

ROCKINGHAM COUNTY, VIRGINIA
POLICY IMPLEMENTING THE
PUBLIC-PRIVATE EDUCATION FACILITIES AND INFRASTRUCTURE ACT
OF 2002
AND THE
PUBLIC PRIVATE TRANSPORTATION ACT OF 1995

I. Introduction

A. The Public-Private Education Facilities and Infrastructure act of 2002, Virginia Code Sections 56-575.1, *et seq.*, (the PPEA) and the Public-Private Transportation Act of 1995, Virginia Code Section 56-557, *et seq.*, (the PPTA) (together, the Acts) grant County of Rockingham (the County), a responsible public entity as defined in the Acts, the authority to create public-private partnerships for the development of a wide range of projects for public use if the County determines there is a public need for the project and that private involvement may provide the project to the public in a timely or cost-effective fashion. Individually negotiated interim and comprehensive agreements between a Private Entity, as defined in the Acts, and the County will set forth the respective rights and obligations of the County and the Private Entity. Although guidance with regard to the application of the PPEA and PPTA is provided herein, the County and all Private Entities shall comply with the provisions of the PPEA and the PPTA, as applicable.

B. In order for a project to come under the PPEA or the PPTA, it must meet the definition of a Qualifying Transportation Facility or a Qualifying Project (referred to collectively as Qualifying Projects) as defined in the applicable Act. The Acts contain broad definitions of qualifying facilities and projects that include, but are not limited to public buildings and facilities, and transportation facilities of all types; for example:

1. An education facility, including, but not limited to, a school building (including any stadium or other facility primarily used for school purposes), any functionally-related and subordinate facility and land to a school building, and any depreciable property provided for use in a school facility that is operated as part of the public school system or as an institution of higher education;

2. A building or facility for principal use by any public entity;

3. Improvements, together with equipment, necessary to enhance public safety and security of buildings to be principally used by a public entity;

4. Utility and telecommunications and other communications infrastructure; or

5. A recreational facility.

6. A transportation facility such as any road, bridge, tunnel overpass, ferry, airport, mass transit facility, vehicle parking facility or similar commercial facility used for the transportation of persons or goods as well as buildings, structures, parking areas, appurtenances and other property needed to operate such facilities.

C. The Acts establish requirements that the County must adhere to when reviewing and approving proposals received pursuant to the PPEA or the PPTA. In addition, the Acts specify the criteria that must be used to select a proposal and the contents of the Interim and Comprehensive Agreements detailing the relationship between the County and the Private Entity. Any proposal received or solicited by the County pursuant to either the PPEA or the PPTA shall be reviewed in accordance with the provisions of the applicable Act and this Policy.

D. The Rockingham County Board of Supervisors (the Board) adopted this Policy effective _____, 2011 to implement the PPEA and the PPTA. County staff shall follow this Policy to receive and evaluate any proposal submitted to the County under the provisions of the PPEA or the PPTA, whether the project is initiated by the County or a Private Entity. This Policy may be amended only by the Board.

E. The County Administrator shall designate a working group to be responsible for evaluating proposals and negotiating the Interim and Comprehensive Agreements. The group may change as appropriate depending on the nature of the project.

F. The Deputy County Administrator shall serve as the point of contact for implementation of this Policy, to receive proposals submitted under the PPEA or the PPTA, and to respond to inquiries regarding the PPEA or the PPTA.

II. General Provisions

A. Proposal Submission

1. A proposal under either Act may be solicited by the County or initiated and delivered unsolicited by a Private Entity. Proposers may be required to follow a two-part proposal submission process consisting of a conceptual phase and a detailed phase, as described herein.

2. The Acts allow Private Entities to include innovative financing methods, including the imposition of user fees or service payments, in a proposal. Such financing arrangements may include the issuance of debt, equity or other securities or obligations. Proposals may include, if applicable, the portion of the tax-exempt private activity bond limitation amount to be allocated annually to the Commonwealth of Virginia pursuant to the Economic Growth and Tax Relief Reconciliation Act of 2001¹ for the development of education facilities using public-private

¹ Public Law 107-16; Section 142(k)(5) of the Internal Revenue Code of 1986, as amended.

partnerships.

3. Proposals should be prepared simply and economically, providing a concise description of the Private Entity's capabilities to complete the proposed Qualifying Project and the benefits to be derived from the project by the County. Project benefits to be considered are those occurring during the construction, renovation, expansion or improvement phase and during the life cycle of the project. Proposals also should include a comprehensive scope of work and a financial plan for the project, containing enough detail to allow an analysis by the County of the financial feasibility of the proposed project. Initial proposal submittals should include not less than _____ () originals. The County may, at any time, require the Private Entity to provide additional information, additional copies of prior submissions, or clarification to any submission.

B. Affected Local Jurisdictions. The term Affected Jurisdiction means any county, city or town in which all or a portion of a Qualifying Project is located. Any Private Entity requesting approval from or submitting a conceptual or detailed proposal to the County must provide any other Affected Jurisdiction with a copy of the Private Entity's proposal within five (5) business days of submission of the proposal to the County. Evidence of the delivery of the proposal to all Affected Jurisdictions shall be provided to the County within five (5) business days of such delivery. The Private Entity shall deliver the proposal with a cover letter that cites Virginia Code Section 56-563 or Section 56-575.6, as applicable, reminding the Affected Jurisdiction that it shall have 60 days from the receipt of the request or proposal to submit written comments to the County and to indicate whether the proposed Qualifying Project is compatible with the Affected Jurisdiction's comprehensive plan, infrastructure development plans, and capital improvements budget or other government spending plan. Comments received within the 60-day period shall be given consideration by the County, and no negative inference shall be drawn from the absence of comment by an Affected Jurisdiction. The County may begin or continue its evaluation of a proposal during the 60-day period for the receipt of comments from Affected Jurisdictions.

C. Proposal Review Fee. For unsolicited proposals and unsolicited competing proposals, the County shall require an initial processing fee of \$5,000 with an additional proposal fee \$10,000 to be charged should the project proceed beyond the initial review. The initial processing fee shall be submitted with the initial proposal or competing proposal. The County shall refund any portion of fees paid in excess of its direct costs which include, but are not limited to, all staff costs, and outside consultants, financial advisors, engineers and attorney's fees, associated with evaluating the proposal. In the event either the initial processing fee of \$5,000 or the additional proposal fee of \$10,000 is insufficient to cover all of the direct costs incurred by the County, the Private Entity shall pay such additional direct costs incurred by the County in reviewing the proposal.

D. Freedom of Information Act

1. Generally, proposal documents submitted by private entities are subject to the Virginia Freedom of Information Act (FOIA).² In accordance with Section 2.2-3705.6(3) of FOIA,

² Virginia Code Section 2.2-3700 et seq.

such documents are releasable if requested, except to the extent that they relate to (i) confidential proprietary information submitted to the County under a promise of confidentiality or (ii) memoranda, working papers or other records related to proposals if making public such records would adversely affect the bargaining position or the financial interest of the County.

2. Subsection 56-575.4(G) of the PPEA imposes an obligation on the County and any Affected Jurisdiction to protect confidential proprietary information submitted by a Private Entity. When the Private Entity requests that the County not disclose information, the Private Entity must (i) invoke the exclusion in writing when the data or materials are submitted to the County or before such submission, (ii) identify the specific data and particular materials for which protection from disclosure is sought, and (iii) state why the exclusion from disclosure is necessary. A Private Entity may request and receive a determination from the County as to the anticipated scope of protection prior to submitting the proposal. The County is authorized and obligated to protect only confidential proprietary information, and thus will not protect any portion of a proposal from disclosure if the entire proposal has been designated confidential by the Private Entity without reasonably differentiating between the proprietary and non-proprietary information contained therein.

3. Upon receipt of a request that designated portions of a proposal be protected from disclosure as confidential and proprietary, the County shall determine whether such protection is appropriate under applicable law and, if appropriate, the scope of such appropriate protection, and shall communicate its determination to the proposer. If the determination regarding protection or the scope thereof differs from the proposer's request, then the County will accord the proposer a reasonable opportunity to clarify and justify its request. Upon a final determination by the County to accord less protection than requested by the proposer, the proposer would be accorded an opportunity to withdraw its proposal. A proposal so withdrawn should be treated in the same manner as a proposal not accepted for publication and conceptual-phase consideration as provided below.

4. Section 2.2-3705.2 of the FOIA provides for the safe guarding of engineering and construction drawings and plans that reveal critical structural components, security equipment and systems, ventilation systems, fire protection equipment, mandatory building emergency equipment and systems and other utility equipment and systems submitted for the purpose of complying with the Uniform Statewide Building Code of the Statewide Fire Prevention Code, the disclosure of which would jeopardize the safety of security of any public or private facility. The County shall safe guard such drawings and plans when a Private Entity invokes Section 2.2-3705.2 as required therein.

E. Use of Public Funds. Virginia constitutional and statutory requirements and County ordinances and policies as they apply to appropriation and expenditure of public funds apply to any comprehensive agreement entered into under the Acts. Accordingly, the processes and procedural requirements associated with the expenditure or obligation of public funds shall be incorporated into planning for all PPEA or PPTA projects.

F. Applicability of Other Laws. Nothing in the PPEA or PPTA shall affect the duty of the County to comply with all other applicable laws not in conflict with the PPEA or the PPTA. The applicability of the Virginia Public Procurement Act (the VPPA) is as set forth in the PPEA and the PPTA.

G. Qualified Professionals. The County shall engage the services of qualified professionals, which may include but not be limited to an architect, professional engineer, or certified public accountant, not otherwise employed by the County, to provide independent analysis regarding the specifics, advantages, disadvantages, and the long- and short-term costs of any request by a Private Entity for approval of a Qualifying Project, unless the Board determines that such analysis may be performed by employees of the County.

H. Board of Supervisors Review of Agreements. Prior to the signing of any Interim or Comprehensive Agreement, the Finance Committee shall review the proposed agreement and make its recommendation to the full Board of approval or disapproval, unless the Finance Committee determines that the proposed agreement should be referred to another standing committee for review and recommendation. No agreement shall be signed without a majority vote of all the Board members.

III. Solicited Proposals

A. The County may request proposals from Private Entities to acquire, design, construct, improve, renovate, expand, equip, maintain or operate Qualifying Projects. The County may use a two-part process consisting of an initial conceptual phase and a detailed phase. The County shall set forth in the solicitation the format and supporting information that is required to be submitted, consistent with the provisions of the applicable Act.

B. The solicitation shall specify, but not necessarily be limited to, information and documents that must accompany each proposal and the factors that shall be used in evaluating the submitted proposals. The solicitation shall be posted as required by the PPEA or the PPTA, and on the County's website. The solicitation shall also contain or incorporate by reference other applicable terms and conditions, including any unique capabilities or qualifications that will be required of the Private Entities submitting proposals. Informational meetings and pre-proposal conferences may be held as deemed appropriate by the County.

IV. Unsolicited Proposals

A. The PPEA and the PPTA permit the County to receive and evaluate unsolicited proposals from private entities to acquire, design, construct, improve, renovate, expand, equip, maintain, or operate a Qualifying Project.

B. The County may publicize its needs and may encourage or notify interested parties to submit proposals subject to the terms and conditions of the PPEA or the PPTA. When such proposals are received without issuance of a solicitation, the proposal shall be treated as an unsolicited proposal.

C. Decision to Accept and Consider Unsolicited Proposal; Notice

1. Upon receipt of any unsolicited proposal or group of proposals and payment of the required fee by the Private Entity, the County shall determine whether to accept the unsolicited proposal for publication and conceptual-phase consideration. If the County determines not to accept the proposal and not proceed to publication and conceptual-phase consideration, it shall return the proposal, together with all fees and accompanying documentation, to the Private Entity.

2. If the County chooses to accept an unsolicited proposal for conceptual-phase consideration, it shall post a notice on its website and may also publish a notice in the Daily News Record or other newspaper of general circulation in Rockingham County at the expense of the Private Entity that submitted the unsolicited proposal. Such notice shall be posted within ten (10) days of the determination to accept the proposal and shall be for the purpose of notifying any other parties that may be interested in submitting competing unsolicited proposals. Interested parties shall have Forty-five (45) days from the date the notice is first posted by the County to submit competing unsolicited proposals. The notice shall state that the County (i) has received and accepted an unsolicited proposal under the PPEA or PPTA, (ii) intends to evaluate the proposal, (iii) may negotiate a comprehensive agreement with the Private Entity based on the proposal, and (iv) will accept for simultaneous consideration any competing proposals that comply with the procedures adopted by the County and the PPEA or PPTA. The notice also shall summarize the proposed Qualifying Project or projects, and identify their proposed locations. A copy of the initial unsolicited proposal shall be kept available for public inspection and its location shall be included in the notice.

D. Initial Review at the Conceptual Stage

1. Only proposals complying with the requirements of the PPEA or PPTA that contain sufficient information for a meaningful evaluation and that are provided in an appropriate format shall be considered by the County for further review at the conceptual stage.

2. The County shall determine at this initial stage of review whether it will proceed using:

(a) Standard “competitive sealed bidding” procurement procedures consistent with the VPPA; or

(b) Procedures developed by the County that are consistent with procurement of other than professional services through “competitive negotiation” as the term is defined in Section 2.2-4301 of the Code of Virginia. The County may proceed using competitive negotiation procedures only if it makes a written determination that doing so is likely to be advantageous to the County and the public based upon either (i) the probable scope, complexity or priority of the project, (ii) risk sharing, including guaranteed cost or completion guarantees, added value or debt or equity investments proposed by the Private Entity; or (iii) an increase in funding, dedicate revenue source or other economic benefit from the project would otherwise not be available.

3. After reviewing the original proposal and any competing unsolicited proposals submitted during the notice period, the County may determine to;

- (a) not proceed further with any proposal,
- (b) proceed to the detailed phase of review with the original proposal,
- (c) proceed to the detailed phase with a competing proposal, or
- (d) proceed to the detailed phase with multiple proposals.

V. Unsolicited Proposal Preparation and Submission

A. Format for submissions at the Conceptual Stage. The County shall require that unsolicited proposals at the conceptual stage contain the following information in the following format plus such other information as the County may reasonably request to complete its review or to comply with the requirements of the PPEA or PPTA:

1. Qualifications and Experience

- (a) Identify the legal structure of the entity or consortium of entities making the proposal. Identify the organizational structure for the project, the management approach and how each entity in the structure fits into the overall team.
- (b) Describe the experience of the entity or consortium of entities making the proposal, the key principals and project managers involved in the proposed project including experience with projects of comparable size and complexity, including prior experience bringing similar projects to completion on budget and in compliance with design, land use, service and other standards. Describe the length of time in business, business experience, public sector experience and other engagements of the entity or consortium of entities. Include the identity of any entities that will provide design, construction and completion guarantees and warranties and a description of such guarantees and warranties.
- (c) Provide the names, prior experience, addresses, telephone numbers and e-mail addresses of persons within the entity or consortium of entities who will be directly involved in the project or who may be contacted for further information.
- (d) Provide a current or most recently audited financial statement of the entity or entities and each partner with an equity interest of ten percent (10%) or greater, and each entity or partner that has performed work of aggregate value exceeding \$250,000.00 in Rockingham County in the past ten (10) years.
- (e) Identify any person known to any entity who would be obligated to disqualify himself from participation in any transaction arising from or in connection to the

project pursuant to The Virginia State and Local Government Conflict of Interest Act, Chapter 31 (Section 2.2-3100 et seq.) of Title 2.2.

(f) For each entity, major subcontractor, key principal, and project manager that will be utilized or involved in the project, provide a statement, listing the prior projects and clients of each for the past five (5) years and contact information for same (name, address, telephone number, e-mail address). If an entity has worked on more than ten (10) projects during this period, it may limit its prior project list to ten (10), but shall first include all projects similar in scope and size to the proposed project and, second, it shall include as many of its most recent projects as possible. Each entity shall be required to submit all performance evaluation reports or other documents, which are in its possession evaluating performance during the preceding five (5) years in terms of cost, quality, schedule maintenance, safety and other matters relevant to the successful project development, operation, and completion.

2. Project Characteristics

(a) Provide a description of the project, including the conceptual design. Describe the proposed project in sufficient detail so that type and intent of the project, the location, and the communities that may be affected are clearly identified.

(b) Identify and fully describe any work to be performed by the County or any other Public Entity.

(c) Include a list of all federal, state and local permits and approvals required for the project and a schedule for obtaining such permits and approvals.

(d) Identify any anticipated adverse social, economic, environmental and transportation impacts of the project measured against the County's comprehensive land use plan and applicable ordinances and design standards. Specify the strategies or actions to mitigate known impacts of the project.

(e) Identify the projected positive social, economic, environmental and transportation impacts of the project measured against the County's comprehensive land use plan and applicable ordinances and design standards.

(f) Identify the proposed schedule for the work on the project, including sufficient time for the County's review and the estimated time for completion.

(g) Propose allocation of risk and liability, and assurances for timely completion of the project.

(h) State assumptions related to ownership, legal liability, law enforcement and operation of the project and the existence of any restrictions on the County's use of the project.

(i) Provide information relative to phased openings of the proposed project.

3. Project Financing

(a) Provide a preliminary estimate and estimating methodology of the cost of the work by phase, segment, or both.

(b) Submit a plan for the development, financing and operation of the project showing the anticipated schedule on which funds will be required. Describe the anticipated costs of and proposed sources and uses for such funds, including any anticipated debt service costs. The operational plan should include appropriate staffing levels and associated costs based upon the County's adopted operational standards.

(c) Include a list and discussion of assumptions underlying all major elements of the plan.

(d) Identify the proposed risk factors and methods for dealing with these factors. Describe methods and remedies associated with any financial default.

(e) Identify any local, state or federal resources that the proposer contemplates requesting for the project along with an anticipated schedule of resource requirements. Describe the total commitment, if any, expected from governmental sources and the timing of any anticipated commitment, both one-time and on going.

(f) Identify the need, if any, for the County to provide either its general obligation or moral obligation backing. The underlying assumptions should address this need and state that the credit would be via a "Service agreement", for example. Any debt issuance shall be expected to receive an investment grade rating from a nationally recognized statistical rating agency. If the natural rating is not investment grade, the County may require the use of credit enhancements.

(g) Outline what impact, if any, a drop in interest rates would have on the ultimate annual project cost. Indicate if there is a method to refinance for cost savings or does the firm only receive benefit of this potential?

(h) Outline the financial penalties, if any, that would result should the County wish to terminate a project early or restructure the cash flows for some reason of its own choosing. The firm should be specific on this point.

(i) Provide a breakout of the fees to any underwriting firm or firms and the type of obligation the firms are using with a financing component. Be specific as to tax-exempt, taxable, floating rate, fixed rate, etc.

4. Project Benefit and Compatibility

(a) Identify who will benefit from the project, how they will benefit and how the project will benefit the County and the overall community.

(b) Identify any anticipated public support or opposition, as well as any anticipated government support or opposition (including that in any affected jurisdiction), for the project.

(c) Explain the strategy and plans, including the anticipated timeline that will be carried out to involve and inform the general public, business community, and governmental agencies in areas affected by the project.

(d) Describe any anticipated significant benefits to the community and the County, including anticipated benefits to the economic, social, environmental, transportation, and similar conditions of the County and whether the project is critical to attracting or maintaining competitive industries and businesses to the County.

(e) Describe compatibility with the County's and any affected jurisdiction's comprehensive plan (including related environmental, land use and facility standards ordinances, where applicable), infrastructure development plans, transportation plans, the capital improvements plan and capital budget or other government spending plan.

5. Any additional information as the County may request

B. Format for Submissions at the Detailed Stage

If the County decides to proceed to the detailed phase of review with one or more proposals, the following information should be provided by the private entity unless waived by the County. Information previously submitted during the Conceptual Stage need not be resubmitted so long as clear reference is made to the previously submitted information so the reviewer can readily find the information:

1. A topographic map (1:2,000 or other appropriate scale) indicating the location of the Qualifying Project;

2. A description of the Qualifying Project, including the conceptual design of such facility or facilities or a conceptual plan for the provision of services or technology infrastructure, and a schedule for the initiation of and completion of the Qualifying Project to include the proposed major responsibilities and timeline for activities to be performed by both the Public and Private Entity;

3. A statement setting forth the method by which the Private Entity proposes to secure necessary property interests required for the Qualifying Project;

4. Information relating to the current plans for development of facilities or technology infrastructure to be used by a Public Entity that are similar to the Qualifying Project being proposed by the Private Entity, if any, of each Affected Jurisdiction;

5. A statement and strategy setting out the plans for securing all necessary property and/or easements. The statement must include the names and addresses, if known, of the current owners of the subject property as well as a list of any property the proposer intends to request the County or affected jurisdiction to condemn.

6. A list of all permits and approvals required for the Qualifying Project from local, state, or federal agencies and a projected schedule for obtaining such permits and approvals;

7. A list of public utility facilities, if any, that will be crossed by the Qualifying Project and a statement of the plans of the Private Entity to accommodate such crossings;

8. A statement setting forth the Private Entity's general plans for financing the Qualifying Project including the sources of the Private Entity's funds and identification of any dedicated revenue source or proposed debt or equity investment on the behalf of the Private Entity;

9. A detailed listing of all entities, along with their relevant experience and abilities, that will provide specific design, construction and completion guarantees and warranties, and a brief description of such guarantees and warranties along with a record of any prior defaults for performance.

10. The names and addresses of the persons who may be contacted for further information concerning the request;

11. A total life-cycle cost, including maintenance, specifying methodology and assumptions of the project or projects including major building systems (e.g., electrical, mechanical, etc.), and the proposed project start date. Include anticipated commitment of all parties; equity, debt, and other financing mechanisms; and a schedule of project revenues and project costs. The life-cycle cost analysis should include, but not be limited to, a detailed analysis of the projected return, rate of return, or both, expected useful life of facility and estimated annual operating expenses using County adopted service levels and standards.

12. A detailed discussion of assumptions made about user fees, lease payments, and other service payments over the term of the Interim and Comprehensive Agreement pursuant to Virginia Code Sections 56-575.9 or 56-575.9:1 and the methodology and circumstances for changes to such user fees, lease payments, and other service payments over time; and

13. Identification of any known government support or opposition, or general public support or opposition for the project. Government or public support should be demonstrated through resolution of official bodies, minutes of meetings, letters, or other official communications.

14. Demonstration of consistency with the County's and any affected Jurisdiction's

comprehensive plans (including related environmental, land use and facility standards ordinances, where applicable), infrastructure development plans, transportation plans, the capital improvement plan and capital budget, or indication of the steps required for acceptance into such plans.

15. Identification of any known conflicts of interest or other factors that may impact the County's consideration of the proposal, including the identification of any persons known to the proposer who would be obligated to disqualify themselves from participation in any transaction arising from or in connection to the project pursuant to The Virginia State and Local Government Conflict of Interest Act, Chapter 31 (section 2.2-3100 et seq.) of Title 2.2

16. Such additional material and information as the responsible Public Entity may reasonably request.

VI. Proposal Evaluation and Selection Criteria

In evaluating any request or proposal, the County may rely upon internal staff reports or the advice of outside advisors or consultants. Those items in Section VI.A., below, and those applicable items from Sections VI.B through VI.E., below, along with the information required under Sections V.A. and V.B., above, shall be considered in the evaluation and selection of PPEA and PPTA proposals. The County reserves the right to reject any request or proposal at any time for any reason whatsoever.

A. Statutory Requirements. Pursuant to Virginia State Code, the County may grant approval of the development or operation of a Qualifying Project only if the County determines that the Project serves the public purpose of the Acts. The County may determine (again, reserving the right to reject any proposed project for any reason) that the development or operation of the Qualifying Project serves such public purpose if:

1. There is a public need for or benefit derived from the Qualifying Project of the type the Private Entity proposes as a Qualifying Project;
2. The estimated cost of the Qualifying Project is reasonable in relation to similar facilities;
and
3. The Private Entity's plans will result in the timely development or operation of the Qualifying Project.

B. Qualifications and Experience. Factors to be considered in either phase of the County's review to determine whether the Private Entity possesses the requisite qualifications and experience may include, but are not necessarily limited to:

1. Experience with similar projects;
2. Demonstration of ability to perform work;
3. Leadership structure;

4. Project manager's experience;
5. Management approach;
6. Financial condition; and
7. Project ownership.

C. Project Characteristics. Factors to be considered in determining the project characteristics may include, along with the information required under Sections V.A. and V.B., above, but are not necessarily limited to, the following:

1. Project definition;
2. Proposed project schedule;
3. Operation of the project;
4. Technology and technical feasibility;
5. Conformity to State, County or Affected Jurisdiction laws, ordinances, comprehensive plans, regulations, and standards;
6. Environmental impacts;
7. Condemnation impacts;
8. State and local permits; and
9. Maintenance of the project.

D. Project Financing. Factors to be considered in determining whether the proposed project financing allows adequate access to the necessary capital to finance the project may include, along with the information required under Sections V.A. and V.B., above, but are not necessarily limited to, the following:

1. Cost and cost benefit to the County;
2. Financing and the impact on the debt or debt burden of the County;
3. Financial plan including default implications;
4. Estimated cost; including debt source and operating costs, and

5. Life-cycle cost analysis.

E. Project Benefit and Compatibility. Factors to be considered in determining the proposed project's compatibility with the County's, any Affected Jurisdiction's, or regional comprehensive or development plans may include, along with the information required under Sections V.A. and V.B., above, but are not necessarily limited to, the following:

1. Community benefits;
2. Community support or opposition;
3. Public involvement strategy;
4. Compatibility with existing and planned facilities;
5. Compatibility with County, regional, and state economic development efforts; and
6. Compatibility with the County's and any Affected Jurisdiction's land use plan, transportation plan, and capital improvements plan.

VII. Contract

A. Prior to acquiring, designing, constructing, improving, renovating, expanding, equipping, maintaining, or operating a Qualifying Project, the selected Private Entity shall enter into a written comprehensive agreement with the County. Each Comprehensive Agreement shall define the rights and obligations of the County and the Private Entity with regard to the Project.

B. The terms of the Comprehensive Agreement shall be tailored to address the specific issues of the Project and shall include but not be limited to:

1. The delivery of maintenance, performance and payment bonds or letters of credit in connection with any acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the Qualifying Project in forms satisfactory to the County and in compliance with Section 2.2-4337 of the Code of Virginia;
2. The review and approval of plans and specifications for the Qualifying Project by the County;
3. The rights of the county to inspect and the conditions under which the County shall receive certified third-party inspections of the Qualifying Project to ensure compliance with the Comprehensive Agreement;
4. The maintenance of a public policy or policies of general liability insurance, or self-insurance reasonably sufficient to insure all potential injured parties, including tort liability to the public and to employees, and to enable the continued operation of the Qualifying Project;

5. The monitoring of the practices of the Private Entity by the County to ensure proper maintenance, safety, use and management of the Qualifying Project;

6. The terms under which the Private Entity shall reimburse the County for services provided;

7. The policy and procedures that will govern the rights and responsibilities of the County and the Private Entity in the event that the Comprehensive Agreement is terminated or there is a material default by the Private Entity, including the conditions governing assumption of the duties and responsibilities of the Private Entity by the County, and the transfer or purchase of property or other interests of the Private Entity by the County;

8. The terms under which the Private Entity shall file appropriate financial statements on a periodic basis.

9. The mechanism by which user fees, lease payments, or service payments, if any, may be established from time to time upon agreement of the parties. Any payments or fees shall be the same for persons using the facility under like conditions and that will not materially discourage use of the qualifying project;

(a) A copy of any service contract shall be filed with the County.

(b) A schedule of the current user fees or lease payments shall be made available by the operator to any member of the public upon request.

(c) Classifications according to reasonable categories for assessment of user fees may be made.

10. The terms and conditions under which the County shall contribute financial resources, if any, for the Qualifying Project; and

11. Other requirements of the PPEA or PPTA or provisions that the County determines serve the public purpose of the PPEA or PPTA.

C. The contract and any amendments thereto shall be approved and entered into in writing by the Board of County Supervisors.

D. The parties may, but are not required to, enter into an Interim Agreement as provided for in the PPEA and the PPTA.