



MARK D. STILES
CITY ATTORNEY

In Reply Refer to File No. 0061038

City of Virginia Beach

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October 11, 2017

Mark Payne
Vice President, Pre-construction Services
S.B. Ballard Construction Company
2828 Shipps Corner Rd.
Virginia Beach, Virginia 23453

Re: PPEA Proposal and Virginia Code § 2.2-3705.6(11)(b)

Dear Mr. Payne:

The City of Virginia Beach has received a conceptual proposal from your company. You have requested Volume 2 of the PPEA Proposal to be protected pursuant to § 2.2-3705.6(11)(b). Please allow this letter to serve as the written determination pursuant to the aforementioned section of the Virginia Code and the City's PPEA Guidelines. Your request for protection of Volume 2 was not specific as to what information was to be protected pursuant to subsection (b)(ii) and (b)(iii), so please supplement your letter if the below mischaracterizes the request.

Based on my review of Volume 2, the materials submitted in a separate folder - pages 5-8 of Volume 2 are "financial information of a private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise," and as such these pages are subject to protection from disclosure during the PPEA process and after the completion of the process pursuant to § 2.2-3705.6(11)(b)(ii).

I find the remaining pages of Volume 2 to be "other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected," and as such these pages are subject to protection from disclosure during (but not after) the PPEA process pursuant to § 2.2-3705.6(11)(b)(iii).

However, this written determination is subject to the caveat that public discussion of a project of this magnitude will likely require some discussion of methods of finance. Additionally,

Mark Payne
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October 11, 2017
Page | 2 of 2

any interim agreement or comprehensive agreement must be posted prior to execution and may contain a discussion of the deal terms, which, presumably, will include the financing of the project.

Sincerely,



Mark D. Stiles
City Attorney

MDS/DRH

cc: Ronald H. Williams, Jr., Deputy City Manager
Taylor Adams, Purchasing Agent