



**REQUEST FOR QUALIFICATIONS**

**FOR**

**PHASE 1 OF THE  
I-495 & I-270 PUBLIC-PRIVATE PARTNERSHIP PROGRAM  
THROUGH A**

**PHASE PUBLIC-PRIVATE PARTNERSHIP AGREEMENT**

**among  
the Maryland Transportation Authority and  
the Maryland Department of Transportation, including the State Highway Administration**

**Issued: February 7, 2020**

**Statement of Qualification Due Date: April 22, 2020**

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## PART A – OVERVIEW

### 1. OVERVIEW

#### 1.1 I-495 & I-270 P3 Program

In 2017, Governor Larry Hogan announced Maryland's Traffic Relief Plan (the "**Plan**"). The I-495 & I-270 Public-Private Partnership Program (the "**P3 Program**"), the largest component of the Plan, will be developed and delivered pursuant to the following overarching goals:

- Congestion Relief;
- Minimize Impacts;
- No Net Cost to State;
- Accelerated Delivery; and
- Shockingly Innovative.

The P3 Program area includes over seventy (70) miles of existing interstate highways extending along:

- (a) I-495 (Capital Beltway) from the vicinity of the George Washington Memorial Parkway in Virginia, across and including the American Legion Bridge (or the ALB), to the Woodrow Wilson Memorial Bridge, and
- (b) I-270 (Dwight D. Eisenhower Memorial Highway) from its interchange with I-495 to its interchange with I-70.

The P3 Program area includes the top five (5) highest traffic volume interstate sections in the State with average severe congestion that lasts seven (7) hours on I-270 and ten (10) hours on I-495 along with highly variable travel times and speeds well below posted speed limits throughout the day. Many sections experience speeds of less than fifteen (15) mph under existing conditions, and traffic and speeds are expected to continue to deteriorate. Per the 2018 Maryland State Highway Mobility Report, the cost of congestion in the Maryland National Capital Region in 2017 was estimated to be over \$1.7 billion, up by 40% compared to 2016.

Figure 1 summarizes the geographical location of the P3 Program including Phase 1. Phase 1 of the P3 Program includes improvements to I-495 from the vicinity of the George Washington Memorial Parkway in Virginia, across and including the ALB, to its interchange with I-270 and I-270 from its interchange with I-495 to its interchange with I-70 ("**Phase 1**"). With respect to Phase 1, I-495 from the vicinity of the George Washington Memorial Parkway to I-270 and I-270 from I-495 to I-370 shall be developed and delivered first.

It is expected that (i) Phase 1 will be developed and delivered by a developer (the "**Phase Developer**") selected pursuant to the solicitation initiated by this Request for Qualifications (or RFQ), and (ii) the Phase Developer will develop and deliver Phase 1 in two (2) or more sections (to be agreed with Maryland Department of Transportation).

The remainder of the P3 Program is expected to be delivered pursuant to one or more future solicitations, once approved by the State Board of Public Works ("**BPW**") for one or more phase developers and is not included in the solicitation being initiated by this RFQ.

**Figure 1. I-495 and I-270 P3 Program Location**



## 1.2 Description of the Opportunity

In accordance with State Finance and Procurement Article Title 10A of the Annotated Code of Maryland (the "**Act**") and Chapter 6 of Subtitle 7 of Title 11 of the Code of Maryland Regulations and Chapter 17 of Subtitle 1 of Title 11 of the Code of Maryland Regulations (together the "**P3 Regulations**"), the State of Maryland (the "**State**") acting by and through the Maryland Transportation Authority, an agency of the State ("**MDTA**") and the Maryland Department of Transportation, an agency of the State including the State Highway Administration ("**MDOT**") issues this RFQ to prospective entities or groups of entities interested in submitting a Statement of Qualifications (or SOQ) to:

- (a) complete Predevelopment Work (as further described in Section 1.3(a)) under a Phase P3 Agreement for Phase 1 of the P3 Program; and
- (b) in partnership with MDTA and MDOT, deliver the Section Work through one (1) or more Section P3 Agreements for Phase 1. With respect to Phase 1, I-495 from the vicinity of the George Washington Memorial Parkway to I-270 and I-270 from I-495 to I-370 shall be developed and delivered first.

### 1.3 **Scope of Work**

The Phase Developer will be expected to manage the successful preliminary development of Phase 1 consistent with the requirements of the Request for Proposals (or RFP). Upon BPW approval of the Phase P3 Agreement, the Selected Proposer for Phase 1 will enter into the Phase P3 Agreement as Phase Developer with MDTA and MDOT. The Phase P3 Agreement will govern the Predevelopment Work for Phase 1 and the process leading to execution of each Section P3 Agreement under which a Section Developer shall be appointed to perform the Section Work with respect to a section of Phase 1 (as further described below). MDOT and MDTA will be parties to the Phase P3 Agreement and each Section P3 Agreement.

On June 5, 2019, the BPW designated the P3 Program to advance as a public-private partnership and approved the proposed competitive solicitation method. On January 8, 2020, the BPW approved the amendment to the designation of the P3 Program as a public-private partnership and the solicitation method. The BPW approval included the following conditions:

- no property acquisitions related to the Plan may take place before BPW final approval of the Phase P3 Agreement;
- the RFP will permit mass transit bus access on managed toll lanes without tolls;
- MDOT and MDTA will develop memoranda of understanding with the affected Counties defining regional transit service improvements to be provided as part of the P3 agreements. Terms of the agreements will be provided to the BPW concurrently with the P3 agreements. Furthermore, MDOT and MDTA will develop the transit service improvements collaboratively with the affected Counties. Specific transit investment will be provided as part of the P3 agreements. This will ensure these regional transit service improvements are provided at defined and predictable times. By including the regional transit service improvements in the P3 agreements, the affected Counties will be guaranteed the transit service improvements. This approach will fully honor the BPW request from June 5, 2019. The memoranda of understanding between MDOT and the affected Counties defining transit service improvements to be developed as part of the P3 agreements will be provided to the BPW as part of the request for approval of the P3 agreements to clearly show that the MDOT and MDTA have complied with this BPW condition;
- initial feasibility study of monorail to be performed; and
- The P3 Program will be developed and delivered through the solicitation of one or more phase developers. The first solicitation will be for Phase 1. With respect to Phase 1, I-495 from the vicinity of the George Washington Memorial Parkway to I-270 and I-270 from I-495 to I-370 shall be developed and delivered first.

- (a) Predevelopment Work



MDOT intends the initial scope of work identified below (the "**Predevelopment Work**") for Phase 1 may include the following:

- preparing the Phase 1 development plan, plans for the development of each section, and various other plans;
- working in partnership with MDOT to develop and agree on the scope, order, and schedule of the sections of Phase 1 to be delivered, subject to any requirements mandated by MDOT and MDTA;
- working in partnership with MDOT to avoid or emphasize further minimization of environmental, community, property and operational impacts of construction and operation;
- working in partnership with MDOT to support a robust collaborative community outreach and engagement;
- performing other predevelopment work for each section of Phase 1 in order to reduce risk and optimize pricing, and subsequently obtaining final, fixed pricing for the Section Work, and the equity and debt financing for the relevant section as referred to in Section 3.1(f);
- preparing traffic and revenue studies for each section of Phase 1 that meet the requirements of MDOT, MDTA and financing entities so that financing for such section can be obtained;
- preparing congestion pricing scenarios that will support the Phase 1 financial plan, including an outline of toll rates based on the day of the week, time of day, level of congestion, direction of travel, any toll discounts, and location of tolling gantries;
- providing general assistance to MDOT and MDTA through the development phase (subject to any limitations on private sector involvement in connection with the National Environmental Policy Act of 1969 ("**NEPA**") and regulations);
- advancing debt financing arrangements for each section (including by assisting MDOT and MDTA in the TIFIA and PABs application processes as necessary for the relevant section);
- complying with all permits obtained by MDOT and MDTA;
- obtaining any required permits and approvals;
- coordinating work on each section of Phase 1 and coordinating interfaces with other phases, and other projects in the State and Virginia, as applicable;
- complying with NEPA commitments and mitigation;
- providing information for additional environmental documentation under federal or State environmental laws;
- assisting the affected counties and MDOT with the development of certain regional transit service improvements to be provided during the term of the

Section P3 Agreement(s) pursuant to the terms of memoranda of understanding to be agreed with affected counties;

- supporting MDOT in its commitment to inclusion of MBE/DBE and its development of community benefits, including workforce development and working with a diverse labor market including but not limited to local contractors, labor unions, and the MBE/DBE community along the P3 Program corridor; and
- performing any other work and coordination necessary to achieve financial close for each section of Phase 1.

Some of the Predevelopment Work may support the entire Phase 1 and some shall be specific to a particular section. MDOT is seeking a private partner for Phase 1 who will implement innovative solutions. MDOT expects to engage in a dialogue with Shortlisted Proposers and, upon execution of the Phase P3 Agreement, with the Phase Developer regarding innovative approaches to achieve the goals and objectives of the P3 Program (see Section 6.3(a)).

The Phase P3 Agreement will provide the roles and responsibilities of the Phase Developer and provide a framework for collaboration with MDOT and MDTA.

(b) Section Work

After the Predevelopment Work for a section of Phase 1 is accepted, and with BPW approval, MDOT and MDTA are expected to enter into a Section P3 Agreement for that section (the "**Section P3 Agreement**") with the Phase Developer or an entity controlled and established by the Phase Developer (the "**Section Developer**"). Alternatively, following the execution of the first Section P3 Agreement, subsequent sections may be added to the first Section P3 Agreement through an amended agreement. The Phase Developer may create a separate entity to act as Section Developer, but this is not a requirement.

The Section Developer will be responsible for the design, construction, financing, tolling, operation, and maintenance of such section of Phase 1 (the "**Section Work**"). Such scope of work may include the following with respect to the relevant section:

- design and construction of priced managed lanes;
- with respect to the section including the ALB, connection with the VDOT I- 495 Express Lanes Northern Extension Project (anticipated to be constructed by others simultaneously);
- intermediate ingress and egress points to the priced managed lanes that are compatible with other sections and phases of the P3 Program;
- coordination of the priced managed lanes with other sections and phases of the P3 Program;
- design, construction, and reconstruction/rehabilitation of the existing GP Lanes to accommodate the priced managed lanes;
- provision of new structures and the replacement of structures along, over and under I-495 and I-270 (including the ALB);

- construction, reconstruction/rehabilitation, realignment, or protection of facilities (including roadways, railroads, pedestrian/bicycle facilities including across the Potomac River at the ALB, and structures) that cross over or under or connect into the Phase 1 improvements;
- maintenance of pedestrian, bicycle, and vehicular traffic through work zones;
- relocation and/or protection of existing utility infrastructure;
- acquisition of any additional right-of-way and easements that are required for the development, construction, maintenance, and operation of the Section Work beyond the right-of-way and easements provided by MDOT;
- ETTM Systems including both open road and video tolling roadside equipment and systems so that each vehicle can be accurately detected and classified without stopping or slowing to do so;
- operations and maintenance of the priced managed lanes (including ensuring that tolling trip data is delivered to MDTA), and during construction, the routine O&M of the GP Lanes in active construction areas;
- institution of a transportation management plan, including traffic management strategies to discourage traffic diversion onto neighborhood streets, generally improve the flow of traffic, and/or relieve congestion during each successive stage of construction;
- compliance with NEPA commitments and mitigation;
- provision of information for additional environmental documentation under federal or State environmental laws;
- delivery of certain regional transit service improvements in coordination with the affected counties and MDOT;
- compliance with certain community benefit requirements to be developed by MDOT; and
- acquisition and compliance with all permits and approvals required to complete the work (except MDOT-provided approvals).

MDTA and MDOT intend that all sections of Phase 1 will include the development and management of certain priced managed lanes on each of I-270 and I-495, and will require the ability to calculate toll amounts according to the type of vehicle using the lanes (which may include vehicles varying from 2-axles to up to 6+ axles). MDTA will be responsible for back office support on the priced managed lanes, including toll collection and administration.

#### 1.4 **Solicitation Process**

MDOT and MDTA will be signatories to the Phase P3 Agreement and the Section P3 Agreement(s), each of which shall be approved by the MDTA Board and BPW prior to its execution.

The Act and P3 Regulations describe and provide a process for the development, solicitation, evaluation, award, and delivery of public-private partnerships in the State. The P3

Regulations are substantially similar, and both sets of regulations shall be followed for purposes of this solicitation. A link to the online location of these regulations can be found on eMaryland Marketplace Advantage.

MDOT will use a multi-step solicitation process to select the Phase Developer, which is described in [Article 6](#). This RFQ represents the first step in this process. MDOT will establish a shortlist of the most highly qualified Respondents based on the evaluation factors in this RFQ. MDOT intends to shortlist three (3) Respondents for Phase 1, but reserves the right to shortlist up to five (5) Respondents if supported by the evaluation of the Respondents and determined to be in the best interest of MDOT and MDTA.

MDOT intends to invite the Shortlisted Proposers to submit Proposals with respect to the RFP and then select one (1) of the Shortlisted Proposers as the Phase Developer for Phase 1 in accordance with the criteria and procedures set forth in the RFP. It is anticipated that the Selected Proposer will enter into, or will form a single purpose entity to enter into, the Phase P3 Agreement as the Phase Developer. The Phase P3 Agreement will govern the Predevelopment Work and the process leading to execution of the Section P3 Agreement(s) in Phase 1.

MDOT intends that the form of the Phase P3 Agreement shall be attached to the RFP, and the form of the Section P3 Agreement shall be attached to the RFP and the Phase P3 Agreement.

1.5 **Solicitation Schedule**

|  |   |
|--|---|
| Issue Request for Qualifications   | <b>February 7, 2020</b>   |
| Deadline for questions regarding (a) the RFQ and (b) any Addenda to the RFQ issued before March 30, 2020   | <b>April 2, 2020 at 2 P.M. Eastern Time</b>   |
| Deadline for questions regarding any Addenda to the RFQ issued on or after March 30, 2020  | <b>Three calendar days after the Addendum is issued (but no later than five calendar days prior to the SOQ Due Date) by 11:59 P.M. Eastern Time</b> |
| SOQ Due Date   | <b>April 22, 2020 at 2 P.M. Eastern Time</b>  |
| Anticipated Notification of Shortlisted Proposers  | <b>June 5, 2020</b>   |
| <b>Following notification of the Shortlisted Proposers, as of the date of this RFQ, MDOT anticipates the following solicitation activities and schedule:</b> |   |
| Circulate First Industry Review Draft of RFP to Shortlisted Proposers  | <b>July 2020</b>  |
| Issue Final RFP  | <b>December 2020</b>  |

|   |                      |
|---|----------------------|
| Proposals Due Date  | <b>February 2021</b> |
| Selection of Selected Proposer  | <b>March 2021</b>    |
| Seek BPW approval of Phase P3 Agreement (including form Section P3 Agreement) | <b>May 2021</b>      |
| Award and execution of Phase P3 Agreement                                     | <b>May 2021</b>      |

This schedule is subject to modification at the sole discretion of MDOT. MDOT will give notice of any change to the schedule by issuing an Addendum to this RFQ.

#### 1.6 **Administrative Matters**

Public information regarding Phase 1 is available at <https://495-270-p3.com/> (the "**Program Website**"). This RFQ is located on eMaryland Marketplace Advantage at <https://procurement.maryland.gov/>. eMaryland Marketplace Advantage is an electronic commerce system administered by the Maryland Department of General Services. Members of the public, Respondents, subcontractors, and suppliers may access the solicitation documents through this website at no charge. All associated materials, the solicitation, Respondent's questions and the Solicitation Manager responses, Addenda, and other solicitation related information is provided on eMaryland Marketplace Advantage. In order to obtain updates and Addenda, Respondents must register on eMaryland Marketplace Advantage. The registration on eMaryland Marketplace Advantage is free. Should you have any questions regarding registration, please call the eMaryland Marketplace Advantage Help Desk at 410-767-1492.

MDOT has assembled Reference Information Documents relating to Phase 1. Reference Information Documents have been made available upon issuance of this RFQ on eMaryland Marketplace Advantage. MDOT will not entertain requests for copies of other Reference Information Documents during the RFQ phase other than those provided through eMaryland Marketplace Advantage.

Please note that the Reference Information Documents and any reference to any website (including the Program Website) in this RFQ are provided for reference and background information only. MDOT and MDTA make no representation as to the accuracy, completeness or pertinence of the Reference Information Documents or the information in any referenced website (including on eMaryland Marketplace Advantage and the Program Website), and shall not be responsible for any interpretations thereof or conclusions drawn therefrom.

Reference Information Documents relating to Phase 1 include, but are not limited to, the following information:

- (a) LIDAR based topographic surveys;
- (b) historical boring information;
- (c) historical pavement information;
- (d) MDOT record plans;

- (e) right of way mosaic;
- (f) MDOT and MDTA Interagency Agreement ("**IAA**"); and
- (g) link to online location of P3 Regulations.

## 2. **STRUCTURE**

### 2.1 **Phase P3 Agreement and Section P3 Agreements**

#### (a) Phase P3 Agreement

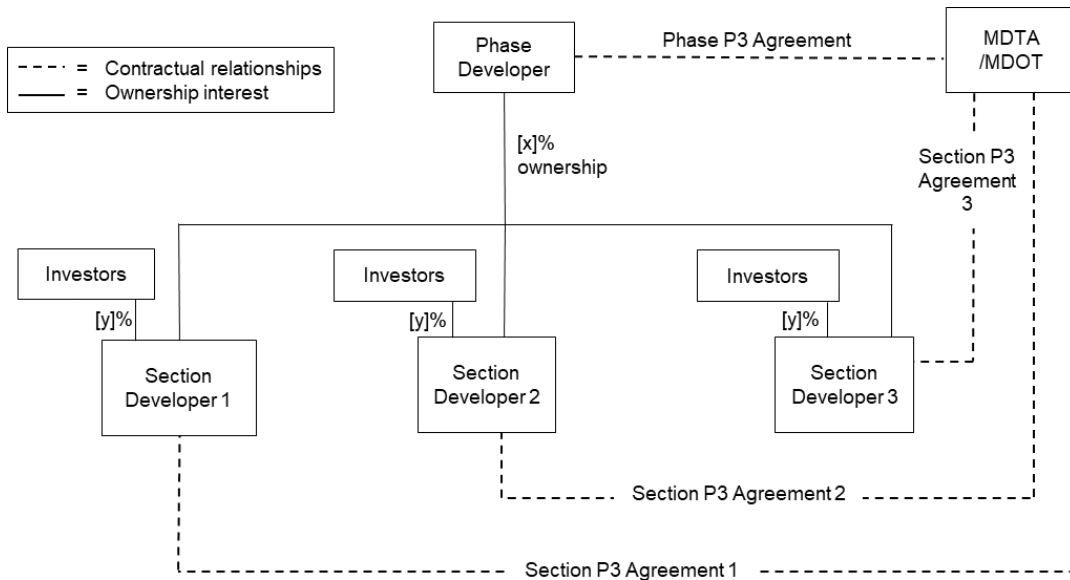
MDOT and MDTA intend to enter into contractual arrangements for Predevelopment Work with the Selected Proposer to develop collaboratively the scope of Phase 1 to ensure its cost-effective and expedited delivery (the "**Phase P3 Agreement**"). The form of the Phase P3 Agreement will be attached to the RFP and, by submitting a Proposal, the Shortlisted Proposers will commit to enter into the Phase P3 Agreement in substantially the form and terms attached to the final RFP.

#### (b) Section P3 Agreements

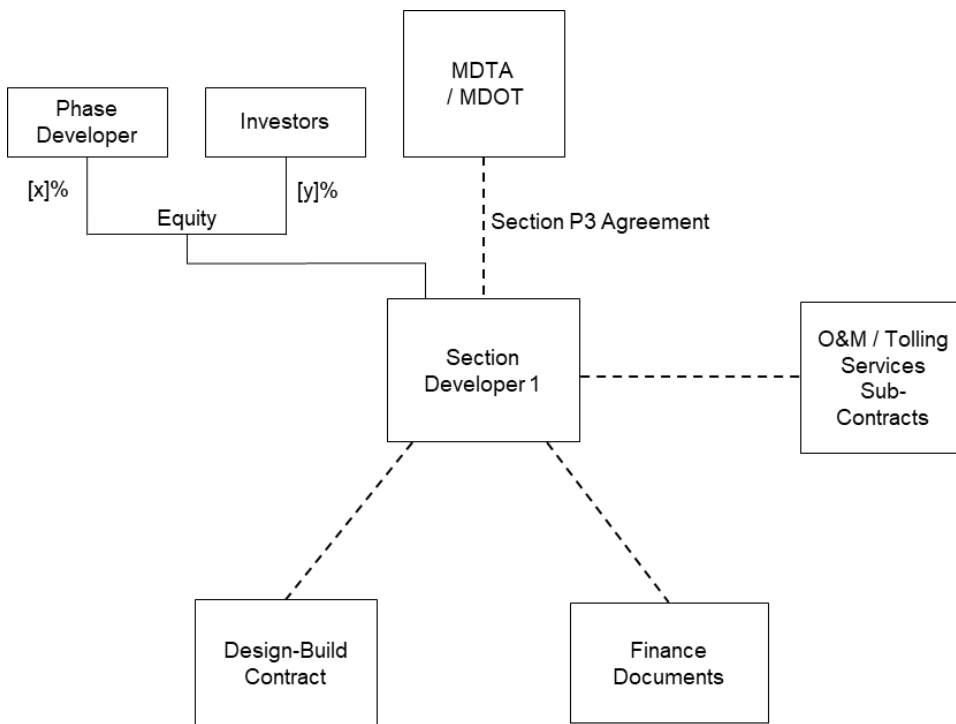
After the Predevelopment Work for a section of Phase 1 is accepted and with BPW approval, MDOT and MDTA are expected to enter into a Section P3 Agreement with the Section Developer for that section (or execute an amendment to incorporate the new section into an existing Section P3 Agreement). The Section P3 Agreement will obligate the Section Developer to design, build, finance, toll, operate, and maintain the relevant section of Phase 1. The Phase Developer may establish a new special purpose vehicle for each section if it does not wish to enter into each Section P3 Agreement itself. The Section Developer is expected to enter into agreements with various parties which may include agreements with debt and equity providers and a design-build contractor.

The charts below provide an overview of the relationship between the Phase P3 Agreement and the Section P3 Agreements for each section. Three (3) Section P3 Agreements and configurations of contractual relationships are shown for illustrative purposes only, although MDOT and the Phase Developer will work in coordination to determine the ultimate number of sections and Section P3 Agreements within Phase 1.

### **Overall Structure for Phase 1 of P3 Program**



**Structure for each section within Phase 1**



**2.2 Roles of MDOT and MDTA**

- (a) As a reporting agency under the Act, MDOT will be the primary State entity named in the Phase P3 Agreement and the Section P3 Agreements as responsible for the rights and obligations under the P3 Program related to solicitation and program management.

- (b) MDTA will be named in the Phase P3 Agreement and the Section P3 Agreements as responsible for rights and obligations under the P3 Program which (i) are related to tolling or toll revenues, or (ii) by law, may only be exercised by the MDTA Board or MDTA Executive Director.
- (c) Pursuant to Section 4-312 of the Transportation Article of the Annotated Code of Maryland, MDTA is the only State entity with the authority to set and fix tolls for State transportation facilities. To facilitate the P3 Program, MDOT, including MDOT State Highway Administration ("**MDOT SHA**"), and MDTA have entered into an IAA which can be found on eMaryland Marketplace Advantage. As part of this IAA, MDOT SHA will provide the day-to-day support to MDOT in the solicitation and delivery of the P3 Program, including acting as MDTA's agent for purposes of this RFQ. All rights and obligations of MDTA under the Phase P3 Agreement and the Section P3 Agreements, other than those responsibilities set out in Section 2.2(b), will be exercised or performed exclusively by MDOT on behalf of MDTA.

### 2.3 **Funding and Financing**

#### (a) Public Funding

No public funds are expected to be provided by MDOT or MDTA to the Phase Developer or any Section Developer for the financing of Phase 1.

#### (b) Private Financing

The Section Developer's private financing may include any number of sources including private debt and private equity investments.

In anticipation that the Section Developer may wish to use federal programs as part of its private financing, MDOT intends to facilitate access to federal financing tools such as the USDOT TIFIA Program credit assistance and USDOT tax-exempt PABs. MDOT intends to pursue the potential availability and use of both TIFIA and PABs, and intends to assist each Section Developer in obtaining, or obtaining approval for, any available, eligible TIFIA or PABs financing.

The Phase Developer's and each Section Developer's debt shall be non-recourse to the State, MDTA, and MDOT.

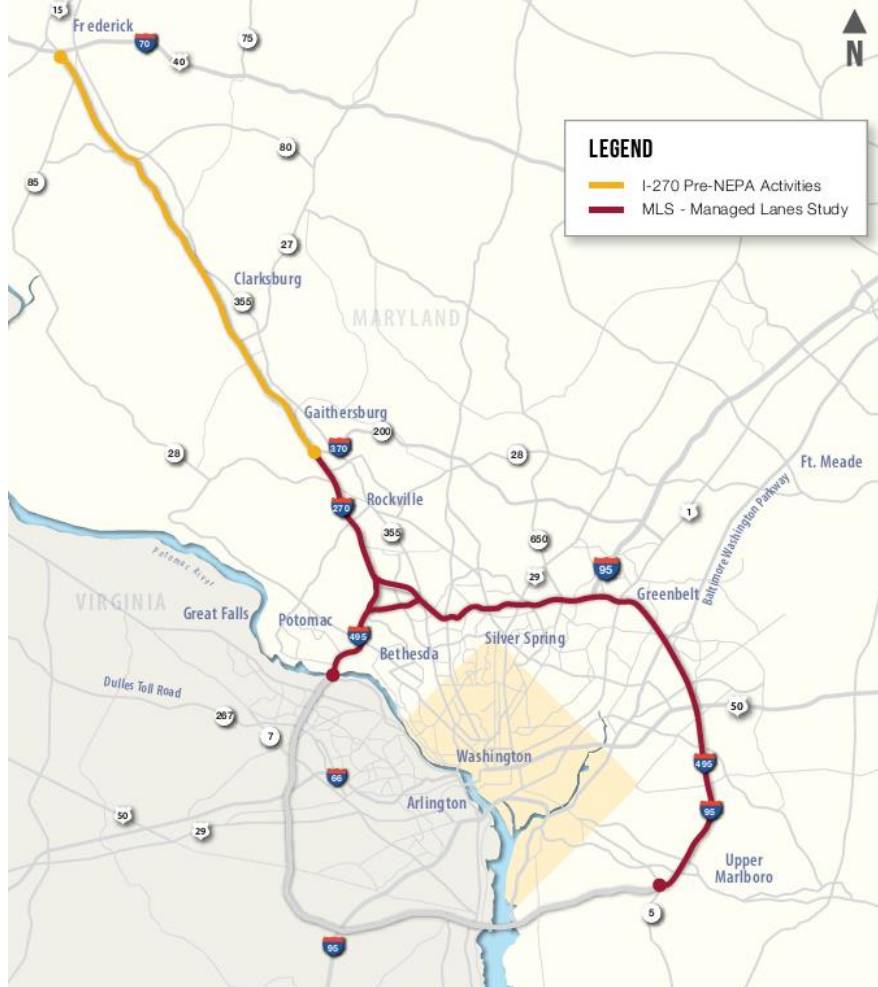
### 2.4 **Environmental Review Process**

#### (a) I-495 & I-270 Managed Lanes Study

As shown in Figure 2, the Federal Highway Administration ("**FHWA**") and MDOT are preparing an Environmental Impact Statement for a portion of the P3 Program – the I-495 & I- 270 Managed Lanes Study – in accordance with NEPA.



**Figure 2. P3 Program Environmental Review Process Overview**



The I-495 & I-270 Managed Lanes Study's purpose is to develop a travel demand management solution(s) that addresses congestion, improves trip reliability on I-495 and I-270 within the study limits and enhances existing and planned multimodal mobility and connectivity.

- **Accommodate Existing Traffic and Long-Term Traffic Growth.** High travel demand from commuter, business, and recreational trips results in severe congestion from seven (7) to ten (10) hours per day on the study corridors, which is expected to deteriorate further by the planning horizon year of 2040. Additional capacity is needed to address existing and future travel demand and allow travelers to use the facilities efficiently.
- **Enhance Trip Reliability.** Congestion on I-495 and I-270 results in unpredictable travel times. Travelers and freight commodities place a high value on reaching their destinations in a timely and safe manner, and in recent years, the study corridors have become so unreliable that uncertain travel times are experienced daily. More dependable travel times are needed to ensure trip reliability.
- **Provide Additional Roadway Travel Choices.** Travelers on I-495 and I-270 do not have enough options for efficient travel during extensive

periods of congestion. Additional roadway management options are needed to improve travel choices, while retaining the general-purpose lanes.

- **Accommodate Homeland Security.** The National Capital Region is considered the main hub of government, military, and community installations related to homeland security. These agencies and installations rely on quick, unobstructed roadway access during a homeland security threat. Additional capacity would assist in accommodating a population evacuation and improving emergency response access should an event related to homeland security occur.
- **Improve Movement of Goods and Services.** I-495 and I-270 are major regional transportation networks that support the movement of passenger and freight travel within the National Capital Region. Existing congestion along both corridors increases the cost of doing business due to longer travel times and unreliable trips. The effects of this congestion on the movement of goods and services is a detriment to the health of the local, regional, and national economy. Efficient and reliable highway movement is necessary to accommodate passenger and freight travel, moving goods and services through the region.

To communicate the full range of considerations, MDOT established two goals under the I-495 & I-270 Managed Lanes Study:

- **Financial Viability.** Additional capacity and improvements to enhance reliability must be financially viable. MDOT's traditional funding sources would be unable to effectively finance, construct, operate, and maintain improvements of this magnitude. Revenue sources that provide adequate funding, such as pricing options, are needed to achieve congestion relief and address existing high travel demand.
- **Environmental Responsibility.** Given the highly constrained area surrounding the interstates in the study area, MDOT recognizes the need to plan and design this project in an environmentally responsible manner. MDOT will strive to avoid and minimize community, natural, cultural, and other environmental impacts, and mitigate for unavoidable impacts at an equal or greater value. MDOT will work with our federal, state, and local resource agency partners in a streamlined, collaborative, and cooperative way to meet all regulatory requirements to ensure the protection of significant environmental resources. Any build alternatives will adequately offset unavoidable impacts while prioritizing and coordinating comprehensive mitigation measures near the study area which are meaningful to the environment and the community.

The no-build and five (5) build alternatives have been identified as the Alternatives Retained for Detailed Study ("**ARDS**") to be carried forward for detailed study in the "DEIS". These alternatives are listed in Figure 3.

### **Figure 3. I-495 & I-270 Managed Lane Study Alternatives Retained for Detailed Study<sup>1</sup>**

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<sup>1</sup> In Figure 3, HOT means High Occupancy Toll, ETL means Express Toll Lanes, and HOV means High Occupancy Vehicle.

| ARDS | Description   |
|------|---|
| 1    | <b>No Build</b> (Under this alternative, no improvements are planned to I-495 and I-270 to provide congestion relief.)              |
| 8    | <b>2-lane, ETL</b> Managed Lane Network on I-495 and <b>1-ETL</b> and <b>1-Lane HOV</b> Managed Lanes on I-270                      |
| 9    | <b>2-lane, HOT</b> Managed Lane Network on both I-495 & I-270   |
| 10   | <b>2-lane, ETL</b> Managed Lanes Network on I-495 & I-270 plus <b>1-Lane HOV</b> Managed Lane on I-270                              |
| 13B  | <b>2-Lane, HOT</b> Managed Lanes Network on I-495; HOT Managed, Reversible Lane Network on I-270                                    |
| 13C  | <b>2-Lane, ETL</b> Managed Lanes Network on I-495; ETL Managed, Reversible Lane Network and <b>1-Lane HOV</b> Managed Lane on I-270 |

The ARDS are being further evaluated to better understand and identify the extent of the footprint needed to construct the improvements. Additionally, detailed technical studies are being conducted on the environmental resources within the study area to determine potential effects of each of the ARDS. The alternatives development process and the results of the traffic, environmental, engineering, and financial analyses will be documented in the DEIS and supporting technical studies.

MDOT is issuing this RFQ concurrent with, yet separate from, the remaining work to complete the I-495 & I-270 Managed Lanes Study as it allows MDOT to move forward expeditiously with the solicitation when such study is complete. The release of this RFQ is being done concurrently with the I-495 & I-270 Managed Lanes Study to maximize efficiency in delivering congestion relief to the area.

The public-private partnership ("**P3**") solicitation milestones are being aligned with the I-495 & I-270 Managed Lanes Study schedule to maximize efficiency in the delivering congestion relief while ensuring the integrity of the NEPA process, consistent with the United States Code of Federal Regulations ("**CFR**") in 23 CFR 636.109.

In the event that priced managed lanes are not part of the recommended preferred alternative, this solicitation will not proceed.

(b) Further Environmental Review

The I-270 Pre-NEPA Activities (as shown in Figure 2) began in Summer 2019 and are expected to end in Fall 2020 with the publication of a pre-NEPA report detailing the activities conducted during this time period. Currently, MDOT is conducting activities such as identifying existing conditions, developing a Draft Purpose and Need, and eliminating unreasonable alternatives. In Fall 2020 the effort is anticipated to advance into a NEPA study which is expected to take approximately two (2) years to complete. To the extent that the outcome of the NEPA study concludes that managed lanes are not the preferred alternative for this section, I-270 from I-370 to I-70 shall be removed from Phase 1.

While a P3 contract may be awarded prior to the conclusion of NEPA, limitations on the involvement of a private developer are outlined in federal regulations (40 CFR 1506.1 and 23 CFR 636.109). The Phase Developer shall not have any decision-making responsibility under NEPA, but it may inform the NEPA process by completing preliminary design activities to include general design concepts, analyses, surveys, investigations, and general estimates.

### 3. **KEY COMMERCIAL TERMS**

#### 3.1 **Summary of the Phase P3 Agreement**

The form of the Phase P3 Agreement to be used will be attached to the RFP. This [Section 3.1](#) outlines certain commercial terms which are expected to be included in the form of the Phase P3 Agreement.

(a) **Cooperation and Partnership**

The Phase P3 Agreement will require the Phase Developer to work collaboratively in partnership with MDOT and MDTA in order to (i) complete the Predevelopment Work for the Phase and (ii) deliver the Section Work through the execution of one (1) or more Section P3 Agreements.

(b) **Environmental**

The Phase Developer shall work in partnership with MDOT to avoid or emphasize further minimization of environmental, community, property, and operational impacts of construction and operation.

(c) **Community Outreach**

The Phase Developer shall work in partnership with MDOT to support a robust collaborative community outreach and engagement, and shall be responsive to stakeholder questions and concerns.

(d) **Predevelopment Work**

The Phase P3 Agreement will require the Phase Developer to successfully complete all Predevelopment Work by developing Phase 1 in a section-by-section approach. All Predevelopment Work will be required to be performed in compliance with the technical requirements included in the RFP.

(e) **Innovation and Performance**

Throughout the solicitation process, dialogue with each Shortlisted Proposer regarding innovations and performance requirements in Phase 1 is expected to occur. Such dialogue shall continue with the Phase Developer following the execution of the Phase P3 Agreement. These processes, including any constraints or parameters on potential submissions, shall be set forth in the RFP and the Phase P3 Agreement.

(f) **Design-Build Price, O&M Costs, Traffic and Revenue Projections, and Debt and Equity Financing for Each Section of Phase 1**

The Phase P3 Agreement shall detail the process for determination of design-build pricing, operation and maintenance related costs, and the determination of traffic and revenue projections for each section of Phase 1. MDOT and/or MDTA shall have

approval rights with respect to such cost and projections prior to the execution of the relevant Section P3 Agreement, and the determination of such costs and projections shall also be subject to any applicable federal regulations and other Applicable Law. A significant percentage of the equity financing of each Section Developer will be competitively solicited prior to financial close of each section; however, the Phase Developer will be required to retain control of, and maintain a minimum equity ownership interest in, the Section Developer. Equity ownership of a Section Developer shall be subject to BPW approval at the time of their approval of each Section. The minimum equity ownership interest in the Section Developer will be further described in the RFP.

The Phase Developer shall also competitively solicit for the debt financing (excluding TIFIA).

### 3.2 Summary of the Section P3 Agreement

The form of the Section P3 Agreement to be used for each section of Phase 1 will be attached to the RFP and the Phase P3 Agreement. This [Section 3.2](#) outlines certain commercial terms which are expected to be included in the form of the Section P3 Agreement.

(a) Design and Construction Standards

It is anticipated that the Section P3 Agreement will require each Section Developer, upon receiving a notice to proceed from MDOT, to cause the relevant section of Phase 1 to be designed and constructed to certain performance requirements designated in the relevant Section P3 Agreement.

(b) Operations and Maintenance

Each Section Developer shall be responsible for the operations and maintenance of the priced managed lanes for the relevant section of Phase 1 and its associated assets. These functions are envisioned to include, but not be limited to, the following, as will be specified in each Section P3 Agreement:

- **Operations:** The operation of all priced managed lanes and associated assets;
- **Maintenance:** All maintenance activities to maintain all priced managed lanes and associated assets in the conditions specified in the Section P3 Agreement;
- **Inspections:** All required inspections of all priced managed lanes and associated assets in accordance with Applicable Law;
- **Rehabilitation:** All major maintenance as part of the asset lifecycle, including replacement, upgrading, and major repairs of all priced managed lanes and associated assets; and
- **Handback:** Conducting all activities to ensure that all priced managed lanes and associated assets meet the Section P3 Agreement-specified conditions and residual life requirements at the end of the term.

Certain assets, including the GP Lanes, will be handed back to MDOT (or applicable authority having jurisdiction) after substantial completion and will not be subject to O&M by the Section Developers after hand back.

(c) Homeland Security and Law Enforcement

The Section Developer shall (i) comply with all rules, directives and guidance of the U.S. Department of Homeland Security and any comparable State agency and (ii) coordinate and cooperate with all Governmental Entities providing security, first responder, and other public emergency response services. The Section Developer will coordinate with Maryland State Police for basic policing for each section of Phase 1.

(d) Tolling

The Section Developer(s) shall be entitled to certain toll revenues with respect to the tolls collected in the applicable section of the managed lanes following the delivery of the required trip data to MDTA. MDTA will provide certain tolling related services, including toll collection processing, account administration, toll violations processing, and back office support.

(e) Term

The term of each Section P3 Agreement is expected to be fifty (50) years.

(f) Financing

The Section Developer(s) shall have an obligation to obtain all required financing for the relevant section. The Phase Developer shall also have an obligation under the terms of the Phase P3 Agreement to ensure that financial close is achieved on each section.

(g) Regional transit service improvements

Specific transit service improvements developed in coordination with the affected counties and MDOT, and pursuant to the terms of memoranda of understanding with the affected counties will be provided as part of the Section P3 Agreement(s).

### 3.3 **Opportunity MDOT, MBE/DBE, and Other Public Policy Requirements**

The documents shall include terms relating to Opportunity MDOT, MBE/DBE, and other public policy requirements as set out in more detail in [Sections 4.2](#) and [4.3](#).

### 3.4 **Indicative Term Sheet**

An initial term sheet outlining certain risk allocations expected to appear in the Phase P3 Agreement will be provided as an addendum to this RFQ as Appendix 4 at a later date. Respondents may provide comments and questions on the initial term sheet in accordance with the Solicitation Schedule provided in [Section 1.5](#) and as described in [Section 6.6](#), or include comments and questions with their SOQ. Any comments or questions provided by Respondents in relation to the initial term sheet will not be evaluated and will not be counted towards the page limits applicable to the SOQ.

#### 4. **FEDERAL AND STATE REQUIREMENTS**

The Phase Developer and Section Developer(s) shall meet all applicable State and federal requirements, including requirements that are applicable to projects classified as Major Projects by FHWA.

##### 4.1 **Community Engagement**

The Phase Developer will closely assist MDOT and MDTA with their robust community engagement efforts from execution of the Phase P3 Agreement. The Phase Developer will coordinate with MDOT to facilitate an early and ongoing collaborative dialogue to engage local communities in the development process using various outreach tools and provide community stakeholders with opportunities to provide comments and feedback.

##### 4.2 **Opportunity MDOT**

MDOT has established a comprehensive, innovative program to empower its citizens for economic growth – **Opportunity MDOT** – in which the Phase Developer and Section Developers will be required to participate throughout the term of the Phase P3 Agreement and Section P3 Agreements, respectively.

Opportunity MDOT includes the following components:

- (a) Advisory Council. The Council spearheads economic empowerment solutions; and includes stakeholder community members from surrounding counties, economic development agencies, and others who represent a diverse cross-section of business owners and business leadership;
- (b) Workforce Development: This is designed to assist in building a talented, diverse, and productive workforce, based on project needs through the creation of a Community Resource Board and a local Preferred Training Partner Network, and Middle School to High School Pathway Program;
  - (i) Community Resource Board: This board is comprised of partner organizations and agencies that focus on addressing individual needs from the local area and will help identify workforce development barriers highlighted by the data analysis and collaborate to generate solutions;
  - (ii) Preferred Training Partner Network: The I-495 and I-270 P3 Office in partnership with the Maryland Department of Labor created and manages a local Preferred Training Partner Network, which includes community-based organizations, faith-based organizations, high schools, colleges and universities, libraries, and local and state agencies;
  - (iii) Middle School to High School Pathway Program: This program will provide opportunities for exposure to potential career paths in the transportation industry to middle and high school students, including connectors to help integrate industry-based program activities into existing curriculum;
- (c) Opportunity MDOT Center of Excellence ("CoE"). This is a web-based portal used to monitor SBE, MBE, WBE, DBE, Equal Employment Opportunity ("**EEO**") and Workforce Compliance, including prompt payment provision, DBE utilization, Commercially Useful Functions ("**CUF**") Reviews, prevailing wage compliance, and status of any action pertaining to employment practices taken by the Equal Employment

Opportunity Commission. Both DBEs and design-builder will be required to report all DBE payments, certified payrolls, and EEO compliance documents into the CoE web-based port; and

- (d) Inclusion Technology Infrastructure. The CoE has three (3) components, i.e., M3 (management maturity model) for small and minority-owned businesses to assess their readiness for the P3 program; WOA (workforce outreach assistance) to connect job seekers with support, training, and employment services; and OCS (online compliance system) to monitor the submittal of civil rights documents. These systems will leverage the latest technology available to maximize opportunities in program delivery by creating consistent resources for design-builder, DBEs, and job seekers.

Each Respondent will be required, in accordance with Article 16, to provide an affirmative statement of its commitment to the Opportunity MDOT program.

#### 4.3 **Community Benefits**

The Phase Developer shall support MDOT in its commitment to inclusion of MBE/DBE and its development of community benefits, including workforce development and working with a diverse labor market including but not limited to local contractors, labor unions, and the MBE/DBE community along the P3 Program corridor.

#### 4.4 **Participation of Small, Minority, and Women-Owned Businesses**

The State is committed to remedying discrimination, as well as providing open and equal access to participation on State projects for small, minority, and women-owned businesses. The State's commitment extends to the programs described herein as well as other programs and initiatives designed to facilitate diversity. Therefore,

- (a) to the extent that certain federal monies are involved, MDOT and MDTA will comply with the federal Disadvantaged Business Enterprise ("**DBE**") program prescribed at 49 CFR Part 26. This program, which establishes project specific goals for the participation of DBE firms, seeks to ensure nondiscrimination as well as create a level playing field for and remove barriers to the participation of DBE firms on projects that receive federal monies, particularly USDOT funding.
- (b) to the extent application of the State Minority Business Enterprise ("**MBE**") program to P3 agreements is practicable and legally permissible, MDOT and MDTA may have to comply with goal based participation requirements under Title 14, subtitle 3 of the State Finance and Procurement Article of the Annotated Code of Maryland.
- (c) MDOT and MDTA are responsible for administering the DBE and MBE programs consistent with federal and State requirements. This includes (1) employing race-neutral efforts and programs (such as the Small Business Enterprise ("**SBE**") program, which sets aside smaller projects for SBE firms and is a component of the DBE program pursuant to 49 CFR 26.39(b)(1)) to reduce barriers and level the playing field for the participation of small businesses, including DBE or MBE firms; (2) setting DBE and/or MBE goals on a project-by-project basis; and (3) monitoring DBE and/or MBE participation and compliance during the course of the project.
- (d) while MDOT and MDTA have not yet established specific DBE and/or MBE goal(s) for the phases of the P3 Program, Respondents are advised that MDOT has established an agency aspirational DBE participation goal of 26.04% per year for federal fiscal



years 2019 through 2021. In addition, the State has a current overall aspirational MBE participation goal of 29%.

- (e) Respondents are advised that (i) MDOT and MDTA anticipate that DBE goal(s) will apply to the design and construction work for Phase 1; (ii) MDOT and MDTA are evaluating the applicability of MBE goal(s) to the Predevelopment Work; and (iii) MDOT and MDTA are evaluating the applicability of DBE and/or MBE goal(s) to the operations and maintenance phase. The Phase Developer and Section Developer(s) shall commit to making a good faith effort to comply with any applicable DBE and MBE goals.

A directory of certified DBE and MBE firms can be viewed at [https://mbe.mdot.maryland.gov/directory/search\\_select.asp](https://mbe.mdot.maryland.gov/directory/search_select.asp).

Additional information will be provided with the RFP on DBE, MBE, SBE, On-the-Job Training, and other applicable programs.

#### 4.5 **Equal Employment Opportunity (EEO)**

MDOT and MDTA, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. § 2000d to 2000d-4) and the related regulations, hereby notifies all Respondents that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, no individual will not be discriminated against on the grounds of race, color, or national origin in consideration for an award, and will be afforded full and fair opportunity to submit an SOQ in response to this RFQ.

Respondents shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, marital status, or being physically challenged. Respondents shall take affirmative action to ensure that all applicants are treated during employment, without regard to their race, color, religion, sex, national origin, age, marital status, or being physically challenged. The areas requiring such affirmative action shall include, but not be limited to, the following: layoff or termination; rates of pay or other forms of compensation; and employment, job assignment, upgrading, demotion, transfer recruitment/recruitment advertising and selection for training, including apprenticeship, pre-apprenticeship and/or on-the-job training.

#### 4.6 **Prevailing Wages**

Prevailing Wage and Living Wage requirements will apply to the Phase Developer and the Section Developers to the extent required under Applicable Law.

### 5. **INTER-OPERABILITY ISSUES**

#### 5.1 **Capital Beltway Accord with VDOT**

Phase 1 will require work to be carried out south of the ALB in Virginia. MDOT and VDOT have announced a partnership at the ALB to address regional congestion and an intention to enter into a bi-state, bipartisan accord regarding the coordination of these works within Virginia (the "**Capital Beltway Accord**").

#### 5.2 **Interface between Phases and Sections**

The Phase P3 Agreement and Section P3 Agreements will address interfaces between different phases and between different sections within Phase 1. The Phase P3 Agreement

and the Section P3 Agreements will also address interface risk between the sections within Phase 1 and any risks related to the Capital Beltway Accord.

### 5.3 **Interface with MDTA Tolling Systems**

On November 29, 2018, the MDTA Board adopted Resolution 18-04, the I-495 & I-270 P3 Program Pre-Solicitation Report and conditional designation of the P3 Program as a "transportation facilities project". On April 25, 2019, the MDTA Board approved the IAA with MDOT, including MDOT SHA, which can be found on eMaryland Marketplace Advantage. The MDTA Board will set and fix the parameters for charging tolls for each section of Phase 1. It is anticipated that tolls charged to certain users of the priced managed lanes of a section of Phase 1 will be variable and calculated dynamically by the relevant Section Developer in accordance with the parameters set by the MDTA Board.

MDTA will perform certain tolling services, including toll collection processing (based on information from each Section Developer's ETTM Systems), account administration, and toll violations processing pursuant to a Toll Services Agreement, the form of which will be included in the RFP.

For each vehicle that uses the priced managed lanes and for which valid transaction information and license plate images, as applicable, are provided to MDTA by the relevant Section Developer, MDTA will remit to the Section Developer an amount equal to the E-ZPass® toll amount that would be assessed to each vehicle (irrespective of whether it actually uses an E-ZPass® or another toll collection method). MDTA is a member of the E-ZPass® Interagency Group and is governed by its electronic toll payment protocols. MDTA E-ZPass® transaction fees will be deducted from the amount due and payable to the Section Developer prior to remittance.

## 6. **DESCRIPTION OF SOLICITATION PROCESS**

### 6.1 **Statutory Authority**

MDOT is issuing this RFQ in accordance with the provisions of the Act, P3 Regulations, and other applicable provisions of State and federal law.

### 6.2 **Overall Process**

The solicitation for Phase 1 shall involve a multi-step process as described below.

MDOT will evaluate the SOQs received in response to this RFQ and expects to select, according to criteria generally outlined herein, three (3) Respondents to be eligible to respond to the RFP, but reserves the right to shortlist up to five (5) Respondents if supported by the evaluation of the Respondents and determined to be in the best interest of MDOT.

Following the selection of Shortlisted Proposers, MDOT anticipates releasing a draft RFP to Shortlisted Proposers for their review and comment. Specific details concerning the draft RFP process will be made available to the Shortlisted Proposers following announcement of the shortlist.

The draft RFP and final RFP process will include disclosure of materials and communications that are confidential in nature, and Shortlisted Proposers will be required to execute a confidentiality agreement, the form of which will be provided following shortlisting.

After consideration of input from the Shortlisted Proposers, MDOT intends to issue a final RFP to the Shortlisted Proposers. Questions that arise after the issuance of the final RFP may be addressed in the form of Addenda at the sole discretion of MDOT.

### 6.3 **Shortlisted Proposer Meetings**

#### (a) Innovative Dialogue Process

MDOT plans to incorporate an innovative dialogue process as part of the multi-step solicitation process. The innovative dialogue process will consist of a series of confidential one-on-one sessions with Shortlisted Proposers used to obtain comments, make modifications to the draft RFP and finalize the RFP requirements; obtain the best value for the State; facilitate the full understanding of the P3 concept regarding the requirements of the State; and facilitate the full understanding of the contents of the Proposals required to be submitted by Shortlisted Proposers. Feedback may include identification and sharing of risks, or other information to provide an offeror confidence that their solution may be implemented, while minimizing risk to both parties. Agreement negotiations will not be conducted during the innovative dialogue process. This process will include both verbal and written confidential communication and will be flexible and adaptive to each Shortlisted Proposer's schedule and needs in developing its Proposal. Innovative dialogue meetings between MDOT and the Shortlisted Proposers will be structured to ensure a fair and competitive process. MDOT may use comments and questions obtained from Shortlisted Proposers during the meetings for subsequent revisions to the draft RFP. The goal at the end of the solicitation process is to have each Shortlisted Proposer and MDOT fully understand requirements before the Shortlisted Proposer submits its final Proposal.

#### (b) Other Shortlisted Proposer Meetings

The Solicitation Manager will schedule other one-on-one or group meetings to discuss issues and comments identified by the Shortlisted Proposers, MDOT, or MDTA. Further, MDOT may provide a structured process for Shortlisted Proposers to meet with key stakeholders.

### 6.4 **Selection of Proposer for Award**

Following receipt and evaluation of Proposals, MDOT may select the Phase Developer based on the evaluation criteria set forth in the RFP, to negotiate and finalize the Phase P3 Agreement for award and execution, after approval by the BPW. MDOT intends to use criteria that are aligned to the goals and objectives in [Section 1.1](#).

### 6.5 **Reimbursement Payment**

MDOT intends to provide each Shortlisted Proposer who delivers a compliant Proposal and is not selected as the Selected Proposer with a reimbursement payment, in exchange for work product created as part of the Shortlisted Proposer's Proposal. Such reimbursement shall be subject to the limitations and requirements set out in COMAR 11.01.17.08(D) and other Applicable Law. The amount of the reimbursement payment shall be specified in the RFP, and payment shall be provided in return for the transfer and assignment to MDOT and/or MDTA of rights to intellectual property, ideas, techniques, concepts, and approaches included in the unsuccessful Shortlisted Proposer's Proposal. MDOT and MDTA reserve the right to use such property, ideas, techniques, and approaches in connection with the Phase P3 Agreement or Section P3 Agreements awarded for Phase 1, or in connection with any other phase or any other project, with no obligation to pay additional compensation to the

unsuccessful Shortlisted Proposer. Reimbursement will be initiated once all necessary documents have been provided by the unsuccessful Shortlisted Proposer and all necessary conditions have been met. Payment may take up to ninety (90) days after (a) the satisfaction by the unsuccessful Shortlisted Proposers of any applicable conditions (to be set out in the RFP) and (b) either MDOT and MDTA's execution of the Phase P3 Agreement with the Selected Proposer or MDOT's decision not to award. Shortlisted Proposers eligible for reimbursement will have the option to forego the reimbursement and retain such intellectual property rights. Additional information regarding the process for payment and receipt of reimbursement will be provided in the RFP.

No payment shall be made in connection with this RFQ, and no payment will be made to Respondents that are not shortlisted, fail to submit responsive Proposals by the Proposal due date (as provided in the RFP) or are disqualified from the process prior to award.

## 6.6 **Solicitation Manager; Questions and Requests for Clarification; Addenda**

The Solicitation Manager is the following individual:

Catherine Agostino  
MDOT State Highway Administration  
I-495 & I-270 P3 Office  
601 N. Calvert Street  
Baltimore, Maryland 21202  
E-mail address: p3solicitation@mdot.maryland.gov

In order to facilitate receipt, processing, and response, Respondents must submit all comments and questions as Requests for Clarification regarding this RFQ via e-mail to the Solicitation Manager by the deadlines listed in [Section 1.5](#).

Requests for Clarification shall be submitted using **Form F** as provided in Microsoft Excel format via e-mail to the Solicitation Manager and reproduced in [Part C](#) of this RFQ. Questions and Requests for Clarifications shall: (a) be sequentially numbered; (b) specifically reference the relevant RFQ section and page number, unless such request is of general application (in which case the Request for Clarification shall so note); (c) not identify Respondent's identity in the body of the question; and (d) conspicuously identify, with justification, if Respondent views its Request for Clarification as confidential or proprietary.

The Solicitation Manager will endeavor to provide responses, if any, to Requests for Clarification within a reasonable time following receipt. Respondents are responsible for ensuring that any written communications include contact information, including a phone number, for responses.

No telephone or oral requests shall be considered. No requests for additional information or clarification to any person other than the Solicitation Manager shall be considered.

For this RFQ, Requests for Clarifications and the responses, if any, will be posted on eMaryland Marketplace Advantage, except to the extent that the Solicitation Manager intends to respond individually to those Requests for Clarifications that a Respondent has deemed to contain confidential or proprietary information. The Solicitation Manager reserves the right to assess the confidentiality or proprietary nature of information in the interest of maintaining a fair process or complying with Applicable Law. If the Solicitation Manager deems that the Request for Clarification is not confidential or proprietary in nature, the Solicitation Manager will inform the Respondent in advance of disclosure and may allow the

Respondent to withdraw the Request for Clarification. Multiple sets of responses may be posted at different times during the RFQ process.

MDOT reserves the right to revise this RFQ by issuing addenda (the "**Addenda**") at any time before the SOQ Due Date and will post all Addenda on eMaryland Marketplace Advantage. In issuing an Addendum shortly before the SOQ Due Date, the Solicitation Manager will determine whether an extension of the SOQ Due Date is warranted.

Prospective Respondents should monitor eMaryland Marketplace Advantage for information concerning this solicitation and shall be required to acknowledge in their transmittal letters (**Form A**) that they had access to all relevant materials posted thereon.

## 6.7 **Restrictions from Participation**

The State Ethics Commission administers the provisions of the Maryland Public Ethics Law, found in Title 5 of the General Provisions Article of the Annotated Code of Maryland, which contains various restrictions on participating in State contracts. No firm that is ineligible for State contracts thereunder may participate as a member of the Respondent Team. Any questions regarding eligibility should be directed to the State Ethics Commission.

Respondents are advised to consult the requirements of Section 13-212.1 of the State Finance and Procurement Article of the Annotated Code of Maryland prohibiting an individual who assists an executive unit in the drafting of specifications, or a person that employs the individual during the period of assistance, from submitting or assisting with a proposal. Respondents are directed to the requirements of 23 CFR 636.116 regarding organizational conflicts of interest. In furtherance thereof, and consistent with COMAR 21.05.08.08, if a Respondent Team member knew or reasonably could have been expected to know of an actual or potential conflict of interest before or after award of any contract awarded following the procedures outlined in this RFQ, and did not disclose it or misrepresented relevant information to the Solicitation Manager, the State may terminate the contract for default, institute proceedings to debar the contractor from further State contracts, or pursue other remedies as may be permitted by law or the contract. Accordingly, all Respondent Team members shall deliver, together with the SOQ, a true and complete Conflict of Interest Affidavit and Disclosure in the form attached hereto as Appendix 2.

MDOT has determined that the following firms and their affiliates would present a conflict of interest or the appearance of a conflict of interest in the event of their participation on a Respondent Team. Accordingly, such participation could lead to the Respondent being disqualified:

- Ames & Gough Insurance/Risk Management, Inc.
- Applied Archaeology and History Associates, Inc.
- Ashurst, LLP
- ATCS, P.L.C.
- Athavale, Lystad & Associates, Inc.
- B Reese Advisory LLC
- Blackwater Environmental Group
- Blue Heron Environmental Services
- Capital Project Strategies, LLC
- CDM Smith, Inc.
- Chesapeake Environmental Management, Inc.
- Clary Consulting Company
- Coastal Resources, Inc.
- Davenport
- Diversified Property Services, Inc.
- Dovetail Cultural Resources Group
- Dranref, LLC d/b/a Business Transformation Group
- E2CR, Inc.
- Edwards Utility Mapping Corp.

- Environmental Research Group, LLC
- Ernst & Young Infrastructure Advisors, LLC
- Fenner Consulting, LLC
- Harris Miller & Hanson Inc.
- Infrastructure Technologies, LLC
- iSee, LLC
- KFH Group, Inc.
- Louis Berger Services
- Louis Berger US, Inc.
- Mahan Rykiel Associates, Inc.
- McCormick Taylor, Inc.
- McGuire Woods, LLP
- McKennon Shelton Henn, LLP
- Mercado Consultants, Inc.
- Navarro & Wright Consulting Engineers, Inc.
- NMP Engineering Consultants, Inc.
- Northeast Engineering, Inc.
- PFM
- PRR, Inc.
- Pulsar Advertising, Inc.
- RAM Corporation, Inc.
- Remline Corporation
- RJM Engineering, Inc.
- RK&K, LLP
- Rossi Transportation Group, Inc.
- RS&H Inc.
- Southeastern Institute of Research, Inc.
- T3 Design Corporation
- Texas A & M Transportation Institute
- TransCore
- Venable LLP
- Wilson T. Ballard
- Whitman, Requardt & Associates, LLP
- WSP USA, Inc.

MDOT notes that the above list is not a complete list of all firms that are working or have worked on the P3 Program. It is the Respondent's responsibility under 23 CFR 636.116 to disclose any potential conflicts of interest in its SOQ.

## 6.8 Improper Communications and Contacts

The following rules of contact shall apply during the solicitation for Phase 1, effective as of the date of issuance of this RFQ through the execution of the Phase P3 Agreement. These rules are designed to promote a fair and competitive solicitation process. Additional rules or modifications to these rules may be issued by the Solicitation Manager in connection with the RFP process and in the RFP. For the avoidance of doubt, contact includes face-to-face, telephone, facsimile, electronic media, or formal written communication, either directly or indirectly by an agent, representative, promoter, or advocate of the Respondent.

The specific rules of contact are as follows:

- (a) Section 11-205 of the State Finance and Procurement Article, Annotated Code of Maryland, prohibits and penalizes collusion.
- (b) After submittal of its SOQ, no Respondent nor Shortlisted Proposer nor any of its team members may communicate with another Respondent or Shortlisted Proposer or its team members with regard to the RFP or either team's Proposal; provided, however, that subcontractors that are shared between two (2) or more Shortlisted Proposer teams may communicate with their respective team members so long as those Shortlisted Proposers establish reasonable protocols to ensure that the subcontractor will not act as a conduit of information between the teams (contact among Shortlisted Proposer organizations is allowed during informational meetings organized by the Solicitation Manager);
- (c) Respondents and Shortlisted Proposers shall correspond with MDOT and MDTA regarding the RFQ and RFP only through designated representatives (which for purposes of this RFQ shall be the Solicitation Manager);

- (d) Commencing with the issuance of this RFQ and continuing until the earliest of (i) award and execution of the Phase P3 Agreement, (ii) rejection of all Proposals for Phase 1 by MDOT, or (iii) cancellation of the solicitation for Phase 1, no Respondent nor Shortlisted Proposer nor representative thereof shall have any *ex parte* communications regarding this solicitation with:
  - (i) any member of MDOT or MDTA; and
  - (ii) any staff, advisors, contractors, or consultants of MDOT or MDTA involved with the solicitation (including those referenced in Section 6.7), except for communications expressly permitted by the solicitation process. The foregoing restriction shall not, however, preclude or restrict communications with regard to matters unrelated to the solicitation or limit participation in public meetings or formal Respondents or Shortlisted Proposer meetings with MDOT related to this solicitation. Any Respondent or Shortlisted Proposer engaging in such prohibited communications may be disqualified at the sole discretion of MDOT;
- (e) Any Respondent Team or Shortlisted Proposer team that engages in communications determined to be prohibited or improper, at the sole discretion of MDOT, may be disqualified;
- (f) Any official correspondence shall be in written form by the Solicitation Manager or their designee;
- (g) MDOT and MDTA shall not be responsible for, and Respondents and Shortlisted Proposers may not rely on, any oral or written exchange or any other information or exchange that occurs outside the official process specified herein; and
- (h) Without limiting the generality of the foregoing, Respondents and Shortlisted Proposers shall not contact any USDOT project or program office, or any representative or consultant of USDOT regarding the TIFIA or PABs application process, credit decisions, form of term sheet, form of credit agreement, other matter relating to any MDOT application for TIFIA credit assistance for any section of Phase 1; any requests for a PABs allocation for any section of Phase 1; any SEP-14 or SEP-15 or other applications that may be submitted to USDOT; or any other matter related to this P3 Program unless otherwise instructed by MDOT.

## 6.9 General Requirements and Limitations on Proposer Team Membership

### (a) Licensing Requirements

Prior to execution of the Phase P3 Agreement, all members of the Selected Proposer's team and the Phase Developer must be qualified to do business in the State and in the Commonwealth of Virginia, and must have obtained all required licenses, including any professional engineer registrations.

### (b) Participation on More Than One Team

Equity Members and Major Non-Equity Members are prohibited from participating, in any capacity, on more than one (1) Respondent Team or Shortlisted Proposer team for Phase 1 during the course of the solicitation for Phase 1.

If a Respondent is not shortlisted as part of the RFQ evaluation process, the members of the unsuccessful Respondent Team are thereafter free to participate on Shortlisted Proposer teams, subject to the requirements of the RFP.

Any Respondent or member of a Respondent Team that fails to comply with the prohibition contained in this [Section 6.9\(b\)](#) may be disqualified from further participation at the sole discretion of MDOT as a Shortlisted Proposer or member of a Shortlisted Proposer team.

(c) Toll Systems Integrator

MDOT and MDTA intend that ETTM Systems' design, construction, integration, and testing prior to final completion of a section, and subsequent operation and maintenance of such equipment, shall be the Section Developer's responsibility.

To ensure the best value for MDOT and MDTA, one (1) of the goals for this solicitation is to promote appropriate competition among Toll Systems Integrators. Therefore, unless the relevant Toll System Integrator is also an Equity Member or Major Non-Equity Member, MDOT and MDTA will not permit exclusivity arrangements between a Toll Systems Integrator and a Respondent for the provision of ETTM Systems' design, construction, integration, testing, operation, or maintenance in order to maximize competition throughout the solicitation. Further, if an Equity Member or Major Non-Equity Member is also a Toll System Integrator, the Respondent shall not include any information regarding their qualifications for the design, construction, integration, supply, testing, operation, or maintenance of toll systems, and MDOT and MDTA shall not consider any information regarding the Equity Member or Major Non-Equity Member for such purpose.

Additional information will be provided with the RFP.

If a Respondent enters into an exclusive arrangement with a Toll Systems Integrator in breach of this [Section 6.9\(c\)](#) prior to MDOT or MDTA's approval, MDOT or MDTA may (at its sole discretion) disqualify the Respondent from consideration.

(d) Public Relations Firm

MDOT and MDTA intend that the Phase Developer will be actively involved with community outreach and public engagement efforts.

To ensure the best value for MDOT and MDTA, one (1) of the goals for this solicitation is to promote appropriate competition among public relations firms. Therefore, MDOT and MDTA will not permit exclusivity arrangements between a public relations firm and a Respondent for the provision of community outreach and engagement services.

Additional information will be provided with the RFP.

If a Respondent enters into an exclusive arrangement with a public relations firm prior to MDOT's approval, MDOT may (at its sole discretion) disqualify the Respondent from consideration.

## 6.10 Public Information Act and Confidentiality



Pursuant to the Maryland Public Information Act (the "**PIA**"), Title 4 of the General Provisions Article of the Annotated Code of Maryland, applies to documents submitted to the Solicitation Manager in response to this RFQ.

If a Respondent submits information in its SOQ that it believes contains confidential commercial information, confidential financial information, or trade secrets and that it believes would not be subject to disclosure under the PIA, the Respondent must do the following:

- (a) clearly mark all confidential commercial information, confidential financial information, or trade secrets as such in its SOQ at the time the SOQ is submitted and include a cover sheet identifying each section and page which has been so marked;
- (b) with respect to each such section and page, include a statement with its SOQ justifying the Respondent's determination that the identified information is protected and why such information, upon request, should not be disclosed pursuant to the PIA;
- (c) notwithstanding the foregoing, Respondents are advised that, upon request from a third party for information Respondent has provided, the Solicitation Manager will be required to make an independent determination regarding whether the information may be disclosed pursuant to the PIA or any other Applicable Law; and
- (d) defend any action seeking release of the records it believes should not be disclosed, and indemnify and hold harmless the State, its agents, and its employees from any judgments awarded against the State in favor of the party requesting the records, including any and all costs connected with that defense. This indemnification survives the State's cancellation or termination of this solicitation or award and subsequent execution of the Phase P3 Agreement and Section P3 Agreements. In submitting its SOQ, the Respondent agrees that this indemnification survives as long as the protected records are in possession of the State.

## 7. **SOQ CONTENT AND SUBMITTAL REQUIREMENTS**

### 7.1 **General**

The Respondent's SOQ shall have the information and documentation requested in Part B. MDOT expects SOQs submitted in response to this RFQ to provide sufficient information about the requested items so as to allow MDOT to evaluate Respondents based on the criteria set forth herein.

Pursuant to the specifications in Part B, the Respondent shall prepare its SOQ in two (2) volumes:

- Volume 1, which will include general materials, legal and administrative information, Respondent Team composition and structure, relevant development experience, approach to and understanding of phase development, and other supporting information as specified in Part B.
- Volume 2, which will include Equity Members' financing capacity and experience (as applicable), and other information as specified in Part B.

SOQs shall be submitted exclusively in the English language inclusive of United States customary units of measure, and cost terms in Dollars. This requirement does not apply to financial statements which are to be provided in accordance with Section 17.5. Respondents should note that as of this RFQ date, any TIFIA financial assistance will require financial

statements to be provided by the Section Developers in accordance with GAAP during the life of any TIFIA financial assistance.

Section 6.10 as well as Section 12(c) address procedures related to information that a Respondent deems confidential and proprietary.

## 7.2 **Organization and Format**

One (1) original submission each of Volume 1 and Volume 2, ten (10) certified hard copies of Volume 1, and ten (10) certified hard copies of Volume 2 shall be delivered to MDOT as specified in Section 7.4. In addition, ten (10) unencrypted electronic copies for each Volume of the SOQ in searchable and printable Portable Document Format (.pdf) on separate USB flash drives by volume shall be provided and attached to the Respondent's "Original". Each electronic copy shall also include Microsoft Excel versions of the Financial Statement Template detailed in Section 17.5(c).

The original SOQ and each copy shall consist of two volumes; each volume shall be submitted in a separate loose-leaf three ring binder(s); and the original and each hard copy and USB flash drive shall all be submitted in one (1) or more sealed containers.

The original must be clearly marked "Original" on its face and spine. The Respondent's contact person information including name, e-mail address, and phone number(s) shall be on the cover of the original SOQ and each copy. Each copy, whether hard copy or electronic, shall be sequentially numbered, and clearly identified as Volume 1 or 2 with the Respondent's name. The original and all copies must be organized to correspond to the "tab" requirements set forth in Section 7.3. Respondent may elect to "index" the ".pdf" copies or provide a series of discrete ".pdf" files, named so as to correspond to the "tab" requirements set forth below.

Except as otherwise provided in this Section 7.2, submittals must be prepared on 8-1/2" x 11" sized white paper. Double-sided printing is required and printed lines may be single-spaced. Each printed side shall be considered one (1) page. For **Form D-2**, **Form E-1**, and **Form E-2**, 8.5" x 14" or 11" x 17" pages are allowed.

MDOT has established an SOQ overall page limit of 300 pages, inclusive of Volume 1 and Volume 2. Certain information to be provided will be exempt from such page limit. The SOQ shall have all pages sequentially numbered and, in certain cases, not exceed the applicable page limits identified in Part B including the table in Article 11. Documents required to be provided in an appendix or in Microsoft Excel need not be sequentially numbered and shall not be subject to page limits.

Font size shall be no smaller than twelve (12)-point, provided that the font in graphics and tables (including **Form D-2**, **Form E-1**, and **Form E-2**) may be no smaller than ten (10)-point as long as the graphics and tables are legible.

## 7.3 **Contents and Organization**

Respondents must organize their SOQ in the order set forth in Part B. Each volume may be subdivided as needed, so long as the Respondents "tab" the content of their SOQs to correspond to the section reference for ease of MDOT's review.

Information contained in Volume 1 and Volume 2 that pertains to the pass/fail criteria identified in Section 8.1(c) shall also be marked by the Respondent with a stamp or tab labeled "Pass/Fail Information" in its SOQ.

Standard corporate brochures, awards, and marketing materials shall be prohibited in an SOQ.

Respondents must provide blue ink signatures on each original requiring a signature.

#### 7.4 **SOQ Submittal Delivery Requirements**

All packages constituting the SOQ shall be individually and clearly labeled with the name and return mailing address of Respondent, and additionally labeled as follows:

"Response to the Request for Qualifications for Phase 1 of the I-495 & I-270 Public-Private Partnership Program through a Phase Public-Private Partnership Agreement"

SOQs shall be delivered by hand or express mail courier to the Solicitation Manager. The Solicitation Manager will not accept facsimile or e-mail submission of SOQs. The delivery address is:

MDOT State Highway Administration  
I-495 & I-270 P3 Office  
601 N. Calvert Street  
Baltimore, Maryland 21202  
Attention: Catherine Agostino

Acknowledgment of receipt of SOQs will be evidenced by the issuance of a receipt by the Solicitation Manager or its designee.

SOQs must be submitted on or before the SOQ Due Date specified in Section 1.5. Time is of the essence and any SOQs received after that date and time will be rejected and returned unopened. SOQs will be accepted by the Solicitation Manager during normal business hours up to the SOQ Due Date and time specified.

Respondents are solely responsible for assuring that the Solicitation Manager receives their SOQs by the specified delivery date and time at the address listed above. MDOT shall not be responsible for any delays in delivery beyond the control of MDOT, including those caused by weather, difficulties experienced by couriers or delivery services, misrouting of packages by courier or delivery services, improper, incorrect, or incomplete addressing of deliveries and other occurrences.

### 8. **EVALUATION PROCESS AND CRITERIA**

#### 8.1 Responsiveness and Responsibility

MDOT, at its sole discretion, may exclude from consideration any Respondent: (a) whose SOQ contains a material misrepresentation, (b) whose SOQ is not materially responsive to this RFQ, or (c) who is determined not responsible.

##### (a) Responsiveness

As part of the Pass/Fail Review in Section 8.1(c), MDOT will review the SOQ submitted by a Respondent for (a) the responsiveness of the SOQ to the requirements set forth in this RFQ; (b) conformance to the RFQ instructions regarding organization and format; and (c) minor nonconformities, irregularities, and apparent clerical mistakes which are unrelated to the substantive content of the SOQ.

MDOT may request written clarifications, confirmations, or corrections from a Respondent regarding minor nonconformities, irregularities, and apparent clerical mistakes.

(b) Responsibility

State Finance and Procurement Article §10A-202(c) and (d) of the Annotated Code of Maryland states the following regarding "responsibility":

- (i) For any private entity that responds to the public notice of solicitation, a reporting agency shall make a responsibility determination.
- (ii) If a private entity is composed of multiple subentities or partners, the reporting agency shall make a responsibility determination for each subentity or partner owning 20% or more of the entity.

Further, State Finance and Procurement Article §10A-101(h) says "Responsibility determination" means the determination by a reporting agency that a private entity that responds to a solicitation for a public-private partnership:

- (iii) has the capacity in all respects to perform fully the requirements of a public-private partnership agreement; and
- (iv) possesses the integrity and reliability that will ensure good faith performance.

Based on the information contained in the SOQ, MDOT may determine that the Respondent is not responsible and therefore ineligible for shortlisting. Further, MDOT will also undertake a responsibility determination after shortlisting as set forth in the RFP.

(c) Pass/Fail Review

MDOT will evaluate each SOQ based upon the following pass/fail criteria. A Respondent must obtain a "pass" on all pass/fail items in order for its SOQ to be evaluated under Section 8.2. In the event that a SOQ contains minor deficiencies such as a wrong citation or misspelled word, the Solicitation Manager may request clarifying information from the Respondent prior to a final pass/fail determination. The pass/fail criteria are as follows:

- (i) Respondent information, certifications, signed statements, and documents, including an original executed transmittal letter as required in Article 12, are included and executed as required, and do not identify any material adverse information;
- (ii) neither the Respondent nor any other entity that has submitted **Form C** as required by this RFQ (including their respective affiliates as defined in **Form C**) is currently disqualified, removed, debarred, or suspended from performing or bidding on work for the United States federal government, any state or territory of the United States, or any Maryland local government;
- (iii) the Equity Member(s) demonstrates the ability to deliver not less than \$500 million in Equity Investment in the sections for Phase 1;
- (iv) Respondent provides the express, written statement related to the Key Personnel as required in Section 14.4(c); and

- (v) Respondent provides an express, written statement confirming its commitment to Opportunity MDOT as required in Article 16.

## 8.2 Evaluation Criteria Weighting

Each SOQ passing all of the "pass/fail" requirements set forth above will be evaluated according to the criteria set forth in Section 8.3, Section 8.4, and Section 8.5 (the "**Evaluation Criteria**").

The criteria are listed in descending order of importance. The evaluation process shall be qualitative with adjectival ratings assigned. The criteria are weighted based on relative importance as follows:

"Critical" has approximately three (3) times the relative importance as Important; and

"Significant" has approximately two (2) times the relative importance as Important.

Part B requests information to be submitted in a Respondent's SOQ that will be used to evaluate each of the criteria. For the Respondent's ease of reference and convenience, Appendix 1 contains a table identifying which submittal requirements may be used to evaluate each criterion.

The information submitted in accordance with Part B in response to the SOQ will be adjectivally rated. The definitions of such ratings are as follows:

- **Exceptional:** The Respondent has demonstrated a complete understanding of the P3 Program goals and objectives. The SOQ communicates an outstanding commitment to innovation and quality by a highly skilled, experienced team in all aspects. The team has relevant experience in public-private partnerships, design, construction, congestion and traffic management, tolling, financing, O&M, lifecycle asset management, community outreach, and predevelopment agreements (or other similar arrangements). The SOQ contains significant strengths and minor weaknesses, if any.
- **Good:** The Respondent has demonstrated a strong understanding of the P3 Program goals and objectives. The SOQ communicates a commitment to project delivery and execution with innovation and quality by an experienced team in all aspects. The team has relevant experience in almost all of the following areas: public-private partnerships, design, construction, congestion and traffic management, tolling, financing, O&M, lifecycle asset management, community outreach, and predevelopment agreements (or other similar arrangements). The SOQ contains strengths that outweigh weaknesses.
- **Acceptable:** The Respondent has demonstrated an adequate understanding of the P3 Program goals and objectives. The SOQ communicates a commitment to project delivery and execution with innovation and quality by a qualified team. The team has relevant experience in some of the following areas: public-private partnerships, design, construction, congestion and traffic management, tolling, financing, O&M, lifecycle asset management, community outreach, and predevelopment agreements (or other similar arrangements). The SOQ contains strengths that are offset by weaknesses.
- **Unacceptable:** The Respondent has not demonstrated an understanding of the P3 Program goals and objectives, and the SOQ presents an approach which does not address the objectives of the RFQ. The SOQ fails to meet stated requirements and/or lacks essential information. The commitment to innovation and/or quality is not adequate, with proposed work performed by unqualified or unproven teams. The SOQ

generates little confidence that RFQ requirements can be met. The SOQ contains deficiencies, significant weaknesses and minor strengths, if any.

Ratings of Exceptional, Good, and Acceptable may also contain a plus (+) or a minus (-) to further differentiate the strengths or limitations of a SOQ and more clearly differentiate the SOQs.

The term "weakness" as used herein, mean any flaw that increases the risk of unsuccessful performance.

Any SOQ that receives an overall rating of "Unacceptable" for any of the criterion set forth in Sections 8.3 through 8.5 will not be considered to have met the Evaluation Criteria and therefore, will not be considered a Shortlisted Proposer.

### 8.3 **Phase Developer Team – Critical**

The Phase Developer team will be evaluated and rated on the following sub-criteria. The sub-criteria ratings will be collectively considered to determine an overall criteria rating for the Phase Developer team:

#### (a) **Project Development Experience and Capability - Critical**

The Respondent's capability and relevant experience with respect to development of large infrastructure projects will be evaluated in accordance with the following:

- (i) the extent and depth of the Respondent's experience with developing comparable large infrastructure projects and constrained and congested urban highway corridor projects, including alternative project delivery projects and toll road projects;
- (ii) the extent and depth of the Respondent's experience in delivery of predevelopment or similar pre-construction work in preparation for the development of a large infrastructure project;
- (iii) the extent and depth of the Respondent's experience involving community outreach and stakeholder relations; and
- (iv) the extent and depth of the Respondent's experience in reducing barriers and leveling the playing field for the participation of small businesses, including DBE or MBE firms, and use of a diverse labor market through the development, implementation, monitoring, and compliance of programs such as federal DBE and on-the-job training programs.

#### (b) **Equity Experience and Resources – Significant**

The Respondent's available financial resources and relevant experience will be evaluated in accordance with the following:

- (i) the extent to which the Respondent has the financial capacity and a feasible approach to arrange equity contributions to finance the Predevelopment Work and delivery of Phase 1;
- (ii) the extent and depth of experience leading the development of committed finance proposals for transportation P3 projects of similar size and risk profile, including

projects that have been procured through a predevelopment agreement or similar arrangement;

- (iii) the extent and depth of experience successfully closing financing on similar transportation P3 projects; and
- (iv) the extent and depth of experience successfully closing P3 projects financed in part by TIFIA, PABs, and other credit and financing tools used in the U.S.

(c) **Congestion Management and Pricing Experience and Capability – Significant**

The Respondent's capability and relevant experience with respect to congestion and traffic management, including priced managed lanes, and toll road operations and maintenance will be evaluated in accordance with the following:

- (i) the extent and depth of the Respondent's experience with delivery of congestion management, including both priced managed lanes and GP Lanes, in a congested urban highway corridor;
- (ii) the extent and depth of the Respondent's experience with operations and maintenance of comparable priced managed lanes and congested urban highway corridor projects;
- (iii) the extent to which the Respondent demonstrates an understanding of, and a sound approach to the relationship between pricing and congestion relief in a constrained and congested urban highway corridor; and
- (iv) the extent to which the Respondent demonstrates understanding of, and experience with, the integration of the Respondent Team, and MDOT and MDTA into O&M and lifecycle activities in a shared highway corridor.

(d) **Construction Experience and Capability – Important**

The Respondent's capability and relevant experience with respect to design, construction, and construction management will be evaluated in accordance with the following:

- (i) the extent and depth of the Respondent's experience with managing development, design, construction, and delivering construction of comparable large transportation infrastructure projects in a congested urban corridor, including alternative project delivery, P3 projects, and/or toll projects;
- (ii) the extent to which the Respondent demonstrates an understanding of the strategies and tools for completing the design management and technical elements of the Predevelopment Work, including transportation planning and design management, the implementation of quality management plans, integration of long-term life-cycle elements, and demonstrates an integrated approach for managing and marshalling resources to perform the design and Predevelopment Work; and
- (iii) the extent and depth of the Respondent's experience with traffic management during construction in a constrained and congested urban highway corridor.

(e) **Design Experience and Capability– Important**

The Respondent's capability and relevant experience with respect to design work will be evaluated in accordance with the following:

- (i) the extent and depth of the Respondent's experience designing comparable road assets, including urban projects in constrained and congested environments; and
- (ii) the extent to which the Respondent demonstrates experience and capability in relation to the design and managing the overall design work, the implementation of quality management plans, integration of long-term life-cycle elements into the design, and other relevant activities.

#### 8.4 **Key Personnel - Significant**

The Key Personnel (as described [Section 14.4](#)) will be evaluated in accordance with the following:

- (a) the extent and depth of relevant experience with comparable projects in size and complexity, project delivery methods, and roles (including any experience in stakeholder outreach or relations);
- (b) the extent and depth of relevant experience managing projects from the predevelopment stage through completion;
- (c) demonstrated capability and relevant experience as applicable to the position regarding design, construction, operations, and maintenance on comparable projects; and
- (d) demonstrated capability and relevant experience designing and implementing interrelated processes, controls, and strategies that manage project risks while at the same time encouraging innovation.

#### 8.5 **Understanding of Development Approach - Important**

The Respondent will be evaluated on its understanding of and approach to:

- (a) the MDOT P3 Program goals as they apply to Phase 1; and
- (b) the objectives of Opportunity MDOT and inclusion in the P3 Program; the approach to workforce development; and working with a diverse labor market along the P3 Program corridor.

#### 8.6 **SOQ Evaluation Procedure**

For each Respondent SOQ that meets all pass/fail criteria, MDOT will review and evaluate each SOQ in accordance with [Section 8.2](#).

MDOT anticipates utilizing one (1) or more evaluation teams and an evaluation committee to review and evaluate the SOQs in accordance with the above criteria. MDOT will assemble evaluation teams and an evaluation committee. The evaluation teams and evaluation committee will review the SOQ to verify that all requirements of the RFQ have been met and to evaluate the SOQ based on the Evaluation Criteria.

Each evaluation team will be given [Volume 1](#) or portions thereof for the rating of each Evaluation Criterion as applicable. [Volume 2](#) will be provided only to the evaluation teams and committees reviewing and evaluating the Respondent's financing capability and experience. Confidential information will be reviewed in accordance with [Section 6.10](#). The evaluation committee will



review each Evaluation Criterion and determine an overall recommended adjectival rating for each Evaluation Criterion of each SOQ. The evaluation committee will present its recommendations to the selection committee, which will validate the evaluation committee recommendations.

Once the SOQ evaluations are complete, a shortlist of those Respondents considered most highly qualified shall be developed. MDOT intends to shortlist three (3) Respondents who are most qualified, but reserves the right to shortlist up to five (5) Respondents if supported by the evaluation of the Respondents and determined to be in the best interest of MDOT. Such Respondents shall be the Shortlisted Proposers.

At various times during the deliberations, the Solicitation Manager may request additional information or clarification from a Respondent, or may request the Respondent to verify or certify certain aspects of its SOQ. The scope, length, and topics to be addressed in any such clarification response shall be prescribed by the Solicitation Manager.

MDOT may contact firm and personnel references supplied by the Respondent as well as other potential references not listed, including internal personnel of MDOT and MDTA. Each Respondent is responsible for ensuring that supplied reference information is accurate, up-to-date, and that references have been notified that they may be contacted within fourteen (14) days of receipt of the SOQ by MDOT or a member of its assembled evaluation teams. If language interpretation is required, the Respondent must note such requirement in its SOQ. MDOT will determine in its sole discretion whether such language interpretation can be accommodated.

#### **8.7 Experience of Affiliates**

The experience of an Affiliate of a member of a Respondent Team will be considered by MDOT for the applicable Evaluation Criteria if the SOQ satisfactorily demonstrates that the Affiliate's participation, Key Personnel, contractual agreement, or other resources will be provided to support the Respondent Team.

#### **8.8 RFP Procedure and Evaluation**

Shortlisted Proposers are advised that the criteria for the evaluation of the Proposals may differ from the criteria set forth herein to evaluate SOQs. In addition, the SOQ evaluation results shall not carry over or be used in the evaluation of the Proposals. Respondents are further notified of the information included in [Sections 8.9](#) and [8.10](#).

#### **8.9 Changes in Shortlisted Proposer Organization**

Subject to the restrictions and limitations in this RFQ, Shortlisted Proposers may add, delete, or substitute team members and reorganize their teams during the solicitation process, unless the change renders the Shortlisted Proposer team, in MDOT's sole determination, less qualified to develop Phase 1. Notwithstanding the foregoing, following submittal of the SOQs, the following actions may not be undertaken without MDOT's prior written consent:

- (a) deletion, substitution, or change in composition of a Shortlisted Proposer team member identified in its SOQ, or a change in the role or scope of work of a member of the Shortlisted Proposer team;
- (b) deletion or substitution of a Key Personnel, or a change in the role or position of a Key Personnel;

- (c) deletion or substitution of an Equity Member of a Shortlisted Proposer, a Guarantor of Shortlisted Proposer, or any other entity that will bear financial responsibility or liability for the performance of the Shortlisted Proposer; and
- (d) other changes, direct or indirect, in the equity ownership of a Shortlisted Proposer.

While MDOT recognizes that certain issues may impact the availability of the Key Personnel, requests to implement Key Personnel or team membership changes by Shortlisted Proposers shall be subject to prior approval by MDOT. Failure to obtain approval for such changes may result in the disqualification of the Shortlisted Proposer by MDOT.

#### 8.10 **Changes in the Approach to Phase 1**

MDOT understands that as Respondents and MDOT continue their individual and collective efforts to analyze and consider innovative and optimal development and financing for Phase 1, the approach may change and evolve. MDOT encourages that evolution and continued focus by Respondents on the best transportation solutions for Phase 1. If a Respondent is a Shortlisted Proposer, it may modify, alter, and enhance its respective approaches to the Predevelopment Work in conjunction with its responses to the RFP, subject to compliance with the requirements of the RFP. A Shortlisted Proposer may not, however, change its approach to Phase 1 in a way that renders the SOQ a misrepresentation of the Shortlisted Proposer's intentions and capabilities.

### 9. **CONTRACT FORMATION DISPUTE PROCEDURES**

#### 9.1 **Definitions**

For purposes of this [Article 9](#), the following terms are defined below:

- (a) **"Interested Party"** means an actual or prospective Respondent that may be aggrieved by the solicitation or by failure to be shortlisted to receive the subsequent RFP, or by a Protest.
- (b) **"Protest"** means a complaint relating to this RFQ or the subsequent solicitation or award of the Phase P3 Agreement.
- (c) **"Protester"** means an Interested Party who files a Protest as set forth herein.
- (d) **"Reviewing Authority"** means the I-495 and I-270 P3 Program Director.

#### 9.2 **Form and Filing**

To expedite handling of Protests, the envelope should be labeled "Protest" and be addressed to the Reviewing Authority. The Protest shall be written and include as a minimum the following:

- (a) the name and address of the Protester;
- (b) appropriate identification of the solicitation (i.e. "Phase 1 of the I-495 & I-270 P3 Program RFP"), and, if the Phase P3 Agreement has been awarded, its number if known;
- (c) a detailed legal and factual written statement of reasons for the Protest;
- (d) supporting exhibits, evidence, or documents to substantiate the reasons for the Protest; and

- (e) the relief requested.

### 9.3 Time for Filing

- (a) A Protest based upon alleged improprieties in this RFQ shall be filed by an Interested Party no later than fifteen (15) days following the issuance of this RFQ.
- (b) A Respondent that submitted an SOQ may request a debrief with MDOT based on a failure to be shortlisted within three (3) days after notice of shortlisting. Upon written request, the Solicitation Manager may provide a debrief to such Respondent.
- (c) A Protest based on a failure to be shortlisted shall be submitted by a Respondent that submitted an SOQ within five (5) days after notice of shortlisting if a debrief is not requested by the Respondent, or within five (5) days after a debrief has occurred with MDOT or after notice from MDOT that a debrief will not occur.
- (d) A Protest based upon alleged improprieties in the final RFP shall be filed no later than fifteen (15) days prior to the due date for receipt of Proposals (unless an Addendum is issued within such fifteen (15)-day period, in which case such Protests shall be filed no later than five (5) days after receipt of such Addendum).
- (e) A Shortlisted Proposer that submitted a Proposal may request a debrief with MDOT based on a failure to be the Selected Proposer within three (3) days after notification of not being selected as the Selected Proposer. Upon written request, the Solicitation Manager may provide a debrief to such Shortlisted Proposer.
- (f) A Protest based on a failure to be the Selected Proposer shall be submitted by a Shortlisted Proposer within five (5) days after notification of not being selected as the Selected Proposer if a debrief is not requested by the Shortlisted Proposer, or within five (5) days after a debrief has occurred with MDOT or after notification that MDOT will not hold a debrief with such Shortlisted Proposer.
- (g) In cases other than those covered in this Section 9.3, Protests shall be filed not later than five (5) days after the basis for Protest is known or should have been known, whichever is earlier.
- (h) The term "filed" as used in this Section 9.3 means receipt by the Reviewing Authority at the address specified in Section 6.6. Protesters are cautioned that Protests shall be delivered to the Reviewing Authority. Protests submitted electronically will not be considered. A Protest received by the Reviewing Authority after the time limits prescribed in this Section 9.3 may not be considered.
- (i) A Protest is received when it is received at the location and within the time limits specified herein.

### 9.4 Requested Information Time for Filing

Any additional information or substantiation requested by the Reviewing Authority shall be submitted within five (5) days after receipt of notification or such other time as the Reviewing Authority may specify in order to expedite consideration of the Protest. Failure of any Protester to comply with a request for information or substantiation by the Reviewing Authority may result in a resolution of the Protest without consideration of any response to the request that is not timely filed.

## 9.5 **Making Information on Protests Available**

Upon written request, the Reviewing Authority shall make available to any Interested Party information submitted by the Protester that bears on the substance of the Protest except when information is confidential, or otherwise is permitted or required to be withheld by law. Protesters who wish to keep information submitted by them confidential shall so request by specifically identifying the information within documents submitted and indicating on each page of the document that it contains information "not subject to disclosure," using these words exactly to so indicate.

## 9.6 **Negotiation with Protester and Interested Parties**

The Reviewing Authority may conduct discussions and, if appropriate, negotiations with the Protester or any other Interested Party and may resolve the Protest by agreement with the Protester and any one (1) or more Interested Parties. The agreement shall be in writing and shall be subject to the approval of the Office of the Attorney General of Maryland.

## 9.7 **Decision by the Reviewing Authority**

- (a) A decision on a Protest shall be made by the Reviewing Authority in writing as expeditiously as possible after receiving all relevant, requested information.
- (b) The decision of the Reviewing Authority shall be reviewed by the appropriate legal counsel.
- (c) The decision shall include:
  - (i) a description of the controversy;
  - (ii) a statement of the decision, with supporting material; and
  - (iii) if the Protest is not sustained, a paragraph substantially as follows:

"This is the final decision of the Reviewing Authority. This decision may be appealed to the Secretary of Transportation for the Maryland Department of Transportation or his designee. If you decide to take such an appeal, you must file written notice of appeal to the Secretary within five (5) days from the date you receive this decision."

The Reviewing Authority shall furnish a copy of the decision to the Protester and all other Interested Parties, by certified mail, return receipt requested, or by any other method that provides evidence of its receipt.

## 9.8 **Time for Filing Appeal**

- (a) Protesters are required to seek resolution regarding the basis for their Protest initially with the Reviewing Authority. Within the timeframes set forth in Section 9.3, an Interested Party may file an appeal with the MDOT Secretary within five (5) days of receipt of notice of the final action.
- (b) An appeal received by the MDOT Secretary after the time prescribed in Section 9.8(a) may not be considered unless it was timely received or was sent by registered or certified mail not later than the third day before the final date for filing an appeal as specified in Section 9.8(a). A date affixed by postage meter will not be considered as evidence of

the actual mailing date. The only acceptable evidence to establish the date of mailing shall be the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. If the postmark is illegible, the appeal shall be deemed to have been filed when received by the Reviewing Authority.

**9.9 Request for Hearing**

Protestors may request a hearing before the MDOT Secretary at the time an appeal is timely filed. A Protester shall, upon timely request, have the right to present oral statements, call and cross examine witnesses, and present evidence; and to have the proceeding recorded. Discovery will not be permitted in connection with the proceeding. The MDOT Secretary may request written submissions.

**9.10 Right to Proceed with Solicitation and Phase P3 Agreement**

MDOT reserves the right to proceed with the solicitation and Phase P3 Agreement in the face of Protest as long as the MDOT Secretary makes a determination that proceeding without delay is necessary to protect substantial State interests.

**9.11 Right to Legal Remedies**

Following the receipt of the decision of the MDOT Secretary, the Protester may pursue any available judicial remedies provided for under State law.

**10. MDOT AND MDTA RESERVED RIGHTS**

In connection with this solicitation, each of MDOT and MDTA reserves to itself all rights (which rights shall be exercisable by MDOT or MDTA in its sole discretion) available to it under the Act, P3 Regulations, and Applicable Law, including without limitation, and with or without cause, the right to:

- (a) modify the solicitation process to address Applicable Law and/or the best interests of MDOT, MDTA, and the State;
- (b) revise the scope, type, structure, and specific terms of this RFQ;
- (c) modify the scope of Phase 1 or any subsequent phases during the solicitation process;
- (d) develop Phase 1, including any portion thereof, in any manner that it, in its sole discretion, deems necessary;
- (e) cancel this RFQ or the subsequent RFP in whole or in part at any time prior to the execution by MDOT and MDTA of a Phase P3 Agreement, without incurring any cost obligations or liabilities except as otherwise provided in [Section 6.5](#);
- (f) issue a new request for qualifications after withdrawal of this RFQ or a subsequent RFP;
- (g) not shortlist any Respondent responding to this RFQ;
- (h) not issue an RFP;
- (i) reject any and all submittals, responses, and SOQs received at any time;
- (j) modify all dates set or projected in this RFQ;

- (k) terminate evaluations of SOQs received at any time;
- (l) issue Addenda, supplements, and modifications to this RFQ;
- (m) appoint evaluation teams and committees to review SOQs, make recommendations, and seek the assistance of outside technical, financial, and legal experts and consultants in SOQ evaluation;
- (n) require confirmation of information furnished by a Respondent, require additional information from a Respondent concerning its SOQ, and require additional evidence of qualifications to perform the work described in this RFQ;
- (o) seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to this RFQ;
- (p) add or delete Respondent/Shortlisted Proposer responsibilities from the information contained in this RFQ or any subsequent RFP;
- (q) waive minor deficiencies in an SOQ resulting in a non-conforming SOQ, or permit clarifications or supplements to an SOQ to correct minor deficiencies such as a misspelled word or incorrect citation;
- (r) disqualify any Respondent/Shortlisted Proposer that changes its submittal without MDOT's approval;
- (s) disqualify any Respondent/Shortlisted Proposer under this RFQ, the RFP, or during the period between the RFQ or RFP for violating any rules or requirements of the solicitation set forth in this RFQ, the RFP, or in any other communication from MDOT;
- (t) add to the shortlist of Shortlisted Proposers any Shortlisted Proposer that submitted an SOQ in order to replace a previous Respondent that withdraws or is disqualified from participation in this solicitation;
- (u) develop some or all of Phase 1 itself; and
- (v) exercise any other right reserved or afforded to MDOT or MDTA under this RFQ, the Act, P3 Regulations, or other Applicable Law.

**This RFQ does not commit or bind MDOT or MDTA to enter into any contract or proceed with the solicitation described herein. Except as expressly set forth in Section 6.5, MDOT and MDTA assumes no obligations, responsibilities, or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to or responding to this RFQ, or any subsequent RFP. All of such costs shall be borne solely by each Respondent.**

**PART B – STATEMENT OF QUALIFICATIONS**

**11. SOQ ORGANIZATION TABLE**

Respondents are required to assemble their SOQ in the order prescribed and following the outline form contained in this Part B.

| <b>Part B: SOQ Organization</b>   |  | <b>Maximum Page Limit</b>                             |
|---|--|---|
| <b>Total Page Limit for Volumes 1 and 2</b>   |  | <b>300</b>  |
| <b>Volume 1 – General Information and Technical Information</b>                             |  |   |
| Article 12 - General  | Form A – Transmittal Letter  | NA  |
|   | Executive Summary  | 10  |
|   | Confidential Contents Index  | 1   |
| Article 13 – Legal and Administrative Information   | 13.1. Legal Information  | NA  |
|   | 13.2. Form B and Other Forms, Template   | NA  |
|   | Form B - Information Regarding Respondent, Equity Members and Major Non-Equity Members           | NA  |
|   | 13.3. Certification (Form C)   | NA  |
| Article 14 – Respondent Team Composition and Structure                                      | Appendix 2: Conflict of Interest Affidavit   | E   |
|   | 14.1. Respondent   | 2   |
|   | 14.2. Equity Members   | 2   |
|   | 14.3. Major Non-Equity Members   | 2   |
|   | 14.4. Key Personnel Identity   | E   |
|   | Description  | 3   |
|   | Resumes and References   | 3 per person  |
| Commitment to Key Personnel Availability  | 1 per entity   |   |
| As an appendix  | Executed teaming agreement(s)  | E   |
| Article 15 – Relevant Development Experience  | 15.1 – 15.3: Form D-1 and Form D-2   | NA  |
|   | Form D-1 – Relevant Detailed Project Description for Equity Members and Major Non-Equity Members | 5 per project   |
|   | Form D-2 – Key Personnel Project Summary Information   | 2 per person  |
|   | 15.4. Summary of Overall Delivery Experience   | 5   |
| Article 16 – Approach to Phase Development  | 16. Understanding of Development Approach  | 7   |
|   | Commitment to Opportunity MDOT   | (Included in "Understanding of Development Approach") |
| <b>Volume 2 – Financial Information</b>   |  |   |
| Article 17 – Equity Members' Financing Capacity and Experience                              | 17.1. Project Development Experience (Form E-1)  | NA  |
|   | 17.2. Investment Track Record (Form E-2)   | NA  |
|   | 17.3. Equity Funding Letters   | 5 per letter  |
|   | 17.4. Financial Officer's Certificates (Form E-3)  | E   |
|   | 17.5. Financial Statements (Financial Statement Template) (submitted in Microsoft Excel)         | E   |
| <b>Part C – Forms (Information Only – Organizationally Submitted in Volumes 1 &amp; 2 )</b> |  |   |
| Form A  | Transmittal Letter   | NA  |

| <b>Part B: SOQ Organization</b> |   | <b>Maximum Page Limit</b>                             |
|---------------------------------|---|---|
| Form B                          | Information Regarding Respondent, Equity Members and Major Non-Equity Members       | 2 per entity  |
| Form C                          | Certification   | NA  |
| Form D-1                        | Relevant Detail Project Description for Equity Members and Major Non-Equity Members | 5 per project   |
| Form D-2                        | Key Personnel Project Summary Information   | 2 per person  |
| Form E-1                        | Equity Members' Project Development Experience                                      | NA<br>(Maximum of 15 projects for all Equity Members) |
| Form E-2                        | Equity Members' Investment Track Record   | NA  |
| Form E-3                        | Financial Officer's Certificate, including annexes and Template                     | E   |

NA means there is no specific page limit. However, the item is included in the maximum total page limit.

E means the item is not included in the maximum total page limit.



## VOLUME 1 REQUIREMENTS

### 12. GENERAL

The cover of the SOQ shall identify the point of contact for the Respondent as outlined in Section 14.1.

- (a) **Form A** (transmittal letter): A duly authorized official of the Respondent must execute the transmittal letter in blue ink. For the Respondents that are joint ventures, partnerships, limited liability companies, or other associations, the transmittal letter shall be appended with letters on the letterhead stationery of each Equity Member executed by authorized officials of each Equity Member, stating that representations, statements, and commitments made in the SOQ on behalf of the Equity Member have been authorized by, are correct, and accurately represent the role of the Equity Member in the Respondent Team.
- (b) **Executive Summary:** The executive summary shall be written in a non-technical style and shall contain sufficient information for reviewers with both technical and non-technical backgrounds to become familiar with Respondent's SOQ, and its ability to satisfy the financial and technical requirements of Phase 1. The executive summary shall address why Respondent should be selected to become the Phase Developer for Phase 1.
- (c) **Confidential Contents Index:** A page executed by the Respondent that sets forth the specific items (and the section and page numbers within the SOQ at which such items are located) that the Respondent deems confidential, trade secrets, or proprietary information protected by the PIA and the reason for such designation. Blanket designations that do not identify the specific information shall not be acceptable and may be cause for certain information in the SOQ to be treated as public information. Notwithstanding the foregoing, the list required under this Section 12(c) is intended to provide input to MDOT as to the confidential nature of a Respondent's SOQ, but in no event shall such list be binding on MDOT, determinative of any issue relating to confidentiality or a request under the PIA, or override or modify the provisions of the Act, P3 Regulations or MDOT's responsibilities thereunder.

### 13. LEGAL AND ADMINISTRATIVE INFORMATION

#### 13.1 Legal Information

The following information regarding legal issues affecting the Respondent Team shall be submitted:

(a) Legal Issues

Identify and explain any significant anticipated federal or State legal issues relating to the Respondent, any Equity Members, and any Major Non-Equity Members that must be resolved in order to develop and deliver Phase 1, and perform its obligations under the Phase P3 Agreement and a Section P3 Agreement (if applicable).

(b) Legal Liabilities

Provide a list and a brief description of all instances during the last five (5) years involving projects and those projects identified pursuant to Article 15 in which the Respondent, any Equity Member, any Major Non-Equity Member, or any Affiliate of the foregoing (as defined below) was (a) determined, pursuant to a determination in a court of law, arbitration proceeding, or other dispute resolution proceeding, to be liable for a

material breach of contract, or (b) terminated for cause. For each instance, identify an owner's representative, and provide accurate contact information including address, telephone number, and e-mail address, if available.

(c) Legal Proceedings

Provide a list and a brief description (including the resolution) of: (a) each arbitration, litigation, dispute review board, and other formal dispute resolution proceeding occurring during the last five (5) years related to a transportation project; and (b) those projects identified pursuant to Article 15 involving a claim or dispute, meeting all of the following:

- (i) is between the project owner; and the Respondent, any Equity Member, any Major Non-Equity Member, or any Affiliate of the foregoing; and
- (ii) involves an amount in excess of the smaller of (1) 2% of the original contract value or (2) \$500,000 on projects with a contract value in excess of \$25 million. Include items that were subject to arbitration, litigation, dispute review board, or other formal dispute resolution proceedings even if settled without completion of the proceeding.

*With respect to the information requested in Sections 13.1(a), 13.1(b) and 13.1(c), failure to fully disclose this information, conditional or qualified submissions (i.e., "to our knowledge", "to the extent of available information", "such information is not readily available", "such information is not maintained in the manner requested", etc.) to requests or questions posed, incomplete or inaccurate submissions or non-responsive submissions, or failure to provide information enabling MDOT to contact owner representatives may, in the sole discretion of MDOT, lead to a lower evaluation score or disqualification from the solicitation process.*

### 13.2 Form B and Other Forms; Templates

Provide an executed original of **Form B** for the Respondent, each Equity Member, and each Major Non-Equity Member.

Throughout the SOQ, the Respondent is required to submit forms which provide additional information regarding the Respondent Team and their level and depth of experience in similar P3 and/or design-build projects, including projects involving Predevelopment Work. These forms include:

- **Form D-1**, Detailed Project Description;
- **Form D-2**, Key Personnel Project Summary Information;
- **Form E-1**, Equity Members' Project Development Experience; and
- **Form E-2**, Equity Members' Investment Track Record.

Each Respondent is responsible for ensuring that supplied information on each form is accurate, up-to-date, and that project owners and references have been notified that they may be contacted within fourteen (14) days of receipt of the SOQ by MDOT. Respondents are advised if such information is not current, MDOT may elect to exclude the information in each such form in determining the Respondent's qualifications. If foreign language interpretation is required in order to conduct the reference check, the Respondent must note such requirement in its SOQ. MDOT will determine in its sole discretion whether such foreign language interpretation can be accommodated.

The templates and forms required to be completed as outlined in [Volume 1](#) and [Volume 2](#) and [Appendix 2](#) are available on eMaryland Marketplace Advantage. This includes the Financial Statement Template described in [Volume 2](#) of this RFQ, for completion. [Part C](#) includes certain forms for reference.

### 13.3 **Certification (Form C)**

Provide an executed original of **Form C** for Respondent, each Equity Member, each Major Non-Equity Member, and each Guarantor. If any of the entities required to complete **Form C** is an entity that was created for the purpose of responding to this RFQ, the parent company or controlling stockholder of such entity shall also provide an executed original of **Form C**.

## 14. **RESPONDENT TEAM COMPOSITION AND STRUCTURE**

### 14.1 **Respondent**

Identify the legal name of the Respondent. If the name is a "doing business as" (DBA), identify the underlying names. Identify the single point of contact (a real person) and include the following information: name, title, address, telephone number(s), and e-mail address on the cover of the SOQ. Identify the legal name and nature of the Respondent and the state of its organization. If the Respondent is a joint venture, partnership, limited liability company, or other association, the SOQ shall contain an executed teaming agreement as an appendix to [Volume 1](#). If an executed teaming agreement does not yet exist, the SOQ shall contain the summary of the key terms of the anticipated agreement, including the percentages of ownership and roles of the various parties as part of this [Section 14.1](#).

Each Respondent Team must include an Equity Member, a Designer, a Lead Contractor, and a Lead Project Developer. Any Equity Member or Major Non-Equity Member may be designated with more than one (1) role within the Respondent Team.

The Lead Contractor, the Designer, and the Lead Project Developer are not required to have sufficient capacity or appetite to perform all the Section Work for each section of Phase 1 without forming joint ventures or subcontracting or otherwise teaming with other firms. The Phase P3 Agreement shall permit the Lead Contractor, the Designer, and the Lead Project Developer to form such joint ventures, subcontract, or enter into similar arrangements prior to execution of any Section P3 Agreement, and MDOT does not require such arrangements to be put in place prior to the submission of a SOQ. Any such formation shall be subject to the approval of MDOT and in compliance with Applicable Law.

### 14.2 **Equity Members**

For each Equity Member, identify the entity's role, planned equity ownership percentage in the Phase Developer, and the entity's legal nature and state of organization. Identify any Equity Member that is also a Major Non-Equity Member.

### 14.3 **Major Non-Equity Members**

Identify all Major Non-Equity Members. For each Major Non-Equity Member, identify the entity's role, legal nature, and state of organization. If any of the Major Non-Equity Members is a joint venture, partnership, limited liability company, or other association, the SOQ shall contain an executed teaming agreement as an appendix to [Volume 1](#). If an executed agreement does not yet exist, the SOQ shall contain a summary of the key terms of the anticipated teaming agreement, including percentages of ownership, and roles of the various parties as part of this [Section 14.3](#).

## 14.4 Key Personnel

### (a) Identity and Requirements

The Respondent shall identify the following Key Personnel who shall meet the requirements outlined for each position:

#### (i) Phase Developer Project Manager

The Phase Developer shall provide the Phase Developer project manager (the "**Phase Developer PM**") to lead all Predevelopment Work for the Phase Developer and have full responsibility for the execution of the work on behalf of the Phase Developer. The Phase Developer PM shall serve as the primary point of contact for all communication between the Phase Developer and MDOT. The Phase Developer PM shall possess the following minimum qualifications:

- (A) served in a developer's project manager, owner's project manager or equivalent commercially responsible role on:
  - (aa) the development, construction, or operations of at least one (1) design-build or P3 highway project with a capital design and construction cost of more than \$250 million. Experience on a P3 project with a concession term of fifteen (15) or more years is preferred; and
  - (bb) at least one (1) urban highway project with direct experience or executive oversight for its development, design, or construction; or operations of a tolled highway facility (or lanes of a highway);
- (B) at least ten (10) years of progressively responsible, successful experience leading to significant, commercially responsible roles achieving the integration of highway project development, design, construction, operation, and maintenance disciplines for the development and/or delivery of P3 projects; and
- (C) demonstrated, successful experience working with relevant stakeholders, which may include coordination with community leaders, impacted jurisdictions and property owners, and elected officials.

Respondent's relevant experience for paragraphs (A) and (B) above shall include design-build, P3, and tolled highway facilities completed after 2000.

#### (ii) Construction Project Manager

The construction project manager (the "**Construction PM**") is the individual with full responsibility for executing the Predevelopment Work related to the constructability and biddability under the Phase P3 Agreement. The Construction PM shall serve as the primary point of contact for all communication between the Phase Developer and Lead Contractor. The Construction PM shall possess the following minimum qualifications:

- (A) served in a Construction PM role on:

- (aa) at least two (2) highway design-build projects or P3 projects with a capital design and construction cost of more than \$250 million, one (1) of which was developed in the last five (5) years; and
    - (bb) the management and oversight of at least one (1) urban highway project managing the construction of a highway facility or other large transportation infrastructure project;
  - (B) demonstrated, successful experience working with relevant stakeholders, which may include coordination with community leaders, impacted jurisdictions and property owners, and elected officials;
  - (C) at least ten (10) years of progressively responsible, successful experience leading the construction activities related to the integration of highway project development, design, construction, operation, and maintenance disciplines for the development and/or alternative delivery, including P3 or design-build projects; and
  - (D) a bachelor's degree in science and be a licensed professional engineer in the United States, preferably in the State. And, if not already registered, shall be able to obtain by the time of submittal of the Proposal registration as a professional engineer in the State and Commonwealth of Virginia.
- (iii) Design Project Manager

The design project manager (the "**Design PM**") is the individual with full responsibility for executing the Predevelopment Work and the design work required under the Phase P3 Agreement. The Design PM shall serve as the primary point of contact for all communication between the Phase Developer and the Designer. The Design PM shall possess the following minimum qualifications:

- (A) served in a Design PM role on:
  - (aa) at least two (2) highway design-build projects or P3 projects with a capital design and construction cost of more than \$250 million, one (1) of which was developed in the last five (5) years; and
  - (bb) the management and oversight of all design elements related to at least one (1) urban highway project managing the design of a highway facility or other major transportation development project;
- (B) demonstrated, successful experience working with relevant stakeholders, which may include coordination with community leaders, impacted jurisdictions and property owners, and elected officials;
- (C) at least ten (10) years of progressively responsible, successful experience leading the design activities related to the integration of highway project development, design, construction, operation, and maintenance disciplines for the development and/or alternative delivery, including P3 or design-build projects; and
- (D) a bachelor's degree in science and be a licensed professional engineer in the United States, preferably with the State. And, if not already registered, shall be able to obtain by the time of submittal of the Proposal registration as a professional engineer in the State and Commonwealth of Virginia.

(iv) Lead Finance Manager

The lead finance manager (the "**Lead Finance Manager**") is the individual with full responsibility for coordinating the Predevelopment Work associated with securing debt and equity investments for each section. The Lead Finance Manager shall have demonstrated ability and experience:

- (A) successfully structuring financing for a developer of comparable projects including TIFIA, PABs and other comparable debt;
- (B) successfully securing equity commitments for comparable projects; and
- (C) successfully working with credit rating agencies to obtain investment-grade credit ratings for comparable projects.

(b) Resumes and References

Provide a resume for each Key Personnel. Further, provide no less than three (3) references for each Key Personnel for work performed on projects within the past ten (10) years; provided, however, that if any Key Personnel has worked on less than three (3) projects during the past ten (10) years, the Respondent shall (a) affirmatively state that such Key Personnel has worked on less than three (3) projects during the past ten (10) years and (b) include references for each such project.

References for any Key Personnel shall be project owners, preferably governmental entities, and the Respondent shall include the name, position, company or agency, current postal and e-mail addresses, and telephone numbers. The Respondents are requested to verify that contact information is correct and are advised that if the contact information provided is not current, MDOT may elect to exclude the experience represented in determining the Key Personnel's qualifications.

References may be the same as the information provided in **Form D-1** and **Form D-2**.

(c) Commitment of Key Personnel Availability

While MDOT recognizes that scheduling and other issues may impact the availability of the Key Personnel, the Respondents should only identify Key Personnel that they reasonably believe will be available for a full commitment to the development of Phase 1.

To confirm this commitment, provide an express, written statement from the entity employing the Key Personnel committing that such Key Personnel shall be:

- (i) available to serve as Key Personnel in the vicinity of the Phase 1 site from the initiation of the Predevelopment Work until the construction on each section of Phase 1 has been completed (with the exception of the Lead Finance Manager who shall not be required to be located at the Phase site and who shall be available until financial close on the final section to be procured in Phase 1);
- (ii) available when requested;
- (iii) available to attend meetings in the Baltimore area;
- (iv) with respect to the Construction PM, available until all design and construction related disputes and claims are resolved, if any exist; and

- (v) with respect to the Design PM, available until all design related disputes and claims are resolved, if any exist. Should the Respondent be selected as a Shortlisted Proposer, the RFP will require that the Key Personnel continue to be named as such at the time of submission of the Proposal (and during the performance of the work, with respect to the Selected Proposer), unless otherwise approved in accordance with the procedures outlined in the RFP.

For avoidance of doubt, an individual may fulfill only one (1) Key Personnel role.

## 15. RELEVANT DEVELOPMENT EXPERIENCE

### 15.1 Comparable P3 and/or Design-Build Projects and Toll Road Operations

The following forms shall be provided and clearly demonstrate in sufficient detail the Respondent Team's experience in comparable revenue risk, P3 projects and/or design-build projects, and in operations and maintenance that meet the goals and objectives included in Part A.

For each Equity Member and each Major Non-Equity Member, the Respondent shall identify up to five (5) projects each using **Form D-1**, completed in accordance with the instructions therein and within this Article 15. Summary information for no more than three (3) projects that the Respondent determines best aligns with this RFQ's objectives for the Key Personnel shall be provided using **Form D-2**. All such projects shall have design and construction costs of greater than \$250 million.

For each Equity Member in its role as providing an Equity Investment, **Form E-1** shall also be provided, as described in Section 17.1.

For any Equity Member that is identified by the Respondent as also serving as a Major Non-Equity Member, the information shall be provided in **Form D-1** as if it were not an Equity Member. No more than five (5) projects for each role shall be submitted by the Respondent for any Equity Member who is also serving as a Major Non-Equity Member.

The information in **Form D-1** shall demonstrate the extent and depth of the Respondent Team's experience in the following areas as applicable to each Equity Member and Major Non-Equity Member:

- (a) design and/or management of design of civil and infrastructure aspects including: roadwork, traffic management, and ITS; bridges; and other structures and facilities;
- (b) construction and/or management of construction of civil and infrastructure aspects including: roadwork, traffic management, and ITS; and bridges;
- (c) toll road operations, including congestion management on priced managed lanes and GP Lanes;
- (d) lifecycle optimization actions taken during design, construction, operations, and maintenance; and
- (e) financing through a combination of debt and equity.

If a member of a Respondent Team is a joint venture, partnership, limited liability company, or other association, the experience of an individual joint venture member, partner, or equity owner of such member may be used as an example of such member's project experience.

## 15.2 Experience with Predevelopment Work

The information in **Form D-1** shall also demonstrate the Respondent Team's experience in developing and delivering comparable projects under predevelopment or similar agreements (including CM/CG, progressive design-build, etc.). The Respondent Team should provide detail to show how they provided assistance to promote expedited and cost-effective delivery of the projects developed under comparable Phase P3 Agreements.

For each Equity Member and Major Non-Equity Member, **Form D-1** information shall also demonstrate the extent and depth of their experience in the following areas:

- (a) executing work similar to that described as Predevelopment Work;
- (b) addressing financial feasibility of projects during Predevelopment Work;
- (c) ensuring expedited project delivery; and
- (d) assessing and mitigating major challenges and risks related to developing a project under a predevelopment agreement.

Summary information for no more than three (3) projects that the Respondent determines best aligns with the Predevelopment Work objectives for the Key Personnel shall be provided using **Form D-2**.

## 15.3 Experience with Congestion Management Delivery

The information in **Form D-1** shall also demonstrate the relationship of the provided projects to the depth and experience of the Respondent Team in addressing congestion management in delivering improvements, and providing operations and maintenance, particularly in congested urban highway corridors with similar goals and objectives as the P3 Program.

For each Major Non-Equity Member, **Form D-1** information shall also demonstrate the extent and depth of their experience in the following areas:

- (a) design and/or management of design approach to civil and infrastructure assets that support long-term congestion management;
- (b) design and/or management of design approach that employed state-of-the-art technology, techniques, and strategies that resulted in measurable improvements to hours of congestion and travel delay;
- (c) construction and/or management of construction approach that resulted in measurable congestion relief and traffic management strategies; and
- (d) operations and maintenance including operational management of state-of-the-art technology including ITS that resulted in measurable improvements to hours of congestion and travel delay.

Summary information for no more than three (3) projects that the Respondent determines best aligns with the objectives of this RFQ for the Key Personnel shall be provided using **Form D- 2**.

Respondents are requested to verify that the contact information contained in **Form D-1** and **Form D-2** is correct, and are advised that if the contact information provided is not current, the experience represented by that project in determining the Respondent's qualifications may be excluded.



#### 15.4 **Summary of Overall Delivery Experience**

The Respondent should summarize the Respondent Team's overall project delivery experience demonstrated in **Form D-1**, **Form D-2**, and **Form E-1** so that it clearly articulates its expertise, and ability to develop and deliver Phase 1 as a single effort, and achieve the goals and objectives.

#### 16. **APPROACH TO PHASE DEVELOPMENT**

The Respondent should summarize the Respondent Team's overall approach to the development of Phase 1 and understanding of the P3 Program goals and an explanation of how the Respondent intends to achieve such goals. The Respondent shall also include a description of its community outreach and stakeholder engagement approach, its approach to Opportunity MDOT, inclusion, workforce development and working with a diverse labor market along the P3 Program corridor, and its understanding of any specific challenges and risks involved in delivery of Phase 1 and the associated Predevelopment Work.

The Respondent should provide an express, written statement in its SOQ confirming its commitment to Opportunity MDOT.

## VOLUME 2 REQUIREMENTS

### 17. EQUITY MEMBERS' FINANCING CAPACITY AND EXPERIENCE

#### 17.1 Project Development Experience (Form E-1)

The Respondent must submit one (1) **Form E-1**, completed in accordance with the instructions therein. **Form E-1** must describe relevant project delivery and investment experience of all of the Respondent's Equity Members collectively, for a maximum of fifteen (15) projects. Only projects that have achieved financial close prior to the SOQ Due Date may be listed in **Form E-1**.

Project experience from Affiliates of an Equity Member may be included in **Form E-1** if a direct or indirect common parent entity is a Guarantor of the Equity Member.

#### 17.2 Investment Track Record (Form E-2)

The Respondent must submit one (1) **Form E-2**, completed in accordance with the instructions therein, to describe each of its Equity Members' track records with solicitations and investments in relevant projects.

#### 17.3 Equity Funding Letters

The Respondent must submit a separate "**Equity Funding Letter**" for each Equity Member. Respondents shall demonstrate the extent to which they have ability to provide a total equity contribution above \$500 million for delivery of Phase 1. Note that this amount should not be construed as an indication of an equity contribution requirement that will be included in the Section P3 Agreements, or an indication that the Section P3 Agreements will include any such requirement.

Each Equity Funding Letter must comply with the requirements set forth below.

##### (a) Signatory

If the Equity Member is an investment fund, then the letter must be signed by the fund's general partner(s) in blue ink. If the Equity Member intends to fund its equity commitment through use of internal resources (e.g., a corporate entity supplying its own capital), the letter must be signed by the chief investment officer, chief financial officer, chief executive officer, or equivalent officer.

##### (b) Approval Process

Provide an overview of the Equity Member's completed to-date and remaining approval process required to commit to and fund the required equity commitment for Phase 1. This section should identify and describe any required board, investment committee, or other formal approvals required; and include an indicative schedule for securing needed approvals, as applicable.

##### (c) Funding Source

(i) If the Equity Member is an investment fund, provide the name and both partnership and management structure of the investment fund that will provide the funds for the Equity Investment in Phase 1. An investment fund that is anticipated to be created but does not exist or has not achieved its initial closing as of the SOQ submission date will not be considered.

- (ii) If the Equity Member is any other type of entity, describe in detail where and how the Equity Member's Equity Investment will be sourced, and how management will approach competing allocation and capacity issues between several project opportunities the Equity Member may pursue simultaneously.

(d) Investment Capacity

Provide supplemental information (as needed) to the financial statements of the Equity Member as evidence of its investment capacity for funding both Predevelopment Work performed by the Phase Developer and total equity commitments indicated in this Section 17.3 for Phase 1. If Respondent anticipates it to be necessary, based on publicly available current cost estimates and recent precedent transactions, provide a description of anticipated gearing and how the Equity Member plans to increase its investment capacity prior to financial close of each section to provide total equity contribution in amounts anticipated. If the Equity Member is an investment fund, (a) provide information about capital amounts already committed or subscribed, remaining commitments yet to be called (with evidence and anticipated call schedule), allocation process for uncommitted funds, and whether a reserved allocation for Phase 1 has been established; (b) provide evidence of the capital available in the form of a letter from the fund's administrator, bank, or equivalent specifying account balance(s); and (c) as necessary, based on publicly available current cost estimates and recent precedent transactions, provide a description of anticipated gearing and provide a description of how the Equity Member plans to increase its investment capacity prior to financial close of each section to provide total equity contribution in amounts anticipated.

(e) Investment Criteria

Provide: (i) an explanation of why Phase 1 is consistent with the Equity Member's investment policy, goals, and requirements; and a declaration that, based on a preliminary review, Phase 1 is more than likely to meet the investment policy requirements for the Equity Member; and (ii) confirmation of the expected investment horizon of the Equity Member.

Equity transfers will be subject to the requirements of Section 202 of the Act.

#### 17.4 **Financial Officer's Certificates (Form E-3)**

The Respondent must submit a separate **Form E-3**, completed in accordance with the instructions therein and with all annexes as required, for each Equity Member and each Guarantor thereof, executed by the chief financial officer (or similar financial officer) of such entity. Each of the Equity Members entities must provide its own separate certificate. If, however, an Equity Member has a Guarantor, only one (1) consolidated certificate is required for such Guarantor and its guaranteed entity.

#### 17.5 **Financial Statements (Financial Statement Template)**

The Respondent must submit financial statements for each Equity Member and/or each Guarantor, as applicable, in accordance with the requirements set forth below. If an entity intends to receive support from a Guarantor, as evidenced in its Financial Officer's Certificate (**Form E-3**), then financial statements should be submitted only for the Guarantor. Each Equity Member must determine, in its sole discretion, whether to offer the support of and financial information for a Guarantor.

(a) Required Financial Statements

Respondents must provide the following financial statements:

- (i) financial statements for each entity's three (3) most recently completed fiscal years (as applicable), audited by a generally recognized certified public accountant firm, or unaudited annual statements accompanied by a letter from the CFO or equivalent officer that the unaudited statements are true, accurate, and correct, if audited statements have not been produced; and
- (ii) any interim financial statements prepared after the latest annual financial statement (e.g., quarterly and half-yearly).

(b) Inclusions

Financial statements must include:

- (i) opinion letter (auditor's report) for annual financial statements;
- (ii) balance sheet;
- (iii) income statement;
- (iv) statement of cash flows; and
- (v) footnotes, as available.

(c) Additional Requirements

Respondents must also satisfy the follow requirements related to the financial statements:

- (i) all financial statements must be presented in their native language and, if their native language is a language other than English, an English translation;
- (ii) all amounts in the financial statements must be presented in their native reported currency; and
- (iii) applicable portions of each entity's financial statements must be provided electronically in standard unlocked and unprotected Microsoft Excel workbooks using the Financial Statement Template provided and the instructions therein, as follows:
  - (A) one (1) workbook should be populated with the balance sheet, income statement, and statement of cash flows, for each of the three (3) most recent years and relevant interim period(s) in separate columns, in chronological order, from left to right, in Dollars; and
  - (B) if an entity reports financial statements in a currency other than Dollars, the information required in clause (A) above must also be provided in a second, separate workbook, in the same format, in the native reported currency.

(d) Accounting Principles

If an entity provides financial statements that are not prepared in accordance with International Financial Reporting Standards ("**IFRS**"), or Generally Accepted Accounting

Principles ("**GAAP**") from a G7 Country (i.e., Canada, France, Germany, Italy, Japan, United Kingdom, and the U.S.) then an explanation of the accounting differences between GAAP or IFRS and the accounting standards used to produce the audited financial statements must be prepared and submitted by the auditing firm.

**PART C – FORMS**

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**FORM A: TRANSMITTAL LETTER**

RESPONDENT: \_\_\_\_\_

SOQ Date:

I-495 & I-270 P3 Office  
MDOT State Highway Administration  
601 N. Calvert Street  
Baltimore, Maryland 21202  
Attention: Catherine Agostino, I-495 & I-270 P3 Program

The undersigned ("Respondent") submits this statement of qualifications (this "SOQ") in response to the Request for Qualifications dated February 7, 2020 (as amended, the "RFQ"), issued by the Maryland Transportation Authority ("MDTA") and Maryland Department of Transportation including the State Highway Administration ("MDOT") for Phase 1 of the I-495 & I-270 Public-Private Partnership Program through a Phase Public-Private Partnership Agreement. Initially capitalized terms not otherwise defined herein shall have the meanings set forth in the RFQ.

Enclosed, and by this reference incorporated herein and made a part of this SOQ, are Volume 1 and Volume 2 containing the information required by Part B of the RFQ.

Respondent is submitting this SOQ in response to MDOT's RFQ for Phase 1 in compliance with the terms of the RFQ.

Respondent acknowledges access to all materials posted on eMaryland Marketplace Advantage and the following Addenda and sets of questions and responses to the RFQ:

[Respondent to list any Addenda to this RFQ and sets of questions and responses by dates and numbers prior to executing **Form A**]

Respondent represents and warrants that it has read the RFQ and agrees to abide by the contents and terms of the RFQ and the SOQ.

Respondent understands that MDOT is not bound to shortlist any Respondent and may reject each SOQ that MDOT may receive.

Respondent further understands that all costs and expenses incurred by it in preparing this SOQ and participating in the RFQ solicitation process will be borne solely by Respondent.

Respondent agrees that MDOT and MDTA will not be responsible for any errors, omissions, inaccuracies, or incomplete statements in the RFQ.

Respondent acknowledges and agrees to the contract formation dispute provisions set forth in Article 9 and understands that it limits Respondent's rights and remedies to dispute the RFQ or any determination or shortlisting thereunder.

This SOQ shall be governed by and construed in all respects according to the laws of the State of Maryland.

Respondent's business address:

\_\_\_\_\_

(No.) (Street) (Floor or Suite)  
\_\_\_\_\_  
(City) (State or Province) (ZIP or Postal Code) (Country)

State or Country of Incorporation/Formation/Organization: \_\_\_\_\_

*[insert appropriate signature block from following pages]*



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

*[Insert Respondent's name]*

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

2. Sample signature block for partnership or joint venture:

*[Insert Respondent's name]*

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

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

*[Add signatures of additional general partners or members as appropriate]*

3. Sample signature block for attorney in fact:

*[Insert Respondent's name]*

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attorney in Fact

**FORM B: INFORMATION REGARDING RESPONDENT, EQUITY MEMBERS, AND MAJOR NON-EQUITY MEMBERS**

Name of Respondent: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Year Established: \_\_\_\_\_ Individual Contact: \_\_\_\_\_

Individual's Title: \_\_\_\_\_

Firm's CEO/Chairman: \_\_\_\_\_

Federal Tax ID No. (if applicable): \_\_\_\_\_ Telephone No.: \_\_\_\_\_

North American Industry Classification Code: \_\_\_\_\_ Fax No.: \_\_\_\_\_

Name of Official Representative (if applicable): \_\_\_\_\_

Business Organization (check one):

- Corporation (If yes, then indicate the State/Country/Province and Year of Incorporation and complete Sections A-C and the Certification form (**Form C**) for the entity.)
- Partnership (If yes, complete Sections A-C and the Certification form (**Form C**) for each member.)
- Joint Venture (If yes, complete Sections A-C and the Certification form (**Form C**) for each member.)
- Limited Liability Company (If yes, complete Sections A-C and the Certification form (**Form C**) for each member.)
- Other (If yes, describe and complete Sections A-C and the Certification form (**Form C**))

A. Business Name: \_\_\_\_\_

B. Business Address: \_\_\_\_\_

Headquarters: \_\_\_\_\_

Office Performing Work: \_\_\_\_\_

Contact Telephone Number: \_\_\_\_\_

C. If the entity is a Joint Venture, Partnership, or Limited Liability Company, indicate the name and role of each member firm in the space below. Complete a separate information form (**Form B**) for each member firm and attach it to the SOQ.

\_\_\_\_\_  
Name of Firm

\_\_\_\_\_  
Role

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Under penalty of perjury, I certify that the foregoing is true and correct, and that I am the firm's Official Representative:

By: \_\_\_\_\_ Print Name: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

*[Please make additional copies of this form as needed.]*

**FORM C: CERTIFICATION**

**Respondent:** \_\_\_\_\_

**Name of Firm:** \_\_\_\_\_

1. Has the firm or any of the firm's officers, directors, partners, controlling stockholders, or any of its employees directly involved in the firm's contracting activities including obtaining or performing contracts with public bodies been convicted of, or had probation before judgment imposed pursuant to Criminal Procedure Article, § 6-220, Annotated Code of Maryland, or pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law?

Yes                       No

If yes, please explain:

2. Has the firm or any of the firm's officers, directors, partners, controlling stockholders, or any of its employees directly involved in the firm's contracting activities including obtaining or performing contracts with public bodies:

- (a) Been convicted under state or federal statute of:
  - (i) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
  - (ii) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;
- (b) Been convicted of any criminal violation of a state or federal antitrust statute;
- (c) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;
- (d) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (e) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (f) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (a) through (e) above;
- (g) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;
- (h) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or

(i) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in Question 1?

Yes  No

If yes, please explain:

3. Has the firm or any of the firm's officers, directors, partners, controlling stockholders, or any of its employees directly involved in the firm's contracting activities including obtaining or performing contracts with public bodies, ever been suspended or debarred (including being issued a limited denial of participation) by any public entity?

Yes  No

If yes, please explain:

4. With respect to each of Questions 1-3 above, if not previously answered or included in a prior response on this Form, is any proceeding, claim, matter, suit, indictment, etc. currently pending against the firm that could result in the firm or any affiliate being found liable, guilty or in violation of the matters referenced in Questions 1-3 above?

Yes  No

If yes, please explain:

5. Has the firm been established or does it operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland?

Yes  No

If yes, please explain:

6. Has the firm knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction?

Yes  No

If yes, please explain:

7. Has the firm agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying statement of qualifications, proposal, bid or offer that is being submitted?

Yes  No

If yes, please explain:

8. Has the firm in any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the Respondent, bidder or offeror or of any competitor, or

otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying statement of qualifications, proposal, bid or offer is submitted?

Yes  No

If yes, please explain:

9. Is the firm a successor, assignee, subsidiary, or affiliate of a suspended or debarred business?

Yes  No

If yes, please explain:

10. Except as validly contested, has the firm paid, or arranged for payment of, all taxes due the State of Maryland and filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement?

Yes  No

If no, please explain:

11. Has the firm employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the contract, or has the firm paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the contract?

Yes  No

If yes, please explain:

12. Is the firm (a) identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland; or (b) engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland?

Yes  No

If yes, please explain:

13. Has the firm complied with the provisions of State Finance and Procurement Article, § 14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law?

Yes  No

If no, please explain:

14. Has the firm or any affiliate<sup>2</sup> ever been determined not responsible in connection with the submission of bids or proposals to the State of Maryland or any of its departments, agencies or units within the past ten years?

Yes  No

If yes, please explain:

15. Has the firm or any affiliate ever sought protection under any provision of any bankruptcy act within the past ten years?

Yes  No

If yes, please explain:

16. Has the firm or any affiliate defaulted on a contract or been terminated for cause within the past ten years?

Yes  No

If yes, please explain:

17. Within the past ten years, has a government agency or other public entity requested or required enforcement of any of its rights under a surety agreement on the basis of the default of the firm or any affiliate, or in lieu of declaring the firm or any affiliate in default?

Yes  No

If yes, please explain:

18. Within the past ten years, has the firm or any affiliate refused to testify or to answer any question concerning a bid or contract with any federal, state, or local government agency, any public authority or any other public entity when called before a grand jury or other committee, agency or forum which is empowered to compel the attendance of witnesses and examine them under oath, upon being advised that neither the person's statement nor any information or evidence derived from such statement will be used against that person in any subsequent criminal proceeding?

Yes  No

If yes, please explain:

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<sup>2</sup> The term "affiliate" means parent companies at any tier, subsidiary companies at any tier, entities under common ownership, and joint ventures and partnerships involving such entities (but only as to activities of joint ventures and partnerships involving Respondent, any Equity Member or any Major Non-Equity Member as a joint venturer or partner and not to activities of other joint venturers or partners not involving Respondent, any Equity Member or any Major Non-Equity Member), that (a) within the past five years have engaged in business or investment in North America or (b) have been involved, directly or indirectly, in the debt or equity financing, credit assistance, design, construction, management, operation or maintenance for any project identified pursuant to [Article 15](#) of the RFQ.

Under penalty of perjury, I certify that the foregoing is true and correct to the best of my knowledge, information, and belief, and that I am the firm's Official Representative. I acknowledge that this Form may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Form is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Form shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the firm with respect to this Form.

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Firm: \_\_\_\_\_

Date: \_\_\_\_\_



**FORM D-1: RELEVANT DETAILED PROJECT DESCRIPTION FOR EQUITY MEMBERS AND MAJOR NON-EQUITY MEMBERS**

**Name of Respondent Team member:** \_\_\_\_\_

| <b>Project Name:</b>   |
|--|
| <ol style="list-style-type: none"><li>1. Owner information:</li><li>2. Project description:</li><li>3. Notable project characteristics:</li><li>4. Dates work performed and project type:</li><li>5. Project financing:</li><li>6. Design and construction value:</li><li>7. Design and construction schedule:</li><li>8. Annual O&amp;M value and responsibilities:</li><li>9. Term of contract:</li><li>10. Respondent Team member project role, description and value of work performed:</li><li>11. Key Personnel project role, description and value of work performed:</li><li>12. Key metrics, innovations and solutions implemented:</li><li>13. Relevance to Phase 1 and the goals and objectives described in <u>Part A</u> of this RFQ:</li><li>14. If Equity Member, provide (a) a description of the project's financial plan and the Equity Member's role in developing and negotiating the financial plan; (b) the name and participation percentages of each of the original equity investors and a description of any evolution of the Equity Member's (or Affiliate's) percentage equity interest from financial close to the present; (c) a description of the elements of the project that are similar to Phase 1 and the goals and objectives in <u>Part A</u> of this RFQ; and (d) the Equity Member's role in supporting project development and commercial management of the project (including, if applicable, any predevelopment arrangement).</li></ol> |

**Instructions:**

Each Form D-1 should be no more than five (5) pages. Each item in (1) through (14) shall be provided in a manner to support Article 15 and Section 17.1.

- (1) For owner information, provide owner's name, contact person including position and role in referenced project, location, phone number, and e-mail address.
- (2) Provide a brief description of the project including location, type of facility, size, and current status.
- (3) Identify length of project in miles; # of lane miles; # and length of bridges; annual average daily traffic (AADT); tolling type (e.g. dynamic, open road, no tolling); traffic management and tolling systems; urban or rural classification, significant NEPA and environmental items requiring resolution.
- (4) Identify project type (e.g., design-build, design-build-finance-operate-maintain or other type of P3, construction management at risk, or predevelopment arrangement (including CM/GC, progressive design-build)) as well as beginning and end date of work performed on project.
- (5) Provide total project financing, including a brief summary of number of Equity Members, public funds used for the project, and number of months from agreement to financial close on the project as applicable (see item 14 as well).
- (6) Provide both original and final design and construction value (cost), including a brief explanation of any variance between the two.
- (7) Provide both original and actual key milestones for the development, design, and construction, including a brief explanation of any variance between the two. State whether project was completed on time.
- (8) Provide annual operations and maintenance contract responsibilities and value if the entity's role involved operations and maintenance.
- (9) Provide the term of the contract.

- (10) For each Respondent Team member, identify by each member and describe the work as outlined in Volume 1 and Volume 2 as applicable. State the percent or dollar value in (5), (6), or (8) above the entity was responsible for. For example, a member of a JV with a 30% stake in a \$250 million project would insert 30% or \$75 million; an engineer that performed \$10 million worth of work on a \$250 million project would insert 2.5% or \$10 million.
- (11) For Key Personnel included in this SOQ, identify by each individual and describe the work as outlined in Volume 1 as applicable for the Key Personnel. State the percent or dollar value in (5), (6), or (8) above the Key Personnel was responsible for.
- (12) Identify any metrics used by owner to measure project success; Describe any innovations for the project, the key reasons for the innovation, and whether the solution was implemented.
- (13) Describe why the project is relevant to the Respondent's qualifications to develop and deliver Phase 1 in this RFQ, including the goals, objectives and Evaluation Criteria described in Part A of the RFQ.
- (14) Provide (a) a description of the project's financial plan and the Equity Member's role in developing and negotiating the financial plan; (b) the name and participation percentages of each of the original equity investors and a description of any evolution of the Equity Member's (or Affiliate's) percentage equity interest from financial close to the present; (c) a description of the elements of the project that are similar to Phase 1 and relevant to the goals, objectives, and Evaluation Criteria set forth in Part A of the RFQ; and (d) the Equity Member's role in supporting project development and commercial management of the project.

All values should be in Dollars. Identify exchange rates of any amounts in other currencies using the exchange rate as of the contract execution or financing date.

**FORM D-2: KEY PERSONNEL PROJECT SUMMARY INFORMATION**

Name of Key Personnel: \_\_\_\_\_

| Project Name and Description  | Owner Information  | Role in Project | Experience and Years in Role  | Relationship to the Project, Goals and Objectives  | Key Outcomes and Metrics   |
|---|--|-----------------|---|--|--|
| <b>Sample entry:</b> ABC HOT Lanes P3 Project – design-build-finance-operate and maintain 15 miles of new HOT lanes in major urban corridor | AB Cee, Project Director; 100 Main Street, Anywhere U.S.; <a href="mailto:abcce@ABC.gov">abcce@ABC.gov</a><br>mobile: 890-123-4567<br>office: 890-567-1234 | Lead Contractor | 5 year design-build period – responsible for all design and construction; project delivered 41 days ahead of guaranteed completion date; 5 design exceptions and 7 alternative technical concepts developed and implemented | Procurement concurrent with NEPA; revenue risk project; public funds limited to early works; AASHTO award for public information and neighborhood traffic management campaign and outreach; 5 design exceptions and 7 alternative technical concepts developed and implemented | Average travel time in GP lanes 12 months after project opening reduced by 3.5 minutes; all federal operating speed requirements achieved in first 12 months; DBE goal achieved during design and construction; zero accidents on project site; compliance with all permits; |
|   |  |                 |   |  |  |
|   |  |                 |   |  |  |

Notes:

Owner has selected Lead Contractor for two similar projects since construction completion of this project.

**FORM E-1: EQUITY MEMBERS' PROJECT DEVELOPMENT EXPERIENCE**

[Complete one Form E-1 per Respondent to reflect the collective experience of all of its Equity Members (i.e., only one Form E-1 covering all Equity Members should be completed.)

| <b>EQUITY MEMBER NAME (1)(2)</b> | <b>PROJECT NAME, LOCATION, DESCRIPTION</b>                                | <b>PROJECT MILESTONES AND CURRENT STATUS</b>  | <b>PROJECT TERM; STRUCTURE; PAYMENT MECHANISM (3)</b> | <b>DESIGN AND CONSTRUCTION COSTS (NOMINAL VALUE) (5)</b> | <b>TOTAL PROJECT FINANCING AMOUNT (4)(5)</b> | <b>DEBT AMOUNT AND TYPE (5)(6)</b>                          | <b>TOTAL EQUITY INVESTMENT AND EQUITY MEMBER'S % (7)</b>                       |
|----------------------------------|---|---|---|--|--|---|--|
| <b>Sample entry:</b><br>123 Fund | Highway Project, Anywhere, U.S. – construction of a new 40-mile toll road | Financial Close: [Date]<br>Construction Completion<br>Date/Status: 80% complete<br>Operations Commencement: [Date] (expected) – 4 months earlier than baseline date | Construction plus 30 years; DBFOM; Revenue Risk       | \$2.1 billion  | \$2.0 billion                                | \$600 million Private Activity Bonds<br>\$850 million TIFIA | \$550 million total<br>123 Fund contributed 50% of the total equity investment |

**INSTRUCTIONS:**

- (1) Include a maximum of 15 projects that the Respondent deems to be relevant to Phase 1, the goals and objectives and the Evaluation Criteria set forth in Sections 8.3-8.5 of this RFQ and reflective of the ability of the Equity Members to successfully finance and manage Phase 1. Only projects that have achieved financial close prior to the SOQ Due Date may be included in this Form E-1.
- (2) Project experience from affiliates of an Equity Member may be included in Form E-1, if a direct or indirect common parent company is a Guarantor of the Equity Member.

- (3) **PROJECT TERM; STRUCTURE; PAYMENT MECHANISM** – Provide the project term, project delivery structure (e.g., DBFOM, DBF+OM, predevelopment arrangement), and the payment mechanism used to compensate the developer (e.g., availability payments, revenue collections/sharing, or any combination).
- (4) **TOTAL PROJECT FINANCING AMOUNT** – Provide the total amount of private financing used for the project, i.e., debt and equity (TIFIA loans, bonds, bank loans, subordinated shareholder loans, and any other debt instrument or facility), provided by the project's developer and equity members. Do not include any public debt, grants, or other amounts provided by the project owner.
- (5) All amounts reflected in this Form E-1 must be in Dollars. Identify exchange rates of amounts in other currencies using the exchange rate as of the date of financial close of the project and the benchmark on which the exchange rate is based.
- (6) **DEBT AMOUNT AND TYPE** – Provide the amount of each type of debt used and indicate the type of facility or instrument excluding any subordinated debt included within Total Equity Investment.
- (7) **TOTAL EQUITY INVESTMENT AND EQUITY MEMBER'S %** – Provide the total amount of equity contributions made for the entire project and the Respondent's applicable Equity Member's contribution percentage as of the SOQ Due Date. The equity investment may have been made in the form of either (i) shareholders' equity capital or (ii) shareholder subordinated debt. Indicate separately the percentage of ownership interest in the project or developer, as applicable, if different than the Equity Member's contribution percentage.

**ADDITIONAL INSTRUCTIONS:**

- (8) Of the projects listed in this **Form E-1**, provide **Form D-1** for no more than five projects per Equity Member, that the Respondent deems to be the most relevant to the RFQ and the Evaluation Criteria set forth in Section 8.3(b) of the RFQ.

**FORM E-2: EQUITY MEMBERS' INVESTMENT TRACK RECORD**

*[Respondent must complete a separate row of this Form E-2 for each Equity Member. Only one Form E-2 (covering all Equity Members) should be completed.]*

| <b>EQUITY MEMBER NAME</b>        | <b>LIST PROJECTS FOR WHICH EQUITY MEMBERS WERE SHORTLISTED IN NORTH AMERICA (1)</b> | <b>LIST PROPOSAL SUBMISSIONS (2)</b> | <b>LIST WITHDRAWALS FROM, OR OTHER CHANGES IN, SOLICITATION (3)</b> | <b>LIST THE PROJECTS THAT REACHED FINANCIAL CLOSE IN NORTH AMERICA (4)</b> | <b>PROVIDE THE NUMBER PROJECTS THAT REACHED FINANCIAL CLOSE GLOBALLY (5)</b> |
|----------------------------------|---|--------------------------------------|---|--|--|
| <b>[Name of Equity Member 1]</b> | • [ ]   | (a) [ ]                              | • [ ]   | • [ ]  | [ ]  |
|                                  | • [ ]   | (b) [ ]                              | • [ ]   | • [ ]  |  |
| <b>[Name of Equity Member 2]</b> | • [ ]   | (a) [ ]                              | • [ ]   | • [ ]  | [ ]  |
|                                  | [ ]   | (b) [ ]                              | [ ]   | [ ]  |  |

**INSTRUCTIONS:**

- (1) **LIST PROJECTS FOR WHICH EQUITY MEMBERS WERE SHORTLISTED IN NORTH AMERICA** – List the names of projects and the names of their procuring agencies in which the Equity Members, in their capacity as potential equity investors in a project, were shortlisted or otherwise invited to submit a proposal. Each project listed must have: (a) had an initial release of the related request for proposals within the last five years; (b) been procured by a public sector owner in North America; (c) required private financing; and (d) an actual or estimated project financing of at least \$500 million (in nominal dollars, as of the date of financial close of the project for any projects not in the U.S.).
- (2) **LIST PROPOSAL SUBMISSIONS** – With respect to the projects listed in response to item (1): (a) list the projects that have not yet required final financial proposals to be submitted; and (b) list the projects where the Equity Member (individually or as a member of a team) submitted compliant, final technical and financial proposals.
- (3) **LIST WITHDRAWALS FROM, OR OTHER CHANGES IN, SOLICITATION** – List each project that was included in response to item (1) but not included in the response to item (2). For each such project, provide: (a) the public sector owner and a contact name and phone number; and (b) a brief explanation for why an Equity Member did not submit compliant final technical and/or financial proposals or for not remaining engaged in the solicitation process for that project as an equity investor in a team that submitted a compliant final proposal (as applicable). Explanations may be attached in a separate sheet, if necessary.
- (4) **LIST THE PROJECTS THAT REACHED FINANCIAL CLOSE IN NORTH AMERICA** – List the projects in which the Equity Member was an equity investor at the time of the respective financial close date. Each project listed must: (a) have reached financial close

within the last ten years; (b) been procured by a public sector owner in North America; (c) require private financing; and (d) have an actual or estimated project financing of at least \$500 million.

- (5) **PROVIDE THE NUMBER PROJECTS THAT REACHED FINANCIAL CLOSE GLOBALLY** – Provide the number of projects globally (inclusive of those in North America): (a) that achieved financial close within the last ten years; (b) that were procured by a public sector owner; (c) required private financing; (d) for which the Equity Member was an equity investor at the time of financial close; and (e) that have an actual or estimated project financing of at least \$500 million.

### FORM E-3: FINANCIAL OFFICER'S CERTIFICATE

[Complete a separate Form E-3 for each Equity Member (and each Guarantor, if any)<sup>3</sup>]

I, [Name], the [Title] of [Name of Equity Member] (the Member) [and the [Title] of [Name of Guarantor] (the Guarantor)], do hereby certify as of [Date]<sup>4</sup> that:

- (a) This certificate is being executed and delivered in connection with the Statement of Qualifications (the SOQ) submitted by [Respondent Name] (the Respondent) in response to the Request for Qualifications for Phase 1 of the I-495 & I-270 P3 Program through a Phase P3 Agreement, dated February 7, 2020 (the RFQ), issued by the Maryland Transportation Authority and the Maryland Department of Transportation.
- (b) As to the matters herein set forth below, I either have personal knowledge or have obtained information from officers or employees of the [Member] [and the Guarantor] in whom I have confidence and whose duties require them to have personal knowledge thereof. I make the certifications herein to MDOT pursuant to the requirements of the RFQ with the intent and understanding that they will be relied upon by MDOT as a basis for the evaluation of the SOQ contemplated by the RFQ.
- (c) **[Guarantor Support:** It is the intention of the Guarantor to support the Member with the financial support needed by the Member to successfully satisfy its obligations in respect of Phase 1 if the Respondent were to become the Phase Developer.]<sup>5</sup>
- (d) **Audited Financial Statements:** The audited financial statements provided by [the Member] [the Guarantor] in the SOQ for the fiscal years ended [\_\_\_\_], [\_\_\_\_] and [\_\_\_\_] [and the interim financial statements for the following periods [\_\_\_\_] and [\_\_\_\_]] are complete and correct copies thereof. Where [the Member] [the Guarantor] has provided unaudited financial results, such financial results present fairly, in all material respects, the financial position and results of operations and cash flows of [the Member] [the Guarantor and its consolidated subsidiaries, including the Member,] as of such dates and for such periods. [The Member] [The Guarantor] has no material contingent liabilities or unusual forward or long-term commitments not disclosed therein.<sup>6</sup>
- (e) **Off-Balance Sheet Liabilities:** The [Member] [Guarantor] does not have any material off-balance sheet liabilities [other than as described in the financial statements referred to above] [other than the following: [\_\_\_\_\_]].

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<sup>3</sup> Each of the Equity Members should provide its own separate certificate. If, however, any such firm is proposing a Guarantor, only one consolidated certificate is required for the Guarantor and its guaranteed entity. If a firm has no Guarantor, all references to "Guarantor" should be deleted from the certificate.

<sup>4</sup> Date must not be earlier than seven calendar days prior to the SOQ Due Date.

<sup>5</sup> Delete if there is no Guarantor and not applicable.

<sup>6</sup> For entities that do not prepare audited financial statements, Respondents should submit a question to MDOT by the last day for RFCs indicated in the RFQ Schedule, outlining proposed information that would provide similar support to audited financial statements to seek confirmation of its appropriateness by MDOT. Information Respondent considers confidential should be submitted in accordance with Section 6.10 of the RFQ and will be subject to the limitations and conditions set forth therein.



- (f) **Financial Information Summary:** Attached hereto as Annex A is a completed Company Information Summary relating to [the Member] [the Guarantor]. All the information provided in the attached Annex A is complete and correct to the best of my knowledge.
- (g) **Bankruptcy/insolvency proceedings:** [There has been no Insolvency Event relating to the Member [or Guarantor] or any person or entity which directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, the Member [or Guarantor] which has occurred within the most recent three fiscal years (whether or not such proceeding was ultimately dismissed).] [Attached hereto as Annex B is a detailed description of an Insolvency Event relating to [entity Name].]<sup>7</sup>

For the purposes of this certification, Insolvency Event means any voluntary or involuntary bankruptcy, insolvency, liquidation, restructuring, suspension of payments, scheme of arrangement, appointment of provisional liquidator, receiver or administrative receiver, resolution or petition for winding-up or similar proceeding, under any applicable law, in any jurisdiction.

- (h) **Material Changes in Financial Condition:** [No material change in the financial condition of the Member [or Guarantor] has occurred or is projected to occur, as applicable (i) within the most recently completed three fiscal years that is not reflected in the its audited financial statements or (ii) since the date of its audited financial statements for its most recently completed fiscal year.] [Attached hereto as Annex C is a detailed description of material changes in the financial condition of [the Member][the Guarantor].]<sup>8</sup>

Capitalized terms used but not defined herein shall have the meanings set forth in the RFQ.

IN WITNESS WHEREOF, the undersigned is the [Chief Financial Officer, Treasurer or equivalent officer] of the entity to which this form relates, and has duly executed this certificate as of the date first written above.

\_\_\_\_\_  
Name (signature)

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Entity

<sup>7</sup> Complete the appropriate certification. Delete the sentence that is not applicable. Do not provide an Annex B if there is no Insolvency Event to disclose.

<sup>8</sup> Complete the appropriate certification. Delete the sentence that is not applicable. Do not provide an Annex C if there is no material change in financial condition to disclose. Further instructions regarding material changes are provided in Annex C.

**Annex A to Financial Officer's Certificate  
COMPANY INFORMATION SUMMARY**

Entity: \_\_\_\_\_

Designate whether Equity Member or Guarantor: \_\_\_\_\_

| <b>SHAREHOLDER<sup>9</sup></b>  | <b>INTEREST (%)</b> |
|---|---------------------|
| [Shareholder name]  |                     |
| [No current shareholders, Equity Members partners or equivalent have a holding of 15% of greater] |                     |

| <b>RATING AGENCY<sup>10</sup></b>  | <b>CURRENT RATING</b> | <b>PREVIOUS RATING</b> | <b>DATE OF CHANGE IN RATING</b> |
|--|-----------------------|------------------------|---------------------------------|
| [Rating agency name]   |                       |                        |                                 |
| [Debt of the [Member] [Guarantor] is not rated by any major credit rating agency.] |                       |                        |                                 |
| [[Member][Guarantor] has no debt]  |                       |                        |                                 |

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<sup>9</sup> List current shareholders, Equity Members partners or equivalent holding a 15% or greater interest in the company (indicate their percentage interest), as well as those having the right to appoint one or more board director(s). If such interest is held by a holding company, a shell corporation or other form of intermediary, also identify the ultimate or parent entity.

<sup>10</sup> If applicable, list all credit ratings available for the company and provide a copy of the most recent credit report.

**Annex B to Financial Officer's Certificate  
INSOLVENCY EVENT**

***[EQUITY MEMBER TO PROVIDE DETAILS]***

**Annex C to Financial Officer's Certificate  
MATERIAL CHANGE IN FINANCIAL CONDITION**

**[EQUITY MEMBER TO PROVIDE DETAILS]**

**INSTRUCTIONS TO RESPONDENTS REGARDING ANNEX C:**

If applicable, this Annex C must include the following details regarding material changes in the Member or Guarantor's financial condition:

- (a) a description of each material change, actual and projected, and any related changes or disruptions in executive management;
- (b) actual and projected impacts on the affected entity's organizational and financial capacity, and its ability to remain engaged in this solicitation and submit a responsive proposal; and
- (c) a detailed description of any other projected impacts, positive and negative, of the changes experienced and anticipated to be experienced in the periods ahead, including the likelihood that the circumstances of the change or impacts thereof will continue during the term of Phase 1.

Estimates of the impact on revenues, expenses, and the change in equity must be provided separately for each material change. **References to the notes in the financial statements are not sufficient to address the requirement to discuss the impact of material changes.** Where a material change will have a negative financial impact, the affected entity must describe measures that would be undertaken to insulate Phase 1 from any recent material changes and those currently in progress or reasonably anticipated in the future. If its financial statements indicate that expenses and losses exceed income in each of the three completed fiscal years (even if there has not been a material change), the affected entity must describe measures that will be undertaken to make the entity profitable in the future and an estimate of when the entity will be profitable.

Set forth below is a list of examples of what MDOT considers to be a material change in financial condition. **At the discretion of MDOT, any failure to disclose a prior or pending material change may result in disqualification from the solicitation process:**

- (a) a change in the tangible net worth of 10% or more of net assets;
- (b) a sale, merger, or acquisition exceeding 10% of the value of net assets prior to the sale, merger, or acquisition which in any way involves the affected entity or its parent company or Guarantor;
- (c) a change in credit rating for the affected entity or its parent company or Guarantor;
- (d) inability to meet material conditions of loan or debt covenants by the affected entity or its parent company or Guarantor that 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 or other third parties;
- (e) in the current and three most recent completed fiscal years, the affected entity or its parent company or Guarantor: (i) incurred a net operating loss; (ii) sustained charges exceeding 5% of the then net assets due to claims, changes in accounting, write-offs, or business restructuring; or (iii) implemented a restructuring/reduction in labor force exceeding 5% of employees or involved the disposition of assets exceeding 10% of the then-net assets; and
- (f) other events known to the affected entity that represent a material change in financial condition over the past three years, or which may be pending for the next reporting period.

**FORM F: RFC TEMPLATE**

(Please complete using the Microsoft Excel template)

**Respondent:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**RFQ RFC Submission No. [ ]<sup>11</sup>**

**Comments on RFQ dated February 7, 2020**

| <b>No.</b> | <b>RFQ Section</b> | <b>Category</b> | <b>RFQ Comment or Question</b> |
|------------|--------------------|-----------------|--------------------------------|
| 1.         |                    |                 |                                |
| 2.         |                    |                 |                                |
| 3.         |                    |                 |                                |

**Categories:**

"Category A" - an issue that, if not resolved in an acceptable fashion, would likely preclude the Respondent from submitting an SOQ;

"Category B" - a substantive issue that does not qualify as a Category A or C issue; or

"Category C" - a drafting issue, a clarification or a comment concerning conflicts between or within documents, or the equivalent of one of these, in each case which a reasonable Respondent would not interpret as intentional.

"Category D" - used along with Category A, B, or C to identify an item that the Respondent considers confidential or proprietary. If any comments or questions are identified as Category D, please attach a justification for each such item.

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<sup>11</sup> Sequentially number each set of RFQ comments or questions submitted.

**PART D – APPENDICES**

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**APPENDIX 1: SUMMARY OF CRITERIA AND SUBMITTAL REQUIREMENTS**

| <b>Submittal Requirements</b>   | <b>Evaluation Criteria</b>                       |                                 |  |
|---|--|---------------------------------|--|
|   | <b>Phase Developer Experience and Capability</b> | <b>Key Personnel Capability</b> | <b>Understanding of Development Approach</b> |
| <b>Respondent Team Composition &amp; Structure</b>                        |  |                                 |  |
| Phase Development   | X  | X                               | X  |
| Equity/Finance  | X  | X                               | X  |
| Congestion Management/Pricing   | X  |                                 | X  |
| Construction  | X  | X                               | X  |
| Design  | X  | X                               | X  |
| <b>Relevant Development Experience</b>                                    |  |                                 |  |
| Comparable P3 and/or Design-Build Projects and Operations and Maintenance | Form D-1, Form E-1                               | Form D-1, Form D-2              | Form D-1, Form D-2                           |
| Experience with Predevelopment Work                                       | Form D-1, Form E-1                               | Form D-1, Form D-2              | Form D-1, Form D-2                           |
| Experience with Congestion Management Delivery                            | Form D-1, Form E-1                               | Form D-1, Form D-2              | Form D-1, Form D-2                           |
| <b>Approach to Phase Development</b>                                      |  |                                 |  |
| Summary of Overall Delivery Experience                                    | X  | X                               | X  |
| Approach to Phase Development and Program Goals                           | X  | X                               | X  |

| <b>Submittal Requirements</b>                            | <b>Evaluation Criteria</b>                       |                                 |  |
|--|--|---------------------------------|--|
|  | <b>Phase Developer Experience and Capability</b> | <b>Key Personnel Capability</b> | <b>Understanding of Development Approach</b> |
| <b>Equity Members' Financing Capacity and Experience</b> |  |                                 |  |
| Project Development Experience                           | Form E-1   |                                 |  |
| Investment Track Record                                  | Form E-2   |                                 |  |
| Equity Funding Letters                                   | Equity Funding Letters                           |                                 |  |
| Financial Officer's Certificates                         | Form E-3   |                                 |  |
| Financial Statements                                     | Financial Statements                             |                                 |  |

Note: "X" indicates that the submittal requirement is considered as part of SOQ evaluation for the specified criteria.

The Executive Summary will be evaluated as part of each criteria.



**APPENDIX 2: FORM OF CONFLICT OF INTEREST AFFIDAVIT**

CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

A. "Conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

B. "Person" has the meaning stated in COMAR 21.01.02.01B(64) and includes a bidder, offeror, contractor, consultant, or subcontractor or subconsultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.

C. The bidder or offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain detail-attach additional sheets if necessary):

E. The bidder or offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the bidder or offeror shall immediately make a full disclosure in writing to the Solicitation Manager of all relevant facts and circumstances. This disclosure shall include a description of actions which the bidder or offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the contractor shall continue performance until notified by the Solicitation Manager of any contrary action to be taken.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: \_\_\_\_\_ By: \_\_\_\_\_ (Authorized Representative and Affiant)

### APPENDIX 3: DEFINITIONS AND ACRONYMS

Capitalized terms and acronyms used in this RFQ have the meanings set forth in this [Appendix 3](#).

"**Act**" has the meaning set forth in [Section 1.2](#).

"**Addenda**" or "**Addendum**" has the meaning set forth in [Section 6.6](#).

"**Affiliate**" means and includes parent companies at any tier, subsidiary companies at any tier, entities under common ownership, and joint ventures and partnerships involving such entities (but only as to activities of joint ventures and partnerships involving the Respondent, any Equity Member or any Major Non-Equity Member as a joint venture or partner and not to activities of other joint ventures or partners not involving the Respondent, any Equity Member, or any Major Non-Equity Member), that, (i) within the past five (5) years have engaged in business or investment globally or (ii) have been involved, directly or indirectly, in the debt or equity financing, credit assistance, design, construction, management, operation, or maintenance for any project identified by an entity pursuant to [Article 15](#).

"**American Legion Bridge**" or "**ALB**" means the American Legion Memorial Bridge spanning the Potomac River on I-495.

"**Applicable Law**" means any statute, law, code, regulation, ordinance, rule, common law, judgment, judicial or administrative order, decree, directive, or other requirement having the force of law or other governmental restriction (including those resulting from the initiative or referendum process) or any similar form of decision of or determination by, or any interpretation or administration of any of the foregoing by, any Governmental Entity which is applicable to Phase 1.

"**ARDS**" has the meaning set forth in [Section 2.4\(a\)](#).

"**BPW**" has the meaning set forth in [Section 1.1](#).

"**Capital Beltway Accord**" has the meaning set forth in [Section 5.1](#).

"**CFR**" has the meaning set forth in [Section 2.4\(a\)](#).

"**CoE**" has the meaning sent forth in [Section 4.2\(c\)](#).

"**COMAR**" means the Code of Maryland Regulations.

"**Construction PM**" has the meaning set forth in [Section 14.4\(a\)\(ii\)](#).

"**CUF**" has the meaning sent forth in [Section 4.2\(c\)](#).

"**DBE**" has the meaning set forth in [Section 4.4\(a\)](#).

"**DEIS**" has the meaning set forth in [Section 2.4\(a\)](#).

"**Design PM**" has the meaning set forth in [Section 14.4\(a\)\(iii\)](#).

"**Designer**" means the member of the Respondent Team with primary responsibility for design and engineering delivered under the Predevelopment Work.

"**Dollars**" or "**\$**" means the lawful money of the United States of America.

"**EEO**" has the meaning set forth in Section 4.2(c).

"**eMaryland Marketplace Advantage**" means the website (<https://procurement.maryland.gov/>) on which MDOT will post the information described in Section 1.6.

"**Environmental Impact Statement**" or "**EIS**" means a document that is prepared for a project in accordance with the National Environmental Policy Act of 1969 or NEPA. For the I-495 & I-270 Managed Lanes Study, the NEPA process requires that a draft EIS, final EIS and FHWA Record of Decision be prepared in accordance with 23 CFR 771.123 - 125.

"**Equity Funding Letter**" is described in Section 17.3.

"**Equity Investment**" means any form of investment by an Equity Member in a Section Developer (including investment made via the Phase Developer).

"**Equity Member**" means each Person that is identified as holding an equity interest (or proposes to hold for purposes of this RFQ) in the Respondent or Shortlisted Proposer or Phase Developer.

"**ETTM**" means electronic toll and traffic management.

"**ETTM Systems**" means the ETTM facilities, equipment, and the software which monitors, controls or executes the ETTM equipment, all of which will meet the minimum performance criteria in the Section P3 Agreement.

"**Evaluation Criteria**" or "**Evaluation Criterion**" has the meaning set forth in Section 8.2.

"**E-ZPass® Interagency Group**" or "**IAG**" means the E-ZPass® Interagency Group (IAG) which operates the largest, most successful toll interoperability network in the world. The IAG is comprised of 29 toll entity members (40 operating toll agencies) stretching across 17 states.

"**FEIS**" has the meaning set forth in Section 2.4(a).

"**FHWA**" has the meaning set forth in Section 2.4(a).

"**Financial Statement Template**" means the financial statement template provided on eMaryland Marketplace Advantage.

"**GAAP**" has the meaning set forth in Section 17.5(d).

"**Governmental Entity**" means the government of the United States of America, the States, the cities and counties within the States and any other agency, or subdivision of any of the foregoing, including any federal, state, or municipal government, and any court, agency, special district, commission or other authority exercising executive, legislative, judicial, regulatory, administrative or taxing functions of, or pertaining to, the government of the United States of America, the State or the cities and counties within the State. "Governmental Entity" does not include MDOT or MDTA.

"**GP Lanes**" means the general purpose traffic lanes (in either or both directions).

"**Guarantor**" means an entity, typically related and/or the parent company, that intends to provide financial support to an Equity Member to assist in developing and delivering Phase 1.

"**I-70**" means Interstate Highway 70 from I-695 to I-15.

**"I-270"** means Interstate Highway 270 (Dwight D. Eisenhower Memorial Highway) from I-495 to I-70.

**"I-370"** means Interstate Highway 370 from I-270 to the western end of Maryland Route 200 (MD 200, Intercounty Connector).

**"I-495"** means Interstate Highway 495 (Capital Beltway) from the vicinity of the George Washington Memorial Parkway to east of the Woodrow Wilson Bridge.

**"I-495 & I-270 Managed Lanes Study"** means the preparation of the EIS as the first element of the I-495 & I-270 P3 Program.

**"IAA"** has the meaning set forth in [Section 1.6\(f\)](#).

**"IFRS"** has the meaning set forth in [Section 17.5\(d\)](#).

**"Interested Party"** has the meaning set forth in [Section 9.1](#).

**"ITS"** means intelligent transportation systems.

**"Key Personnel"** means the Phase Developer PM, Construction PM, Design PM, and Lead Finance Manager.

**"Lead Contractor"** means the member of the Respondent Team with primary responsibility for work related to design and construction, and other technical development work with respect to the Predevelopment Work, including design management.

**"Lead Finance Manager"** has the meaning set forth in [Section 14.4\(a\)\(iv\)](#).

**"Lead Project Developer"** means the member of the Respondent Team with primary responsibility for the development of Phase 1 and is ultimately expected to take day-to-day operations control of the managed lanes in Phase 1.

**"LIDAR"** means Light Detection and Ranging.

**"Major Non-Equity Member"** means the member(s) of the Respondent Team in the Respondent's SOQ that are identified as the Lead Contractor, Designer, and Lead Project Developer.

**"Major Projects"** means transportation projects requiring federal assistance that are over \$500 million in cost.

**"MBE"** has the meaning set forth in [Section 4.4\(b\)](#).

**"MDOT"** has the meaning set forth in [Section 1.2](#).

**"MDOT SHA"** has the meaning set forth in [Section 2.2\(c\)](#).

**"MDTA"** has the meaning set forth in [Section 1.2](#).

**"NEPA"** has the meaning set forth in [Section 1.3\(a\)](#).

**"O&M"** means operation and maintenance.

**"Opportunity MDOT"** is described in [Section 4.2](#).

"**P3**" has the meaning set forth in [Section 2.4\(a\)](#).

"**P3 Program**" has the meaning set forth in [Section 1.1](#).

"**P3 Regulations**" has the meaning set forth in [Section 1.2](#).

"**PABs**" refers to Private Activity Bonds under Section 142 of the Internal Revenue Code as amended by Section 11143 of Title XI of SAFETEA-LU to add highway and freight transfer facilities to the types of privately developed and operated projects for which private activity bonds (PABs) may be issued.

"**Phase 1**" has the meaning set forth in [Section 1.1](#).

"**Phase Developer**" has the meaning set forth in [Section 1.1](#).

"**Phase Developer PM**" has the meaning set forth in [Section 14.4\(a\)\(i\)](#).

"**Phase P3 Agreement**" has the meaning set forth in [Section 2.1\(a\)](#).

"**PIA**" has the meaning set forth in [Section 6.10](#).

"**Plan**" has the meaning set forth in [Section 1.1](#).

"**Predevelopment Work**" has the meaning set forth in [Section 1.3\(a\)](#).

"**Program Website**" has the meaning set forth in [Section 1.6](#).

"**Proposal**" means a proposal submitted by a Shortlisted Proposer in response to the RFP.

"**Protest**" has the meaning set forth in [Section 9.1](#).

"**Protester**" has the meaning set forth in [Section 9.1](#).

"**Reference Information Documents**" means all written information provided by MDOT or any of its employees, agents, officers, directors, representatives, or consultants prior to the date of the Phase P3 Agreement, including all contents of this solicitation's entry on eMaryland Marketplace Advantage.

"**Request for Clarification**" or "**RFC**" means any written comments or questions submitted to MDOT using **Form F** following the procedure outlined in [Section 6.6](#).

"**Request for Proposals**" or "**RFP**" means each request for proposals that may be issued to the Shortlisted Proposers to complete the Predevelopment Work for Phase 1.

"**Request for Qualifications**" or "**RFQ**" means this request for qualifications and all Addenda.

"**Respondent**" means any entity, company, consortium, team or joint venture which submits a SOQ in accordance with this RFQ.

"**Respondent Team**" means the entities and individuals that are named as part of the Respondent's SOQ, including the Respondent's Equity Members, Major Non-Equity Members, and Key Personnel.

"**Reviewing Authority**" has the meaning set forth in [Section 9.1](#).

"**SBE**" has the meaning set forth in [Section 4.4\(c\)](#).

"**Section Developer**" has the meaning set forth in Section 1.3(b).

"**Section P3 Agreement**" has the meaning set forth in Section 1.3(b).

"**Section Work**" has the meaning set forth in Section 1.3(b).

"**Selected Proposer**" means the one (1) Shortlisted Proposer selected by MDOT after evaluation of the Proposals in accordance with the criteria and procedures set forth in the RFP.

"**Shortlisted Proposers**" means the Respondents shortlisted by MDOT based on the evaluation of each submitted SOQ who as a result may submit a Proposal in response to the RFP.

"**Solicitation Manager**" has the meaning set forth in Section 6.6.

"**SOQ Due Date**" means the date when SOQs are due for submission, as identified in Section 1.5.

"**State**" has the meaning set forth in Section 1.2.

"**Statement of Qualifications**" or "**SOQ**" means the statement of qualifications submitted to MDOT by a Respondent in response to this RFQ, including all clarifications thereto submitted in response to requests by MDOT.

"**TIFIA**" means the Transportation Infrastructure Finance and Innovation Act of 1998, codified at 23 U.S.C. §§601 et. seq., as amended and as it may be amended from time to time.

"**Toll Services Agreement**" means an agreement between MDTA and a Section Developer outlining the roles and responsibilities and performance of tolling services for each section of Phase 1.

"**Toll Systems Integrator**" means any entity that may be engaged by a Section Developer to take primary responsibility for the design, construction, integration, supply, testing, operation, or maintenance of the toll system for the relevant section of Phase 1.

"**transportation facilities project**" has the meaning set forth in the Transportation Article, §4-101(h), Annotated Code of Maryland.

"**U.S.**" means the United States of America.

"**USDOT**" means the United States Department of Transportation.

"**USDOT TIFIA Program**" means the TIFIA program run through USDOT.

"**VDOT**" means the Virginia Department of Transportation.

"**WBE**" means Women Business Enterprises.

**APPENDIX 4: [PLACEHOLDER]**