be provided;
- (d) A description of how Proposer intends to schedule and sequence the construction to minimize impacts on the environment, communities and traveling public while still providing acceptable construction performance;
- (e) A description of the intended laydown, recycling, staging, disposal and maintenance locations to be used during construction; and
- (f) A description of how materials and equipment will be delivered to the Project along with general plans for complying with the hauling requirements and restrictions in Section 22.1.6 of the Technical Provisions.

5.3 Erosion and Sedimentation Control

The Technical Proposal shall provide a description of the drainage and erosion and sedimentation control for the Project. The information shall include a description of the approach to implementing and adhering to the requirements and obligations in the Erosion and Sedimentation Control Plan.

5.4 ITS Systems

The Technical Proposal shall include information pertaining to ITS systems, which shall include at least the following:

- (a) Plan sheets illustrating the layout of preliminary locations and quantity of ITS equipment, including cameras, DMS signs, traffic monitoring stations, and lane marking points;
- (b) A description of how the ITS system will be monitored and connected to area traffic management centers to maintain interoperability for monitoring and control of subsurface systems; and
- (c) A description of the approach to coordinating information with NCDOT and other ITS systems in the region.

5.5 Signing, Delineation, Pavement Markings, Signalization and Lighting

The Technical Proposal shall provide a description of the signing, delineation, pavement markings, signalization and lighting for the HOT Lanes. The information shall include at least the following:

- (a) A preliminary operational guide signing schematic; and

- (b) A general description of the approach for striping, signalization and lighting of the facility.

6.0 Operations and Maintenance Technical Solutions

The Operations and Maintenance Technical Solutions shall present the Proposer's approach to roadway operations, routine maintenance, Renewal Work, and HOT Lanes tolling operations and ETCS performance as set forth in Sections 6.1 through 6.4. The approach should ensure safe and reliable roadway system with the main objective of maximizing public safety, reliability, and roadway availability. Proposer's schematic shall be presented in 11 by 17-inch format, except that folded design drawings that depict interchanges may be submitted in a format not to exceed 22 by 34 inches.

6.1 Roadway Operations

The Technical Proposal shall describe how the daily roadway operations functions will be handled including:

- (a) The approach for detection and response to Emergencies, hazardous weather, breakdowns, and accidents;
- (b) The approach for liaising and handling Incidents;
- (c) The approach to traffic management and operation of ITS systems;
- (d) A description of how the roadway's geometry and ingress/egress points will maximize safety and minimize the operational impact of the HOT Lanes on the General Purpose Lanes; and
- (e) A description of the approach to accident analysis and implementation of improvements to user safety.

6.2 Routine Maintenance

For routine maintenance, the following maintenance items shall be addressed, including:

- (a) A description of the approach used for life cycle cost analysis over the Term, including how material durability will be determined and price variation (i.e. future energy costs, future labor costs, etc.) will be assessed;
- (b) Details and locations of proposed maintenance yard(s) and facilities;
- (c) A preliminary list of specialized maintenance equipment proposed for use throughout the Term and any proposed use of NCDOT-owned facilities;

- (d) A description of the approach to supply and management of maintenance spare parts;
- (e) The approach to general sweeping, cleaning, and removal of debris, abandoned vehicles, graffiti, and other O&M Work required to be performed by Developer under the CA Documents;
- (f) The approach to traffic management during the O&M Work;
- (g) The approach to inspection and testing of Project items and Elements, and the identification, classification and rectification of defects and inspection failures; and
- (h) A description of the system to be used for maintaining accurate as-built records, and records of inspections and maintenance activities for the O&M Work required to be performed by Developer under the CA Documents.

6.3 Renewal Work

The Technical Proposal shall describe the approach to Renewal Work, which shall include, at a minimum, the following items:

- (a) The processes that will be employed for developing a rolling program of major maintenance repairs and/or replacements for the HOT Lanes; and
- (b) A description of the approach to programming of works and costing and ensuring that Handback Requirements will be met.

6.4 HOT Lanes Tolling Operations and ETCS Performance

The Technical Proposal shall provide a preliminary HOT Lanes tolling plan, which shall include, at a minimum, the following items:

- (a) Documentation of pre-approval of the Toll System Integrator(s) pursuant to Section 2.11.1 of the ITP and of pre-approval of the preliminary tolling plan pursuant to Section 3.2 of the ITP;
- (b) The Proposer's approach for performance monitoring of the HOT Lanes and Electronic Tolling Collection System (ETCS);
- (c) The Proposer's toll collection methodology that includes a schematic plan showing toll zones, informational signing, and other pertinent information as well as the following:
 1. Limits of proposed Toll Segments;

2. Typical cross sections;
 3. Access points locations and configurations;
 4. Separation between General Purpose Lanes and HOT Lanes;
 5. Typical toll zone plan, including the locations of toll gantries, detectors, utility cabinets, and enforcement observation pads; and
 6. Location of enforcement zones.
- (d) Form U with the information required to complete Table B-1 of Exhibit 4 to the CA;
- (e) The Proposer's preliminary approach to the ETCS Plan, including how the ETCS meets or exceeds the performance requirements. The description shall also include hardware and software specifications to describe all of the aspects of the system and its functionality;
- (f) A description of the proposed secure network communications system;
- (g) The Proposer's approach to interoperability. The information shall include at least the following:
1. A description of how the Proposer would achieve interoperability with other in-State and out-of—State toll facilities, including E-ZPass® IAG;
 2. An explanation of the capabilities of the Proposer's system to read transponders of various manufacturers and in particular, the transponders used by NCTA, toll agencies in Florida, Georgia and South Carolina, and E-ZPass® IAG; and
 3. An explanation of any limitations to interoperability that may exist with the Proposer's systems, including issues of intellectual property.
- (h) A description of the parameters to be used for setting, increasing, and decreasing tolls dynamically;
- (i) A description of the approach to a seamless customer service experience, with NCDOT retaining ownership of the User account and other tolling services as more fully described in Exhibit 18 of the CA; and
- (j) A description of the approach to marketing the HOT Lanes to potential Users.

7.0 Administrative Materials and Forms

All materials in Sections 7.1 through 7.14 shall be contained in Volume 3 unless otherwise noted. If a form required under this Section 7.0 calls for execution or information concerning a Major Participant and that Major Participant is a joint venture (such as the Design-Build Contractor), the form must be provided for the joint venture and the individual members of the joint venture; provided, however, that execution of the form, if required, on behalf of the joint venture need only be by an authorized signatory of the joint venture.

7.1 Technical Proposal Letter, Organizational and Authorization Documentation

The Technical Proposal shall include the Technical Proposal Letter (Form A-1). Proposer shall attach to the Technical Proposal Letter evidence of authorization to execute and deliver the Technical Proposal, the CA and all other documents required to be executed by Proposer or Developer in connection with the CA, and shall identify its authorized representative(s), as set forth in further detail in the attachment to the form of Technical Proposal Letter at Form A-1. If Proposer is a consortium, partnership or any other form of joint venture, then the Equity Members of Proposer may each execute a single document authorizing a nominated and identified representative to execute documents on each of their behalf in respect of the Proposer.

The Technical Proposal shall include copies of the other organizational documentation described in further detail in the attachment to Form A-1.

7.2 Information About Proposer, Developer, Equity Members, Major Participants, and Other Contractors

- (a) The Technical Proposal shall include a completed chart on Form B-1 for Proposer and all Equity Members.
- (b) The Technical Proposal shall include a completed Form B-2, with further documentation required by Form B-2 (or with a sheet referring NCDOT to the information in the attachments to Proposer's Technical Proposal Letter).
- (c) The Technical Proposal shall include a completed Form B-3 providing information regarding (i) each Major Participant (excluding Equity Members that do not fall into clauses (a) through (d) of the definition of Major Participants); and (iii) each other proposed Contractor identified in the Technical Proposal.
- (d) The Technical Proposal shall include copies of organizational documentation described in pages 6 through 8 of Form A-1 for Proposer, Developer and Equity Members, as well as other documentation required

by Form B-2. If any modification to the organizational documents for such entity is contemplated prior to award or, if Proposer intends to form an affiliated entity to be Developer, Proposer shall provide a brief description of the proposed legal structure and either (i) draft copies of the underlying organizational documents (described in pages 6 through 8 of Form A-1) or (ii) indicative term sheets of such organizational formation documents for such proposed entity.

- (e) If Proposer is a consortium, partnership or any other form of joint venture, the Technical Proposal shall contain an executed teaming agreement (or similar agreement) or, if the entities making up Proposer have not executed a teaming agreement, a detailed, signed summary of the key terms of the anticipated agreement.
- (f) If the Developer is to be a partnership, joint venture, or other legal entity with joint and several liability of its members, the Technical Proposal shall contain a letter signed by each Equity Member and any other member who will make up the Developer indicating they will accept joint and several liability for the Developer's obligations under the CA Documents.
- (g) The Technical Proposal shall contain executed contracts, or if a contract has not been executed, detailed, signed term sheets or heads of terms outlining the key commercial terms, between the Proposer (or proposed Developer) and (as applicable):
 - 1. Design-Build Contractor; and
 - 2. Lead O&M Contractor (unless the Proposer or proposed Developer will self-perform at least thirty percent of the value of the O&M Work, whereupon, for purposes of this Section 7.2(g)(2), Proposer shall include a cover sheet, executed by Proposer's or Developer's authorized representative (as applicable) affirmatively stating, and committing, that Proposer or Developer (as applicable) is self-performing thirty percent of the value of the O&M Work).

Each executed contract (or signed term sheet/heads of terms) shall include a cover sheet with a table orienting NCDOT to the location within such contract (or term sheet/heads of terms) where the Key Contract provision prescribed under Article 10 of the CA is located.

7.3 Responsible Proposer and Major Participant Questionnaire

The Technical Proposal shall include Form C, the "Responsible Proposer and Major Participant Questionnaire". The form may be signed by Proposer on its own behalf and on behalf of the Equity Members and other Major Participants, or it may be provided by Proposer on its own behalf, and the individual Equity Members and other Major

Participants may provide their own form individually. The form executed by Proposer shall be signed by the same individual(s) who sign the Technical Proposal Letter. The forms signed by the Proposer, Equity Members or other Major Participant shall be signed by an authorized representative of such Proposer, Equity Member or other Major Participant, as applicable, and the Technical Proposal shall include evidence of signature authorization for such individual.

7.4 Key Personnel

The Technical Proposal shall contain copies of resumes for each Key Personnel listed in this Exhibit B, Section 7.4 (which must contain the individual's qualifications and relevant work experience) and, for those individuals that were not included in Proposer's SOQ, contact information for two references for each individual. Resumes shall be contained in an appendix in Volume 1. Each resume shall be limited to 2 pages.

Key Personnel are the following individuals:

- (a) Project Executive (if different than the Project Manager)
- (b) Project Manager
- (c) Deputy Project Manager
- (d) Public Communication Manager
- (e) Design Manager
- (f) Pavement Designer
- (g) Construction Manager
- (h) Traffic Control Supervisor
- (i) Quality Manager
- (j) Environmental Compliance Manager
- (k) Operations and Maintenance Manager

The Technical Proposal shall identify the Key Personnel and shall include Form E identifying personnel work assignments, as well as a statement signed by Proposer and the employer of each designated key person, committing to maintain such individual's availability for and active involvement in the Project. Several of the Key Personnel positions are required to be full-time positions, as indicated in Section 2.14 of the Technical Provisions. The Technical Proposal shall contain, at this section, written confirmation from the employers of such persons that the persons identified for these positions will be committed exclusively to the Project and will have no other conflicting

assignments during the periods indicated in Section 2.14 of the Technical Provisions. Refer to Section 2.14 of the Technical Provisions for the duties and the applicable minimum qualifications (if any) required for Key Personnel that were not previously identified in the SOQ and the CA for information regarding time commitment requirements for Key Personnel and NCDOT rights if it is determined that any such personnel are not devoting sufficient time to the prosecution and performance of the work required for the Project.

Form E shall be signed by Proposer and the employer of each of the Key Personnel.

A Proposer may not make any changes in its Key Personnel identified in its SOQ except as provided in ITP Section 2.10.

7.5 Letter Approving Pre-Proposal Submittals

The Technical Proposal shall include the following:

- (a) NCDOT's approval letter of Proposer's Lead Underwriter(s), bond counsel and Lead Underwriter's counsel pursuant to ITP Section 1.8.2.2.
- (b) If Proposer's organization or Key Personnel has changed since submission of the SOQ, Proposer shall specifically describe such changes and, if applicable, include a copy of NCDOT's approval letter provided under ITP Section 2.10.
- (c) NCDOT's approval letter of pre-qualified Toll System Integrator(s) pursuant to ITP Section 2.11.
- (d) NCDOT's approval letter(s) regarding any ATCs used by Proposer in the Technical Proposal provided under ITP Section 3.1.1.
- (e) NCDOT's approval letter of the draft preliminary tolling plan pursuant to ITP Section 3.2.
- (f) NCDOT's approval letter of the GP Lanes pavement design pursuant to ITP Section 3.3.
- (g) NCDOT's approval letter of the Model Auditor pursuant to ITP Section 6.1.2.
- (h) NCDOT's approval letter of the Benchmark Credit Spreads pursuant to ITP Section 6.1.4.

7.6 Non-Collusion Affidavit, Debarment Certification and Gift Ban Certification

The Technical Proposal shall include Form F, regarding non-collusion affidavit, debarment certification and gift ban certification. Form F shall be executed by Proposer

and each Major Participant. Proposer and each Major Participant shall execute the applicable Form F based on its form of legal entity (i.e. corporation, partnership, etc.)

7.7 DBE Requirements

The Technical Proposal shall include an executed DBE Commitment Certification (Form G).

7.8 Use of Contract Funds for Lobbying Certification

The Technical Proposal shall include executed copies of Form H, regarding use of contract funds for lobbying.

Form H should be modified and duplicated as needed and must be executed by Proposer, each Equity Member, each Major Participant, and each other proposed Contractor identified in the Technical Proposal.

7.9 Conflict of Interest Disclosure

Each Proposer, on behalf of itself and all entities on the Proposer's team, shall voluntarily disclose to the NCDOT, in writing, any facts that may provide it with an unfair competitive advantage and/or potential or actual conflict of interest. The Technical Proposal shall include a certification on Form I by Proposer, on behalf of itself and all entities on Proposer's team, describing potential organizational conflicts of interest, including disclosure of all relevant facts concerning any past, present, or currently planned interest that may present an organizational conflict of interest. Each Proposer, on behalf of itself and all entities on the Proposer's team, shall complete and deliver a certification on Form I even if Proposer, on behalf of itself and all entities on the Proposer's team, has nothing to disclose, in which case, Proposer shall so indicate on Form I. If Proposer made a disclosure regarding conflicts of interest in its SOQ, Proposer shall complete and deliver the Form I certification, appending its RFQ response to Form I.

NCDOT may preclude or disqualify a Proposer from participation in the procurement and subsequent CA if the Proposer is deemed to have an unfair competitive advantage or a conflict of interest under applicable State or federal law.

7.10 Certification Regarding Equal Employment Opportunity

The Technical Proposal shall include Form P, regarding participation in contracts or subcontracts subject to the equal opportunity clause and the filing of required reports.

A Form P shall be provided by the Proposer, each Equity Member, Major Participant, and each other proposed Contractor identified in the Technical Proposal.

7.11 Insurance

The Technical Proposal shall contain certificates of insurance policies evidencing proof of insurance coverages as required by the CA, or written evidence from an insurance company(ies), broker(s) or agent(s). For the on-site, project-specific coverages, the signatories must indicate that the insurance company(ies), broker(s) or agent(s) have read the CA and insurance requirements set forth therein and that the entities required to obtain insurance under the CA have the capability of obtaining such insurance in the coverages and under the conditions listed in the CA.

7.12 Confidential Contents Index

A page executed by the Proposer that sets forth the specific items (and the section and page numbers within the Technical Proposal at which such items are located) that the Proposer deems confidential, trade secret or proprietary information protected by applicable Law. Blanket designations that do not identify the specific information shall not be acceptable and may be cause for NCDOT to treat the entire Technical Proposal as public information. Notwithstanding the foregoing, the list required under this Exhibit B, Section 7.12 is intended to provide input to NCDOT as to the confidential nature of a Technical Proposal, but in no event shall such list be binding on NCDOT, determinative of any issue relating to confidentiality or a request under the Public Records Act or override or modify the provisions of the Public Records Act or NCDOT's responsibilities thereunder.

EXHIBIT C

FINANCIAL PROPOSAL INSTRUCTIONS

1.0 General Instructions and Financial Proposal Letter

This Exhibit C describes the submission format for financial proposals and outlines the required information that will comprise a Financial Proposal.

Each Proposer shall submit the information required by this Exhibit C in the organization and format specified herein. The Financial Proposal shall be organized in the order listed in Exhibit E, and shall be clearly indexed. Each component of the Financial Proposal shall be clearly titled and identified.

All forms named herein are found in Exhibit D unless otherwise noted. All blank spaces in the Financial Proposal forms must be filled in as appropriate. No substantive change shall be made in the Financial Proposal forms.

The Financial Proposal shall include the Financial Proposal Letter (Form A-2). Proposer shall attach to the Financial Proposal Letter evidence of authorization to execute and deliver the Financial Proposal, and shall identify its authorized representative(s), as set forth in further detail in the attachment to the form of Financial Proposal Letter at Form A-2. If Proposer is a consortium, partnership or any other form of joint venture, then the Equity Members of Proposer may each execute a single document authorizing a nominated and identified representative to execute documents on each of their behalf in respect of the Proposer.

2.0 Format of Financial Proposal

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

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

3.0 Contents of Financial Proposal

All parts of the Proposal that indicate price and financial terms are to be included in the Financial Proposal.

The required contents and organization of the Financial Proposal are presented in this Exhibit C and summarized in the Proposal checklist provided in Exhibit E. Proposers are to provide all the information set out in this Exhibit C. A copy of the checklist for the Financial Proposal shall be included in the Financial Proposal. The Proposer shall not

amend the order or change the contents of the checklist except to provide the required cross reference to its Financial Proposal.

4.0 Financial Capacity Information

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

The Financial Proposal shall include the following information for Proposer, all Equity Members, the Lead Contractor (if the Lead Contractor is a consortium, partnership or any other form of a joint venture, all such entities comprising Lead Contractor), any Guarantor and any Financially Responsible Party:

- Audited financial statements (in printed form and on a CD) for all periods subsequent to those included in the SOQs, audited by a certified public accountant in accordance with U.S. generally accepted accounting principles (U.S. GAAP) or International Financial Reporting Standards (IFRS).
- In addition, interim unaudited statements (in printed form and on a CD) for the period since the most recent completed fiscal year for the above entities are to be provided if interim unaudited statements are maintained by such entities.

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

- 1) Financial statement information must include:
 - i. Opinion Letter (Auditor's Report)
 - ii. Balance Sheet
 - iii. Income Statement
 - iv. Statement of Changes in Cash Flow
 - v. Footnotes audited by a certified public accountant in accordance with GAAP or IFRS.
- 2) Financial statements must meet the following requirements:
 - i. **GAAP/IFRS** – Financial statements must be prepared in accordance with U.S. Generally Accepted Accounting Principles (U.S. GAAP) or International Financial Reporting Standards (IFRS). If financial statements are prepared in accordance with principles

other than U.S. GAAP or IFRS, a letter must be provided from a certified public accountant discussing the areas of the financial statements that would be affected by a conversion to U.S. GAAP or IFRS. A restatement of the financial information in accordance with U.S. GAAP or IFRS is not required.

- ii. **U.S. Dollars** - Financial statements must be provided in **U.S. dollars**. If financial statements are not available in U.S. dollars, Proposer must include summaries of the income statements and balance sheets for the applicable time periods converted to U.S. dollars by a certified public accountant.
- iii. **Audited** – Fiscal year end financial statements must be audited by an independent party qualified to render audit opinions (e.g. Certified Public Accountant). If audited financials are not available for the Proposer, an Equity Member, the Lead Contractor, Guarantor or Financially Responsible Party, the Financial Proposal shall include unaudited financial statements for such entity, certified as true, correct and accurate by the chief financial officer or treasurer of the entity.
- iv. **English** – Financial statement information must be prepared in English. If audited financial statements are prepared in a language other than English, translations of all financial statement information must be accompanied with the original financial statement information.

3) Other information and requirements:

- i. **Newly Formed Entity.** If Proposer, an Equity Member, the Lead Contractor, Guarantor or Financially Responsible Party is a newly-formed entity, Proposer shall expressly state that such entity is a newly formed entity and does not have independent financial statements.
- ii. **Financially Responsible Party Letter of Support.** If Financial Statements of a parent company or affiliate company (“Financially Responsible Party”) are provided to demonstrate financial capability of an Equity Member, a letter from the Financially Responsible Party must be provided confirming that it will guarantee all the obligations of the Equity Member with respect to the Project and the form of guarantee to be used thereof, which form shall be subject to NCDOT’s approval; provided, however, if an Equity Member intends to fund its equity contribution in full at Financial Close or post a letter of credit to lenders at Financial Close to secure its

obligations to fund its equity contribution and evidence of the foregoing is provided to NCDOT, the foregoing guarantee shall not be required.

If a Financially Responsible Party was identified for the Lead Contractor in the SOQ, Proposer must provide a description of how that Financially Responsible Party will financially support the Lead Contractor and include copies of all documents intended to provide that support (guaranties, letters of credit, etc.).

- iii. **SEC Filings.** If any entity for which financial information is submitted hereby files reports with the Securities and Exchange Commission, then such financial statements shall be provided through a copy of their latest annual report on Form 10K. For all subsequent quarters, provide a copy of any report filed on Form 10Q or Form 8-K which has been filed since the latest filed 10K.
- iv. **Credit Ratings.** Appropriate credit ratings must be supplied for Proposer, Equity Members, Lead Contractor, any Guarantor and any Financially Responsible Party, to the extent such entities have credit ratings. If no credit ratings exist, include a statement specifying that no credit ratings exist for that entity.
- v. **Material Changes in Financial Condition.** A letter from the chief executive officer, chief financial officer or treasurer for each of Proposer, Equity Members, Lead Contractor, any Guarantor and any Financially Responsible Party, either (a) providing information on any material changes in financial condition since submission of the SOQs and those that are pending or (b) certifying that no such material changes have occurred. Additionally, Proposers shall be required to provide updated financial information following the Financial Proposal Due Date about such entities as such information becomes public.

The following list identifies certain items that NCDOT would consider a material change in financial condition. This list is intended to be indicative only. At the discretion of NCDOT, any failure to disclose a prior or pending material change may result in disqualification from further participation in the selection process. In instances where a material change has occurred, or is anticipated, the affected entity shall provide a statement describing each material change in detail, the likelihood that the developments will continue during the period of performance of the Project development, and the projected full extent of the changes likely to be experienced in the periods ahead. Estimates of the impact on

revenues, expenses and the change in equity shall be provided separately for each material change as certified by the CFO or treasurer. References to the notes in the financial statements are not sufficient to address the requirement to discuss the impact of material changes. The affected entity shall also provide a discussion of measures that would be undertaken to insulate the Project from any recent material adverse changes, and those currently in progress or reasonably anticipated in the future. If the financial statements indicate that expenses and losses exceed income in the fiscal periods between submission of the SOQ and most recent completed fiscal periods (even if there has not been a material change), the affected entity shall provide a discussion of measures that will be undertaken to make the entity profitable in the future and an estimate of when the entity will be profitable.

List of Representative Material Changes

- A. An event of default or bankruptcy involving the affected entity or the parent company of the affected entity;
- B. A downward change in tangible net worth of 10% or more of shareholder or partnership equity;
- C. A sale, merger or acquisition exceeding 10% of the value of shareholder or partnership equity prior to the sale, merger or acquisition which in any way involves the affected entity or parent company of the affected entity;
- D. A downward change in credit rating for the affected entity or parent company of the affected entity;
- E. Inability to meet material conditions of loan or debt covenants by the affected entity or parent corporation of the affected entity which has required or will require a waiver or modification of agreed financial ratios, coverage factors or other loan stipulations, or additional credit support from shareholders, partners or other third parties;
- F. The affected entity or the parent corporation of the affected entity either: (i) incurred a net operating loss; (ii) sustained charges exceeding 5% of the then shareholder or partnership equity due to claims, changes in accounting, write-offs or business restructuring; or (iii) implemented a restructuring/reduction in salaried personnel exceeding 10% of its workforce or involving the disposition of assets exceeding 10% of the then shareholder or partnership equity; and

G. Other events known to the affected entity or parent company of the affected entity which represents a material change in financial condition since submission of the SOQs or may be pending for the next reporting period.

- vi. **Off-Balance Sheet Liabilities.** A letter from the certified public accountant, chief financial officer, treasurer or certified public accountant for each entity for which financial information is submitted, identifying all off balance sheet liabilities in excess of \$25 million in the aggregate.

The information required under this Exhibit C, Section 4.0 shall be packaged separately for each separate entity with a cover sheet identifying the name of the organization and its role in the Proposer's organization (i.e., Equity Member, Lead Contractor, etc.). Financial statements shall be provided in electronic, searchable PDF and Microsoft Word format, in addition to "hard-copy" submissions as part of the Financial Proposal.

5.0 Financial Plan

The Financial Proposal and Financial Plan will be based upon finance plans in accordance with, and as defined by, the terms of this Exhibit C at the Proposal stage (subject to the requirements below).

5.1 Financial Plan Executive Summary

The Financial Plan shall contain a short (no more than ten pages) Financial Plan Executive Summary outlining the Proposer's plan of finance and plan, schedule and approach to achieve Financial Close.

5.2 Identity of Financial Institution

The Financial Proposal shall identify the financial institution(s) that will provide any letter of credit required under the CA and its rating information. For the avoidance of doubt, this includes the Financial Close Security, Performance Security, and letter(s) of credit provided by Equity Members meeting clause (b) of the definition of "Committed Investment." The Financial Proposal will include a statement certified by the chief financial officer or treasurer of the Proposer that it will be able to obtain all required letters of credit. The Financial Proposal shall also identify at least one Lender and/or one Lead Underwriter.

5.3 Range of Financing Sources

Proposers shall describe their Financial Plan, which shall be fully developed and (as applicable to the Financial Plan) include the following:

- Senior debt finance;

- Mezzanine debt finance;
- Equity and quasi-equity finance (including subordinated debt or loan stock);
- Use of PABs (subject to the terms and conditions of ITP Section 1.8.2.2);
- Use of TIFIA; and
- Any other forms of finance.

The proposed Financial Plan shall also provide the following information:

- Identity of the investors and include commitments from Equity Members pursuant to the requirements this Exhibit C, Section 5.5;
- Identity of the Lender(s) and/or Lead Underwriter(s); and any other lead arrangers, lead managers and/or underwriting banks and/or quasi-equity providers that have given indications/commitments;
- Letters of commitment and/or support, as applicable, from the Lender(s), Lead Underwriter(s), other lead arrangers, lead managers and/or underwriting banks per the requirements of this Exhibit C, Section 5.4;
- If the Financial Plan includes a Bond Financing or a senior TIFIA loan (for which TIFIA will require an investment grade rating), a letter from two or more of the Rating Agencies providing an indicative investment grade rating, together with information on the assumptions used (e.g., traffic and revenue forecasts, quantum of debt, tenor, amortization) in establishing the rating, and confirmation by the Proposer and its financial advisor that the Financial Plan is based on the same structure as rated; provided that if the Proposer has not retained a financial advisor, Proposer shall state that it has not retained a financial advisor and such confirmation by a financial advisor shall not be required. If use of the DRAM is assumed by a Rating Agency to be utilized pursuant to Section 13.3 of the CA to achieve an investment grade rating, the amount of such DRAM shall be expressly stated in the letter from such Rating Agency;
- If applicable to a Bond Financing, identity of monoline insurers as well as a detailed term sheet setting forth the terms and provisions upon which the bond insurer will provide such insurance;
- Type and purpose of each funding source and facility;
- Average life of each debt facility;

- If the Financial Plan includes use of the DRAM, information on the assumptions used and the anticipated amounts of the DRAM that will be required;
- Evidence (i.e. letters) of input from legal counsel to the Lender(s) and/or Lead Underwriter(s) on the CA Documents and unconditional acceptance by the Lender(s) and/or Lead Underwriter(s) of the CA Documents in the form included in the RFP; and
- Proposed steps and timeframes for reaching Commercial Close and Financial Close, which must be consistent with the requirements of the CA Documents and this Exhibit C, Section 5.7.

5.4 Details for Lender(s) and Lead Underwriter(s) Commitment and Support Letters

This Exhibit C, Section 5.4 provides the requirements for commitment letters with respect to bank financings (a “Bank Debt Financing”) and support letters with respect to capital markets financing (a “Bond Financing”) included in a Proposer’s Financial Plan.

Proposer should consider Bank Debt Financings and Bond Financings or a combination thereof. PABs allocations can be assumed in the financing structure in accordance with ITP Section 1.8.2.2.

With respect to a Bond Financing, a letter from a Lead Underwriter whereby such Lead Underwriter agrees to purchase and sell equal to one hundred percent (100%) of the volume of bonds to be issued at market prices shall be deemed to be a letter of support from such Lead Underwriter. In the event that a Proposer has more than one Lead Underwriter, the aggregate volume commitments of the Lead Underwriters must equal 100% of the volume.

For each Bank Debt Financing and each Bond Financing included in the Financial Plan, Proposers shall provide a letter of commitment or letter of support, as applicable, from each Lender or each Lead Underwriter, as the case may be, that includes the following:

- With respect to a letter of commitment from each Lender, if applicable, confirming that certain due diligence has been completed (i.e. legal, insurance and technical due diligence), the CA Documents are acceptable in the form included in the RFP, final credit approval has been received subject only to completion of final credit documents and satisfaction of customary conditions precedent;
- With respect to a letter of support from each Lead Underwriter, if applicable, confirmation that certain due diligence (i.e. legal, insurance, and technical due diligence) has been performed, the CA Documents are acceptable in the form included in the RFP, final credit approval has been received subject only to completion of final documentation and satisfaction of customary conditions precedent;

- A detailed term sheet providing terms and conditions, including, but not limited to, (i) interest rates specifying the base rate and applicable margins or spreads in respect of a Bank Financing, (ii) amounts in U.S. dollars of the facilities provided, (iii) customary conditions precedent to Financial Close, required documentation, (iv) principal covenants (affirmative and negative), financing security (including guarantees),(v) events of default,(vi) structural features, (vii) cover ratios, (viii) reserve accounts and the requirements with respect to such accounts, (ix) redemption/prepayment features, (x) drawdown schedule, (xi) capital repayment grace period, (xii) repayment schedule and final maturity date,(xiii) flow of funds, (xiv) representations and warranties, (xv) any proposed hedging arrangements in relation to interest rate risk, (xvi) arrangement and other fees, as applicable and (xvi) any other material terms and conditions relevant to the financing;
- A description of the fees payable to the Lender(s) and Lead Underwriter(s) as the case may be; and
- Any other material information that would be relevant to specific forms of debt finance.

5.5 Details of Equity Source and Equity Members Letters

For each equity source, Proposers shall provide:

- Identity of the investors. In cases where the equity is contributed by a fund, identify: (i) the date the fund was established; (ii) the total amount raised in the investment fund; (iii) the total amounts of undrawn and uncommitted funds available to be invested in the Project; (iv) confirmation that the Project is an eligible investment of the fund; (v) confirmation that the amount to be contributed does not exceed the maximum investment permitted by the fund bylaws, based on the amount raised in the investment fund as of the bid date; (vi) fund managers and general characteristics of the fund investors; and (vii) the percentage of participation;
- The amount of funds the equity provider is to commit and the timing of such subscription;
- The terms and conditions of the subscription, including dividend rights attaching to shares and/or repayment terms for shareholder loans, the extent to which funds are committed and the length of time funds will remain in the project vehicle; and
- If the total amount of equity finance (including quasi equity), is expected to change during the life of the Project, the terms and conditions of any further planned equity subscription, including the expected timing and amount, and

whether this will be provided by the existing shareholders, partners or by third party investors.

The Financial Proposal shall include certified copies of the board minutes or other written evidence of approval of the contents of the Financial Proposal by each Equity Member, together with appropriate evidence of the authorization of the person/body giving the approval. Sufficient documentation must be provided that provides appropriate assurance that private equity will be in place, including letters from the Equity Members evidencing their commitment to provide equity funding.

If a Financially Responsible Party or Guarantor has been identified for a Proposer or Equity Member and a guaranty is required pursuant to this Exhibit C, Section 4.0(3)(ii), the Financial Proposal shall include written confirmation from the Financially Responsible Party stating that it is willing to provide a guaranty in relation to the availability of equity/quasi-equity for the Project, and that it has adequate funds available.

5.6 Financial Advisor Letter; Review by Performance Security and Payment Bond Issuing Entities

5.6.1 Financial Model Format Requirements

The Financial Proposal shall include an opinion letter from Proposer's financial advisor (or if one has not been appointed by Proposer as of the Financial Proposal Due Date, by Proposer's chief financial officer or treasurer) indicating the debt funding is achievable and sufficient to fulfill Proposer's commitments as set out in the Financial Proposal.

5.6.2 Review by Performance Security and Payment Bond Issuing Entities

In instances where Proposer's response to Exhibit C, Section 4.0.3)(v) contains descriptions of proposed or anticipated changes in the financial condition of Proposer or any other entity for which financial information is submitted as required hereby for the next reporting period, Proposer shall include a certification by Proposer's bonding- and, if applicable, letter of credit-issuing entity/ies that the surety's/bank's/financial institution's analysis specifically incorporates a review of the factors surrounding such changes and identifying any special conditions which may be imposed before issuance of surety bonds for the Project. If Proposer proposes to deliver a letter of credit for the Performance Security, then a certification is required from both the Payment Bond surety and from the letter of credit-issuing bank or financial institution. For purposes of this Section 5.6.2, Proposer may append the letter(s) provided pursuant to Exhibit B, Section 7.8(f).

5.7 Schedule for Commercial and Financial Close

The Financial Plan shall include a schedule for completing activities and deliverables necessary to reach Commercial Close and reach Financial Close, taking into consideration the review period for deliverables set forth in ITP Sections 6.2.1 and 6.3.1 (as to Commercial Close) and Article 4 of the CA (as to Financial Close). The schedule shall reflect Proposer's estimated date for commercial close and Financial Close, which may not be after the last applicable deadlines set forth in ITP Section 1.6 (as to Commercial Close) and the CA (as to Financial Close).

5.8 Financial Plan Summary

Proposer shall submit its completed Financial Plan Summary (Form R) to NCDOT with the Financial Proposal. Table 6 of Form R must contain the Benchmark Credit Spread(s) that have been pre-approved by NCDOT pursuant to ITP Section 6.1.4 of the ITP. Table 7 of Form R must contain the Benchmark Interest Rate(s) pursuant to ITP Section 6.1.3.

6.0 Financial Model Submittal Requirements

6.1 General Financial Model Requirements

The format of the Financial Model is at the discretion of Proposers, but must comply with the requirements set out in this Section 6.0.

6.2 Financial Model Structure and Supporting Documents

6.2.1 Financial Model Format Requirements

Proposers shall submit a Financial Model. The Financial Model shall be compatible with Microsoft Excel Version 2003 or 2007 for Windows XP or later operating system. The file name of the Financial Model shall clearly identify the Financial Model version (e.g., I-77 Financial Model_001.xls) and shall change with each successive version of the Financial Model issued. Where additional Financial Models based on the same version are issued (i.e. where the additional Financial Model is generated by changing input cells only) the file name shall reflect that the same version is being used (e.g., I-77 Financial Model_001b.xls).

The Financial Model shall also contain as a minimum the following on a title page in a separate worksheet:

- Model name;
- Proposer's name;
- Model author;

- Version;
- Date (Financial Model date and run date);
- Key to formats (e.g. blue font for inputs); and
- Key to sheet names (i.e. “Inputs” for input sheets, “Calculations” for calculation sheets etc.).

Each output sheet of the Financial Model shall identify the Financial Model version and the date of issue.

No password protection may be included in the Financial Model (including password protected macros, or hidden rows columns, cells or sheets). The Financial Model shall be formatted to facilitate printing.

6.2.2 Financial Model Consistency

The Financial Model shall be consistent in all worksheets. There are two areas where consistency is most important:

- Columns – a column shall be used for the same time period in each of its occurrence in the Financial Model worksheets; and
- Rows – a row shall contain only one formula, copied across all columns.

6.2.3 Financial Model Integrity

All calculations shall be coded to provide exactly what they purport to represent, i.e. no balancing figures. Use of a macro is acceptable provided it is appropriately documented in the model and the Assumptions Book and is functional. For purposes of clarity, the Financial Model shall present all formulae, not simply “pasted values.”

6.2.4 Financial Model Linearity

The Financial Model shall calculate in one pass (i.e., no circular references). The model shall not utilize any “add-ins” other than those provided by Microsoft.

6.3 Financial Model Organization

6.3.1 Elements of Financial Model

The Financial Model shall have three distinct elements:

- Inputs – which shall include data and assumptions but no calculations;

- Calculations – individual calculations that support each line of all outputs and reports. There shall be no duplication of calculations nor shall input cells be hard-coded in calculations sheets; and
- Outputs – no input cells hard-coded in output sheets and no calculations except for simple formulae such as sums and check totals.

6.3.2 Financial Model Inputs and Specifications

Models shall be developed with reference to the following key inputs and assumptions:

- Specific Project Dates – All milestone dates for the Project set in the RFP shall be met;
- Periods – The Financial Model shall be constructed using monthly periods from Financial Close until Final Completion and semi-annual periods from Final Completion until two years after the end of the Term and shall use a 31st December reporting year end. The periods shall also be summarized and presented on an annual basis for major summary items (i.e. cash flow, debt facilities, etc.) using a December 31st reporting year end;
- Revenues – All demand and toll rate assumptions shall be clearly stated in the Financial Model, with supporting detail being provided in the supporting Assumptions Book. The level of detail in the Assumptions Book shall be sufficient to enable independent verification of individual revenue assumptions. While aggregate revenue estimates may be used as an input within the Financial Model, a detailed breakdown, supported by any traffic and revenue studies undertaken by Proposer, shall be supplied as an annex to the Assumptions Book, such that there is a transparent relationship between demand, toll rates and toll revenues;
- Expenditure – All cost assumptions shall be clearly stated in the Financial Model, with additional detail being provided in the supporting Assumptions Book. The level of detail in the Assumptions Book shall be sufficient to enable independent verification of individual cost assumptions. Where aggregate costs are used as an input within the Financial Model, a detailed breakdown shall be supplied as an annex to the Assumptions Book, such that there is a transparent relationship between costs and the price of the service to NCDOT;
- Contingencies and Profit Margins – The Financial Model shall make clear where contingencies and profit margins at the Developer level have been included so that the financial evaluation can be based on an appropriate understanding of the levels of risk assumed by Proposers;

- Macroeconomic Assumptions – All macroeconomic assumptions used within the Financial Model shall be clearly stated;
- Inflation – If inflation indices other than CPI are used within the model (e.g., to inflate wages) then these shall be clearly stated as separate inputs;
- Generally Accepted Accounting Principles (GAAP) – The Financial Model shall be compliant with U.S. GAAP;
- Taxation Rates – The Financial Model shall use the appropriate rates for tax in force at the submission date; and
- Tax Allowances – The Financial Model shall clearly show the assumptions regarding tax allowances being claimed.

6.3.3 Financial Model Outputs

The Financial Model shall be provided and will include:

- A summary sheet which includes a sources and applications of funds statement for construction and operation periods, graphs of cover ratios, a profile of cash balances that confirms the financial feasibility of the Project, including all required reserves as prescribed by the Lender(s), and the Concession Payment or Public Funds Amount, as applicable, under the Financial Model and revenue sharing amount payable to NCDOT;
- Construction schedules, including (1) monthly sources and uses that include construction phase drawdown requirements, capitalized interest payable or accrued, fees payable or accrued, funding of reserves, source of capital funding for the monthly requirements, investment earnings; and (2) for each source of funding, monthly schedules showing beginning drawn and undrawn balances (funded or committed), construction draws, capitalized interest payable or accrued, fees payable or accrued, funding of reserves and ending drawn and undrawn balances;
- Financial statements (cash flow, sources and uses of funds, balance sheet and profit and loss), in nominal terms for each period;
- A schedule outlining calculation of taxes payable in each period, and showing tax carry forward and un-depreciated balances;
- Cash cascade in order of seniority (consistent with the CA);
- Spreadsheet representing cash flow, to include revenues, expenses and Public Funds Amount or Concession Payment (as applicable), showing debt and equity payouts;

- Spreadsheet providing debt coverage ratios, loan life coverage ratio and project coverage ratio. If there are multiple tiers of debt, ratios must be provided for each tier;
- Spreadsheet representing repayment schedule for each financial component, any accretion schedules with a separation of principal and interest included;
- Internal rate of return on pre-tax and post-tax equity and quasi-equity/subordinated debt in both real and nominal terms and a blended equity return, incorporating all sub-senior debt finance;
- Debt to equity ratio for all periods, defined as the ratio of total debt to total equity and quasi-equity;
- Spreadsheet showing notional principal outstanding on a combined basis and separate in each period;
- Weighted average cost of capital (the average cost of equity and debt weighted by the prevailing proportions of debt to equity for the initial design and construction) at the project company-level over the Term;
- Net present value of construction costs, O&M costs, public funds and revenue payment, separately and in total, discounted to the Financial Proposal Due Date using a discount rate equivalent to the stated weighted average cost of capital. Additionally, any potential Public Funds Amount or Concession Payment will be stated in nominal amounts as well.
- For each annual period of each loan, show all actual and average ratios required by the Lender(s)/Lead Underwriter(s), including as a minimum, the debt service cover ratio and loan life cover ratio (being the net present value of future net cash flow available to service debt over the loan life including cash balances but excluding the balance of the lifecycle maintenance reserve, divided by the senior debt outstanding);
- Appropriate reserves as required by the Lender(s)/Lead Underwriter(s), which may include a debt service reserve account and a maintenance reserve account. NCDOT will expect the Financial Model to incorporate the benefit of interest earned on all project company cash balances;
- If use of the DRAM is assumed in the Financial Plan to be utilized pursuant to Section 13.3 of the CA, a spreadsheet showing the DRAM Aggregate Cap Amount and the year-by-year and aggregate profile of the annual draw amounts on the DRAM Aggregate Cap Amount assumed by the Rating Agencies identified in the Financial Proposal in order to provide an indicative investment grade rating;

- If a Refinancing is assumed, any cashflows associated with such Refinancing; and
- The impact of all claims for tax allowances made by the project company.

6.3.4 Financial Model Functionality and Sensitivity Analysis

The Financial Model is to provide the ability to run pre-Financial Close sensitivities to absolute or percentage changes, whichever is appropriate, in each of the following areas:

- traffic and revenue;
- inflation rates;
- interest rates;
- capital costs; and
- operating cost, maintenance cost, renewal, replacement and rehabilitation costs.

The methodology for running such sensitivities shall be clearly defined in the model instructions guide submitted as part of the Financial Proposal.

6.4 Financial Model Assumptions Book

Proposers shall submit an Assumptions Book describing fully all the assumptions underlying the financial projections within the Financial Model and at a minimum include the items listed below:

- Dates as listed in the RFP;
- Assumptions relating to general inflation and, where different, specific inflation relating to each component of expenditure, including construction costs and revenue for each year;
- Forecast capital expenditure, presented in prices at the Financial Proposal Due Date and classified in accordance with the construction cost categories outlined in the Detailed Costing Form (Form N) and Financial Plan Summary (Form R);
- Tax and GAAP depreciation assumptions – split between the various categories of fixed asset;
- O&M costs, presented in prices at the Financial Proposal Due Date analyzed in the categories outlined in the Detailed Costing Form (Form N) and Financial Plan Summary (Form R);

- Traffic assumptions underlying the revenue forecasts;
- Average actual tolls for each year of the Term; and
- All financing assumptions, including but not limited to drawdowns, capital repayment moratoria, repayment schedules and maturity, refinancing assumptions and gains, interest rates and margin, and arrangement and other fees (all must be referenced to the relevant credit provider term sheet).

Any third party reports developed to support the revenue and cost estimates used in developing the financial offer shall be appended to the Assumptions Books.

6.5 Financial Model Instructions Guide

Proposers shall provide details of how the Financial Model operates.

The instructions shall include step-by-step instructions on the procedure to run and optimize the Financial Model, including any constraints imposed by the credit providers on results of downside sensitivities. The instructions shall also explain how to print the model.

6.6 Detailed Costing Form

Proposer shall complete the Detailed Costing Form (Form N), and include the completed form in the Financial Proposal.

7.0 Request for Public Funds; Offer of Concession Payment to NCDOT; Request for Developer Ratio Adjustment Mechanism; Revenue Payment

If Proposer is requesting public funds during the design and construction phase from NCDOT for the Project, then Proposer shall complete Sections A and B of the Financial Request/Offer Form (Form J) as described in Section 7.1. Alternatively, if Proposer is offering to make a Concession Payment to NCDOT for the Project or is otherwise not requesting public funds, then Proposer shall complete Section C of Form J as described in Section 7.2. If Proposer is requesting a Developer Ratio Adjustment Mechanism in accordance with Section 13.3 of the CA, then Proposer shall complete Section D of Form J as described in Section 7.3.

7.1 Request for Public Funds

7.1.1 Maximum Availability of Public Funds Amount

Up to \$170 million in U.S. nominal dollars of public funds (“Maximum Available Funds”) may be available to pay for the Project. The Public Funds Amount requested by Proposer shall not exceed the Maximum Available Funds on a cumulative basis based on the amounts and timing set forth below:

NTP2 + 12 months: \$88 million

NTP2 + 24 months: \$156 million

NTP2 + 36 months or greater: \$170 million

Thus, Proposer may request no more than \$88 million in the aggregate during the 12 month period after issuance of NTP2, no more than \$156 million in the aggregate during the 24 month period after issuance of NTP2, and no more than \$170 million in the aggregate during the 36 month or greater period after the issuance of NTP2.

The NTP1 Work will also be paid from the Public Funds Amount. Prior to Financial Close, up to \$20 million of the Public Funds Amount will be allocated to pay for the NTP1 Work in accordance with the CA.

7.1.2 Proposer's Public Funds Amount

Proposer shall indicate the maximum allowable nominal amount of public funds it may receive during each three month period during the design and construction phase of the Project by completing Sections A and B of the Financial Request/Offer Form (Form J). Proposer shall complete Form J based upon Proposer's Financial Model. The Proposer shall insert the aggregate total amount of public funds requested in Box 1 of Form J (the "Public Funds Amount").

The net present value of Proposer's Public Funds Amount (Form J, Box 2) will be used to calculate the Adjusted Proposal pursuant to ITP Sections 5.3.

7.1.3 Maximum Payment Curve

The Maximum Payment Curve in Form J shall be calculated using the cumulative three month totals of Proposer's Public Funds Amount (i.e., the first three months' Maximum Payment Curve amount will equal the first three months' Public Funds Amount, the six months' Maximum Payment Curve amount will equal the sum of the six months' Public Funds Amount, the nine months' Maximum Payment Curve amount will equal the sum of the nine months' Public Funds Amount, etc.). The Maximum Payment Curve will be attached to the executed CA as Attachment 3 to Exhibit 5.

Payment of the Public Funds Amount (if any) by NCDOT to Developer will be subject to the limitations set forth in the CA, including:

- (a) the Maximum Payment Curve; and
- (b) that NCDOT's payment represents a pro-rata share of the costs with debt also contributed on a pro-rata basis (see CA Exhibit 5, Part E).

7.2 Concession Payment

If Proposer does not request a Public Funds Amount and/or offers to make a payment to NCDOT for the Project, then Proposer shall complete Section C of the Financial Request/Offer Form (Form J). The financial offer must be in the form of an upfront lump sum payment to NCDOT (the “Concession Payment”).

7.3 Request for Developer Ratio Adjustment Mechanism

Proposers may propose that up to \$75 million in U.S. nominal dollars in the aggregate be available from NCDOT to provide defined and limited financial support to the Project through the Developer Ratio Adjustment Mechanism, as described in more detail under Section 13.3 of the CA.

If use of the DRAM is assumed by the Rating Agencies to achieve an investment grade rating, Proposer shall insert the amount of the DRAM assumed in the Financial Plan in Box 5 of Form J (“DRAM Aggregate Cap Amount”), which amount shall not to exceed \$75 million in U.S. nominal dollars in the aggregate. If the amount of the DRAM stated in the letters from the Rating Agencies differ, Proposer shall insert the higher amount in Box 5 of Form J, subject to the \$75 million limit.

If use of the DRAM is not assumed by the Rating Agencies to achieve an investment grade rating, Proposer shall insert “0” in Box 5 of Form J.

7.4 Revenue Payment

Proposer shall complete the Revenue Payment Table (Form Q) for the Project.

8.0 Surety/Financial Institution Information

The Financial Proposal shall include the following information regarding the Payment Bond and Performance Security to be provided in accordance with the CA:

- (a) Name of surety (must be licensed in North Carolina and listed on the Department of the Treasury’s Listing of Approved Sureties (<http://www.fms.treas.gov/c570/c570.html>) and rated at least A minus (A-) or better by at least two of the Rating Agencies or rated Class VIII or better according to A.M. Best’s Financial Strength Rating and Financial Size) and the name and address of the agent.
- (b) Whether the listed Surety defaulted on any obligation within the past ten years, and, if yes, the details in the event of such default.
- (c) If the Performance Security is in the form of a letter of credit, the name of the bank or financial institution issuing the letter of credit must have long-term, unsecured debt ratings of not less than “A-/A3” from one of the Rating Agencies.

- (d) A letter from the Surety (a) acknowledging and representing its rating and listing with the Department of Treasury's Listing of Approved Sureties, (b) stating whether the Surety defaulted on any obligation within the past ten years (and if yes, listing the details of such event) and (c) indicating that the Surety has reviewed the CA Documents and is prepared to issue the Payment Bond and the Performance Bond (if Proposer intends to deliver the Performance Security as a Performance Bond) in the form(s) and amount(s) required by the CA. *The letter must specifically state, verbatim, that the Surety has read the RFP (including the ITP) and any addenda and has evaluated the backlog and work in progress for the entity for which it will provide the bonds in determining its willingness to issue the Payment Bond and the Performance Bond (if Proposer intends to deliver the Performance Security as a Performance Bond).* Separate letters for one or more of the individual Equity Members or other Major Participants are acceptable, as is a single letter covering all Proposer team members. If more than one letter is provided, each letter shall set forth the portion of the bond amount the Surety will be issuing; provided, however, that if multiple, separate letters are provided, one of the letters shall indicate that such Surety is the "lead Surety" with respect to any NCDOT claims upon the bond(s), and the remaining letters shall indicate concurrence that the named Surety is the "lead Surety" for purposes of NCDOT claims upon the bond(s).
- (e) If a letter of credit in lieu of the Performance Bond is proposed, then the Financial Proposal must include a letter from the bank/financial institution indicating a willingness to issue a letter(s) of credit in the form and amount required by the CA, covering the Developer's obligations under the CA Documents. The bank/financial institution letter shall also state the unsecured debt rating of the issuing institution. If a letter of credit is proposed as Performance Security, Proposers must nonetheless meet the Payment Bond requirements with a surety bond, and NCDOT will not accept a letter of credit from Proposer for such requirements.
- (f) In instances where Proposer discloses in its Financial Proposal proposed or anticipated changes in the financial condition of Proposer or any other entity for which financial information is submitted as required hereby for the next reporting period, Proposer must provide a certification with the Surety's letter under paragraph (d) above (and, if applicable, the bank's/financial institution's letter under paragraph (e) above) that the Surety's/bank's/financial institution's analysis specifically incorporates a review of the factors surrounding such changes and identifying any special conditions which may be imposed before issuance of surety bonds for the Project.

For purposes of clarity, the requirements above apply only with respect to Proposer's proposed Payment Bond and Performance Security should Proposer be selected as the Apparent Best Value Proposer and NCDOT and Proposer's Developer entity enter into the CA. The requirements above do not apply with respect to the surety providing the Financial Proposal Bond.

Furthermore, the Financial Proposal must include a letter from a Surety meeting the requirements in paragraphs (a), (b), (d) and (f) above. If the Performance Security is proposed to be a surety bond, then the surety letter must encompass both the Performance Bond and the Payment Bond. If the Financial Proposal proposes to provide a letter of credit for the Performance Security, then Proposer must include an additional letter in the Financial Proposal from the issuing bank/financial institution meeting the requirements in paragraphs (c) and (e) above. In such a case, the Financial Proposal must also contain a letter from a Surety meeting the requirements listed just above for the Payment Bond.

9.0 Proposal Security

The Financial Proposal shall include either a Proposal Bond or a Proposal Letter of Credit as specified below.

Forfeiture of Proposal Security in accordance with Section 4.7 of the ITP will constitute liquidated damages. By submitting its Financial Proposal, the Proposer agrees and acknowledges that such liquidated damages are reasonable in order to compensate NCDOT for damages it will incur as a result of the Proposer's failure to satisfy the obligations under the RFP to which Proposer agreed when submitting its Proposal. Such damages include potential harm to the credibility and reputation of the Project, NCDOT's transportation improvement program, with policy makers and with the general public, delays to the Project and additional costs of administering this or a new procurement (including engineering, legal, accounting, overhead and other administrative costs). By submitting its Financial Proposal, Proposer further acknowledges that these damages would be difficult and impracticable to measure and prove, are incapable of accurate measurement because of, among other things, the unique nature of the Project and the efforts required to receive and evaluate proposals for it, and the unavailability of a substitute for those efforts. The amounts of liquidated damages stated herein represent good faith estimates and evaluations as to the actual potential damages that NCDOT would incur as a result of Proposer's failure to satisfy the obligations under the RFP to which the Proposer agreed when submitting its Proposal, and do not constitute a penalty. By submitting its Financial Proposal, Proposer agrees to such liquidated damages in order to fix and limit the Proposer's costs and to avoid later disputes over what amounts of damages are properly chargeable to Proposer.

Except for any Proposal Security which has been forfeited, the Proposal Security will be returned to the respective Proposers pursuant to Section 6.7 of the ITP.

9.1 Proposal Bond

If a proposal bond is provided, it shall be in the amount of \$10 million and in the form of Form K-1 (“Proposal Bond”) and shall be issued by a surety licensed in North Carolina and listed on the Department of Treasury’s Listing of Approved Sureties (<http://fms.treas.gov/c570/c570.html>) and rated at least A minus (A-) or better by two Rating Agencies or rated Class VIII or better according to A.M. Best’s Financial Strength Rating and Financial Size. The Proposal Bond shall be subject to forfeiture in accordance with ITP Section 4.7, and shall be valid for no less than 210 days after the Financial Proposal Due Date.

9.2 Proposal Letter of Credit

If a letter of credit is provided it shall be in the amount of \$10 million, which shall be in substantially in the form of Form K-2 (“Proposal Letter of Credit”) issued by a financial institution having long-term, unsecured debt ratings of not less than “A-/A3” from one of the Rating Agencies and has an office in the United States at which the Proposal Letter of Credit can be presented for payment (including, if elected by Proposer to be an electronic or “paperless” letter of credit, by facsimile or by electronic means). The Proposer shall attach to each letter of credit (or present each electronic or “paperless” letter of credit) evidence of the issuer’s long-term unsecured debt rating current as of 30 days before provision of the Proposal Letter of Credit. The Proposal Letter of Credit shall be subject to forfeiture in accordance with ITP Section 4.7. Proposers may submit more than one Proposal Letter of Credit substantially in the form provided in Form K-2, provided that the Proposal Letters of Credit total \$10 million in the aggregate. The Proposal Letter of Credit submitted by a Proposer shall be subject to forfeiture in accordance with ITP Section 4.7, and shall be valid for no less than 210 days after the Financial Proposal Due Date.

10.0 Confidential Contents Index

A page executed by the Proposer that sets forth the specific items (and the section and page numbers within the Financial Proposal at which such items are located) that the Proposer deems confidential, trade secret or proprietary information protected by applicable Law. Blanket designations that do not identify the specific information shall not be acceptable and may be cause for NCDOT to treat the entire Financial Proposal as public information. Notwithstanding the foregoing, the list required under this Exhibit C, Section 10.0 is intended to provide input to NCDOT as to the confidential nature of a Financial Proposal, but in no event shall such list be binding on NCDOT, determinative of any issue relating to confidentiality or a request under the Public Records Act or override or modify the provisions of the Public Records Act or NCDOTs responsibilities thereunder.

11.0 Verification

Each Proposer shall satisfy itself as to the revenues, payments, costs and tax consequences of entering into the CA Documents and becoming the Developer. NCDOT makes no representations or warranties, express or implied, and assumes no liability whatsoever, with respect to revenues, payments, costs or the consequences of federal, state, local or other income tax treatment of Developer under the CA Documents.

APPENDIX 4 TO I-77 JLTOC REPORT – Summary of Risk Sharing

Financial Risk/Benefit Sharing (Pre-Financial Close)

Risk	Sharing	Notes
Base Rate Movements	100% NCDOT risk and benefit (up to 125bps)	NCDOT will bear the risk, up to the Interest Rate Buffer Amount (125bps), and have the benefit of any decreases in Benchmark Interest Rate(s) during the Interest Rate Protection Period.
Credit Spread Movements	100% NCDOT risk and benefit	NCDOT will bear 100% of the risk and have 100% of the benefit of Credit Spread Fluctuation, if any, (either positive or negative) during the Credit Spread Protection Period.
Quantitative Changes to TIFIA Term Sheet Assumptions	100% NCDOT risk 50% NCDOT benefit	NCDOT will bear 100% of the risk and have 50% of the benefit on quantitative changes to the TIFIA Term Sheet Assumptions (either positive or negative). See definition and separate table below.
Design-Build Price after 210 days from Financial Proposal Date	100% NCDOT risk	Starting 210 days after the Financial Proposal Due Date, until Financial Close, NCDOT shall compensate the Developer for adjustments to the Design-Build Contract Price as a result of inflation in materials and labor rates (based on Construction Cost Index).
120-day Developer Extension of Project Financing Deadline	100% Developer risk 50% NCDOT benefit	Developer shall have the option to extend the Project Financing Deadline for an additional 120-day period. Developer shall not be entitled to any positive adjustments in the Public Funds Amount or Interest Rate Buffer Amount during such 120-day extension period. NCDOT shall be entitled to 50% of the benefit, if any.

Financial Benefit Sharing (Post-Financial Close)

Risk	Sharing	Notes
Toll Revenue Sharing	Tiered Bands (NCDOT receives 0%/12.5%/25% /50%/75%)	Developer shall make Revenue Payments to NCDOT to the extent cumulative Toll Revenues exceed pre-determined floors, calculated as an escalating percentage of Toll Revenues above tiered bands.
Refinancing Gain	50% NCDOT benefit	Except for an Exempt Refinancing, Developer shall pay to NCDOT an amount equal to 50% of the Refinancing Gain according to the proscribed formula, which is based on change in NPV of projected Distributions.

Technical Risk Sharing

Risk	Notes
Right of Way (ROW)	The Developer will be responsible for the costs of acquiring ROW up to a pre-determined cap. NCDOT will be responsible for eligible right of way costs beyond the cap. NCDOT must approve the additional ROW prior to its acquisition.
Hazardous Materials	Risk of hazardous materials may lead to schedule delays and/or cost increase. This risk is deemed by the Developer as unlikely to occur. NCDOT is responsible for certain costs incurred by the Developer for handling pre-existing hazardous materials and NCDOT releases of hazardous materials. Further, NCDOT is responsible for handling hazardous materials released by third parties. The Developer is responsible for all other hazardous materials.
O&M and Major Maintenance Activities	Developer is responsible for O&M of both the GP Lanes and HOT Lanes except for winter maintenance, which is a retained risk of NCDOT. In addition, NCDOT will perform inspections each year of pavement condition and at a minimum every two years for bridges. If inspections determine additional O&M work is required, the Developer is responsible. NCDOT is also responsible for certain pavement renewal activities as specified in the CA Documents.
Traffic Operations	The Proposal includes ingress-egress areas with a 2000 foot minimum weave between the HOT and GP Lanes. Prior to the final design submittal, the Developer must perform traffic analysis and simulation as called for in the CA Documents. If this analysis indicates a design change is required, this change is at Developer’s risk. Similarly, if in the future, operations would degrade at the ingress-egress areas to less than acceptable standards as defined in the CA Documents, the Developer can be required to fix the ingress-egress area to an improved design at the Developer’s risk.
Incident Management	Incident management are shared responsibilities between NCDOT and Developer with close coordination with law enforcement.
Closure of the Existing HOV Lane for Construction	The Developer may close the existing HOV lane during construction work in that lane. For any other closure of the HOV lane, stakeholder concurrence (such as MPO technical staff and Charlotte Transit) are required. The Developer is responsible for implementing any required mitigation measures.
Permit Risk	The Developer is responsible for any NEPA required process for their proposed design and is responsible for compliance with North Carolina permitting processes. NCDOT will support the Developer in obtaining certain permits.

Other Risk Sharing

Risk	Notes
Change in Law	The risk of change in laws is also deemed by the Developer as unlikely to occur. Nevertheless, as specified in the CA Documents, general changes in law will be borne by Developer while discriminatory changes in law are borne by NCDOT.

Risk Matrix

Design and Construction Risks	Developer	NCDOT
Compliance with environmental requirements	✓	
Design/construction/O&M integration and design review	✓	
Engineering solutions and design costs	✓	
Schedule management	✓	
Construction and construction management	✓	
Operations and Maintenance and Life Cycle Analysis	✓	
Intelligent Transportation System Design, Construction, and Renewal	✓	
Intelligent Transportation System Integration	✓	
Change in material prices / escalation risk / insurance premium costs	✓	
Deviation in quantities	✓	
Obtain NEPA Documents		✓
Completion of major environmental permits applications	✓	
Obtain and Comply with environmental permits	✓	
Unknown geotechnical risk	✓	
Pre-existing hazardous materials		✓
Project equipment hazardous spill	✓	
Right of Way	✓	✓
Utility relocation	✓	
Justified delay by utility owners or railroads	✓	
Unjustified delay by utility owners or railroads	✓	✓
Public and worker safety	✓	
Operations & Maintenance Risks	Developer	NCDOT
O&M fixed costs and performance for 50 years	✓	
Major maintenance fixed costs and performance for 50 years	✓	
Changes in law and technology enhancements	✓	✓
Assignment of resources	✓	
Risk of defective performance	✓	
Hand-back risk	✓	
Unplanned revenue impact facilities	✓	✓
Interface with Turnpike Authority toll operations services	✓	✓
Lost revenue due to temporary suspension of tolling on I-77 (discriminatory)		✓
Lost revenue due to temporary suspension of statewide tolling	✓	
Force Majeure	✓	✓