



City of
Lake Worth
Beach
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CITY OF LAKE WORTH BEACH



GUIDELINES FOR PUBLIC-PRIVATE PARTNERSHIPS, UNSOLICITED PROPOSALS, SOLICITED BIDS AND EVALUATION PROCESS

I. INTRODUCTION, POLICY AND INTENT

The City of Lake Worth Beach, Florida (hereinafter "City"), encourages redevelopment of underdeveloped and underutilized properties through public-private partnerships (hereinafter "P3") where appropriate. While generally adhering to section 255.065, Florida Statutes, the City recognizes properly structured P3 projects share risk and expense amongst public and private partners, encourage efficiencies and innovation in design, construction, operations and maintenance, and maximize funding and cash flow initiatives.

A P3 Project involves a contractual agreement between a public agency (federal, state or local) and a private sector entity organized for the purpose of timely delivering services or facilities in a cost-effective manner that might not otherwise be possible using traditional sources of public procurement. Through this contractual agreement, the assets and professional skills of each sector (public and private) are shared and leveraged to deliver a service or facility to be used by the general public. Each sector shares in the potential risks of the timely and efficient delivery and operations of the service or facility. To be considered under the City's P3 Program, all parties must comply with the following Guidelines for P3 Unsolicited Proposals, Solicited Bids and the Evaluation Process (hereinafter "Guidelines").

II. DEFINITIONS

Unless otherwise specified, whenever the following terms are used in these Guidelines, they shall have the meanings set forth below:

"Bid" means a response to a City solicitation for competitive bids for a proposed P3 project.

"Bidder" means the person who responds to a City solicitation for competitive bids.

"Certify" means to attest, under penalty of perjury, that the information being certified is true and correct.

"City" means the City of Lake Worth Beach, Florida, which may act through its City Commission or City Manager, as the context and applicable law permits.

"Comprehensive Agreement" means the Comprehensive Agreement referred to in section 255.065, Florida Statutes, between the contracting entity and the City that is required before the development or operation of a proposed P3 project.

"Commission" shall mean the City of Lake Worth Beach City Commission.

“Cone of Silence” means the City’s Cone of Silence as set forth in section 2-112(h) of the City’s Code of Ordinances; however, the commencement of the Cone of Silence shall be at such time as designated in these Guidelines.

"Contracting Entity" means an individual person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other business entity that enters into an Interim Agreement or Comprehensive Agreement with the City.

"Detailed Proposal" means a proposal for a proposed P3 project after the Initial Stage Evaluation, that defines and establishes more specific proposed terms related to costs, payment schedules, financing, deliverables, design, plans for operations and maintenance, and project schedule, among other factors.

"Detailed Stage Evaluation" means the phase of City’s evaluation where the City has completed the Initial Stage Evaluation and decided to move forward with an unsolicited proposal (which may be before or after the second public meeting finding the proposal is in the public’s interest), or after receiving competitive bid(s), and has requested additional and/or more detailed information regarding the proposal or bid(s) for a proposed P3 project.

"Develop" or "Development" means to plan, design, develop, finance, lease, acquire, install, construct, operate, maintain, and/or expand a facility for public use or benefit.

"Fee" means a rate, fee, or other charge associated with the use of a proposed P3 project, as defined by a comprehensive agreement.

"Initial Stage Evaluation" means the City’s initial evaluation of an unsolicited proposal **after** the first public meeting wherein (1) the unsolicited proposal is introduced; (2) public comment is heard on the same; and, (3) the City Commission determines that the unsolicited proposal should be evaluated to determine if the unsolicited proposal is in the public’s interest.

"Initial Stage Evaluation Report" means the report prepared by City staff and its consultants addressing the required factors to recommend to the City Commission whether the Unsolicited Proposal’s Proposed P3 Project is in the public’s interest.

“Interim Agreement” means an agreement, before or in connection with the negotiation of a Comprehensive Agreement, between the City and a Contracting Entity whereby the Contracting Entity may be authorized by the City to conduct due diligence or further studies or investigations related to the proposed P3 project which may include, but not be limited to, project planning and

development, design, engineering, environmental analysis and mitigation, surveying, financial and revenue analysis, ascertaining the availability of financing, or any other aspect of the proposed project. The rights of the Contracting Entity and the City will be governed by the terms of the Interim Agreement, which must be in writing. No purported Interim Agreement or terms relating thereto shall be effective, binding, or valid until approved by the City Commission at a public meeting and fully executed by the parties in writing.

"Lease Payment" means any form of payment, including a land lease, by a governmental or private entity to the Contracting Entity and/or the City for the use of a proposed P3 project.

"Lifecycle Cost Analysis" means an analysis calculating the cost of an asset over its entire life span, including the cost of planning, designing, constructing, operating, maintaining, and replacing the asset, estimates of sufficient capital improvement reserves, and, when applicable, salvaging the asset. The analysis must compare the proposed life cycle cost of the proposed project to what the project would likely cost the City if a standard, non-P3 delivery method was used. The Comprehensive Agreement must identify if there is no cost to the City of an asset projected for the City.

"Operate" means to operate a proposed P3 project.

"P3" means a Public-Private Partnership.

"P3 Project" means a Public-Private Partnership project.

"P3 Program" means the City's Public-Private Partnership Program implemented in accordance with these Guidelines.

"Private Entity" means any individual person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other business entity. A private entity includes a "Proposer" that submits an Unsolicited Proposal or a "Bidder" that submits a Bid in response to a solicitation. "Private Entity" also means each individual entity participating in or comprising a Proposer's or Bidder's team.

"Proposer" means a private entity that submits an Unsolicited Proposal. " If the private entity has not yet been formed, then "Proposer" shall mean all entities collectively who are known and intend at that time to participate on the Proposer's team.

"Proposed P3 Project(s)" means:

1. A facility or project fulfilling a public purpose or goal, including, but not limited to, any mass transit facility, vehicle parking facility, rail facility or project, fuel supply facility, medical or nursing care facility, recreational facility, sporting or cultural facility, public library, power generation facility, waste treatment facility, educational facility, civic facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity;
2. An improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector;
3. A water, wastewater, or surface water management facility or other related infrastructure; or
4. Any other project the City Commission designates as a proposed project.

Notwithstanding anything herein to the contrary, a Proposed P3 Project may also include, in addition to the public facility or project, residential, retail, commercial, hospitality or other private, revenue generating facilities and uses as appropriate and necessary to achieve the public purposes intended for the proposed project on a cost model acceptable to the City.

"Revenue" means all revenue, income, earnings, fees, lease payments, and/or other payments supporting the development or operation of a Proposed P3 Project, including money received as a grant or otherwise from the federal, state or local government, a governmental or quasi-governmental entity, or any agency or instrumentality of the federal government, state government, or governmental entity in aid of the proposed project.

"Solicitation" means a written request for competitive Bids issued by the City soliciting Bids for a proposed P3 project, including but not limited to, business plans, expressions of interest, ideas, offers, proposals, qualifications, or any combination thereof.

"Unsolicited Proposal" means a proposal submitted by a private entity to the City Manager for a Proposed P3 Project. Unsolicited Proposals should meet all the requirements of these Guidelines and include detail beyond a conceptual level for

which terms such as fixing costs, payment schedules, financing, deliverables, and project schedule are defined.

III. UNSOLICITED PROPOSALS

A. General

The City may receive (and/or publicize its needs for) Unsolicited Proposals subject to the terms and conditions of these Guidelines. All Unsolicited Proposals shall be sent directly to the City Manager with the application fee as set forth herein. Upon the City Manager's receipt, a copy shall be issued to each City Commissioner at which time the **Cone of Silence** for such Unsolicited Proposal shall commence. The City Manager shall also send a written acknowledgement of receipt to the Proposer via e-mail.

If the Unsolicited Proposal is submitted without the application fee, the City Manager shall notify the Proposer that no further action will be taken with regard to the Unsolicited Proposal until the application fee is submitted.

B. Content of Unsolicited Proposals

1. General

A Proposer submitting an Unsolicited Proposal shall specifically identify all facilities, buildings, infrastructure, and/or improvements included in the proposal. Although the City may or may not have identified development opportunities, they are not exclusive and private entities are encouraged to submit Unsolicited Proposals they believe are consistent with the City's Comprehensive Plan and Strategic Plan.

Proposers are urged to include in their Unsolicited Proposal innovative financing methods, including the imposition of fees or other forms of payments in lieu of or in addition to payments from the City. The City's P3 Program is meant to be a flexible development tool allowing for the use of innovative financing techniques. Additionally, the Proposer can structure its role in the Proposed P3 Project in a variety of ways, from designing the facility to undertaking its financing, construction, operation, maintenance, and management. Depending on the circumstances of the Proposed P3 Project, the Proposer is encouraged to consider different types of P3 structures to the extent appropriate for the project at issue and as allowed by law.

2. Summary of Content Requirements

Unsolicited Proposals should be prepared simply and economically and shall provide a concise description of the Proposer's qualifications and capabilities to complete the Proposed P3 Project and the benefits to be derived by the City from the project. As described in more detail below, Unsolicited Proposals must include:

- (a) a description of the Proposed P3 Project;
- (b) a description of the method by which the Proposer plans to secure any necessary property interests required for the Proposed P3 Project;
- (c) a conceptual plan that details how the Proposer intends to ensure an adequate level of commitment from potential finance providers, where relevant, for a timely and successful financial closing. Include a list of anticipated timelines and milestones to obtain financial commitments and to close on the financing of the project;
 - If known, provide the names of the anticipated financiers (for example, banks, bonds, federal programs, life insurance companies, pension funds, private placements), their proposed involvement if available (in approximate percentage terms), how they were selected, and why they are preferred.
 - Provide an explanation of the Proposer's contingency plans should there be a gap in the financing or should any potential finance provider not be in a position to provide its share of the financing.
 - Provide the names of the funding sources for previous projects of a similar size as applicable.
- (d) the name and physical address of the Proposer(s) and the name and e-mail of the project team leader who may be contacted for additional information concerning the Unsolicited Proposal;
- (e) the sources of proposed fees, lease payments, or other payments, the Proposer is anticipating; and,
- (f) additional supplemental material or information that the City reasonably requests.

3. Format for Unsolicited Proposals

(a) General

Unsolicited Proposals shall be submitted in the following format:

- i. Pages shall be numbered and organized by paginated table of contents corresponding to the tabbed sections identified below.
- ii. The Unsolicited Proposal shall be divided into tabbed sections as follows:

TAB 1: Executive Summary

TAB 2: All Private Entities associated with the Proposal

TAB 3: Qualifications, Experience and Financial Capacity

TAB 4: Proposal

TAB 5: Project Analysis

TAB 6: Community Impact

TAB 7: Miscellaneous

- iii. Drawings and renderings shall be printed no larger than 24" x 36".
- iv. Supplemental materials in alternate formats may be allowed to describe the proposal in more detail.
- v. All submissions shall be addressed to: City Manager's Office - City of Lake Worth Beach, 7 North Dixie Hwy, Lake Worth Beach, Florida 33460, in a sealed envelope marked as follows:

- Property ID (common name, address, Palm Beach County Property Appraiser parcel control number(s))
- Proposer's Name
- Mailing Address
- Proposal Date

All Unsolicited Proposals shall be in the format requested by this section unless a waiver of any particular requirement or requirements is agreed to in writing by the City.

(b) TAB 1 - Executive Summary

Provide a cover letter, signed by an authorized representative of the Proposer, including the information detailed below:

- i. Identify the nature of the Proposed P3 Project and the public benefit to be gained thereby.
- ii. Identify all private entities who will be directly involved in the Proposed P3 Project by name, scope of services they will be providing to the project, address, email address, and telephone number;
- iii. Identify the principal(s) of each private entity who will be directly involved in the Proposed P3 Project, including their title, mailing address, phone number, and email address;
- iv. Identify the person(s) in charge of negotiations with the City and decision making on behalf of the Proposer; and
- v. Identify any persons comprising the Proposer who may be disqualified from participation in any transaction arising from or in connection to the Proposed P3 Project and the reasons therefor.

(c) TAB 2 - All Private Entities on the Proposer Team

Provide a list of all private entities the Proposer intends to use as consultants, including legal counsel, marketing and public relations firms, real estate brokers, property management firms, property utilization analysts, public finance analysts, and government relations consultants and, for each one, include their company name, name of primary contact, title, address, telephone, and email address.

(d) TAB 3 - Qualifications, Experience and Financial Capacity

The Proposer must provide, as to each private entity and consultant participating on behalf of the Proposer, a statement of qualifications; and experience in projects of similar complexity, scope, and scale to the Proposed P3 Project. The unsolicited proposal must also describe, as to each private entity participating on the Proposer team, relevant experience with respect to other P3 projects of any type.

(e) TAB 4 - Proposal

The Proposer must provide:

- i. An overview of the Proposed P3 Project.
- ii. Design concept renderings and a concept site plan and elevations that collectively illustrate the location, size, and context of the Proposed P3 Project.

- iii. Summarize the preliminary programming of facilities, including, if any, the mix of uses, square footage(s), total parking spaces, parking allocations (specify if they are shared or exclusive), and types of parking (e.g. structured or surface).
- iv. Identify any known or suspected synergies and incompatibilities between the Proposed P3 Project and any other existing, planned or contemplated public facility within the City and the manner in which the Proposer anticipates addressing same (inclusive of the City's Charter, Comprehensive Plan, and Strategic Plan).
- v. Identify any additional terms or conditions to be included as part of the negotiation process.

(f) TAB 5 - Project Analysis

This section of the Unsolicited Proposal should state the financial business aspects of the Proposed P3 Project and should generally summarize why the Unsolicited Proposal offers the City value for money over the Proposed P3 Project's life cycle as opposed to procuring the project using more traditional procurement methods, including the City funding the project itself.

(g) TAB 6 - Community Impact

- i. Identify all anticipated community benefits.
- ii. Identify all known stakeholders for the Proposed P3 Project.
- iii. Discuss the Proposed P3 Project's compatibility with existing and planned facilities.

(h) TAB 7 - Miscellaneous

Utilize this section to present additional information supporting the Unsolicited Proposal (inclusive of any claim of Exempt Information described below).

C. Flexibility in Structure

The City encourages creativity and flexibility in the structure of an Unsolicited Proposal where appropriate. By way of example, where appropriate and available, the City may contribute off-site parcels of real property to a Proposer in exchange for the Proposer to design, construct, finance, operate and maintain a Proposed P3 Project. In such an event, the value of the Proposer's services to the Proposed P3

Project are expected to be equal to or greater than the fair market value of the real property interest contributed by the City. The City will exercise full and proper due diligence in the evaluation and selection of Proposed P3 projects, including those utilizing creative or flexible structures.

D. Request for Clarifications

At any time after receipt, the City may request in writing clarifications to any Unsolicited Proposal, which shall be promptly provided by the Proposer. The City shall determine the response timeframe based on the complexity of the requested clarification.

E. Application Fee

Contemporaneously with the submission of an Unsolicited Proposal, the Proposer shall pay an application fee to the City in the amount of Twenty-Five Thousand Dollars (\$25,000.00) to cover the costs of processing, reviewing, and evaluating the Unsolicited Proposal, including the fees and costs for private consultants to assist the City in the evaluation. The application fee shall be delivered to the City Manager's Office in the form of cash, cashier's check, or other noncancelable instrument. Personal checks may not be accepted and cashier's check shall be made out to the "City of Lake Worth Beach". If extraordinary costs associated with the City's evaluation are encountered, the City may require additional fees from the Proposer. If the additional fees are not submitted to the City within thirty (30) days of the City's request, the City may stop its evaluation of the Unsolicited Proposal, retain all application fees, and reject the Unsolicited Proposal and seek competitive Bids. Unless otherwise stated in these Guidelines, the application fee is non-refundable.

F. Process for Submission and Evaluation

The City shall not be responsible or liable for any costs incurred by the Proposer in preparing, submitting, or presenting an Unsolicited Proposal to the City.

All Unsolicited Proposals shall be submitted as one (1) original, ten (10) copies, and one (1) electronic copy (searchable PDF format). The original copy containing original signatures shall be marked ORIGINAL on the cover letter.

All Unsolicited Proposals received by the City are subject to Florida's Public Records Act, Chapter 119, Florida Statutes. The City encourages Proposers to submit their Unsolicited Proposals without any trade secret, proprietary information, and/or other confidential information unless the same is material to the City's initial review or other evaluation of the Unsolicited Proposal. If a Proposer

asserts that its Unsolicited Proposal contains trade secrets, proprietary information, or other confidential information which is exempt from public records disclosure under Florida Statutes (hereinafter “Exempt Information”), the Proposer must submit a cover letter with its Unsolicited Proposal specifically listing all Exempt Information with citation to the applicable Florida Statutes for such exemption. The Proposer shall also mark each page of the Unsolicited Proposal “CONFIDENTIAL” wherever such Exemption Information is contained in the Unsolicited Proposal. If a Proposer fails to properly identify all Exempt Information in its cover letter and mark the same as “CONFIDENTIAL” in its Unsolicited Proposal, the Proposer will be deemed to have waived any claim that the Unsolicited Proposal contains Exempt Information and the Unsolicited Proposal will be fully disclosed upon the City’s receipt of a public records request for the same.

If the Proposer provides the aforementioned cover letter and properly marks the Exemption Information as “CONFIDENTIAL” in its Unsolicited Proposal, the City shall notify the Proposer of any public records requests received for the Unsolicited Proposal. The City will afford the Proposer a brief opportunity to protect its assertion of Exempt Information through appropriate legal action for a protective order. If such action by the Proposer is not promptly taken, the City reserves the right to disclose the Unsolicited Proposal in full or to the extent that the City concludes it is not exempt under Florida Statutes. The City will not actively contest any public records request(s) seeking disclosure of an Unsolicited Proposal and the City will not guarantee that the Proposer’s claims of Exempt Information will be upheld by a court. In this regard, by submitting an Unsolicited Proposal to the City, the Proposer agrees to indemnify and hold the City harmless from all claims, expenses, damages, and/or costs (including but not limited to attorneys’ fees at all administrative, trial and appellate levels) that the City may incur due to or arising from the Proposer’s assertion as to Exemption Information in its Unsolicited Proposal.

Only Unsolicited Proposals complying with these Guidelines and containing information sufficient for a meaningful preliminary review will be considered by the City. All other Unsolicited Proposals will be rejected in writing by the City.

Within thirty (30) days of receiving an Unsolicited Proposal, City staff will conduct a preliminary review, prepare an agenda item, and place the Unsolicited Proposal on an upcoming Regular City Commission Meeting (New Business) agenda. This meeting shall be no more than ninety (90) days after the acknowledgement of receipt. At such meeting, the City Commission will determine whether the Unsolicited Proposal should move forward to the Initial Stage Evaluation. City staff

shall provide advance written notice to the Proposer (**not less than twenty-one (21) days prior to the date that the Unsolicited Proposal will be first considered by the City Commission**) and publish a notice on the Palm Beach County website (utilized for City legal notices) as to the date and time of the City Commission's consideration of the Unsolicited Proposal. The published notice shall state that public entities potentially affected by the Unsolicited Proposal and members of the public will be afforded an opportunity to provide comment on the Unsolicited Proposal at the City Commission meeting.

If the Proposer is not able to attend the meeting, the Proposal may request a one-time continuation of the meeting from the City Manager. The City Manager may grant the one-time continuance in his or her discretion.

At the City Commission meeting, the Unsolicited Proposal shall be presented by the Proposer (if present) or City staff, which presentation shall not exceed ten (10) minutes. The City Commission shall then be afforded time to ask questions of the Proposer. Thereafter, affected public entities and members of the public will be authorized to provide public comment. After public comment, the City Commission may ask additional questions of the Proposer or City staff (if deemed necessary). The City Commission shall then decide whether to move the Unsolicited Proposal forward to the Initial Stage Evaluation.

In making this determination, the City Commission, within its sole and absolute discretion, may pursue one of the following options:

1. Request an additional, more detailed presentation to be held within thirty (30) days of the initial Commission meeting presentation;
2. Direct City staff to commence the Initial Stage Evaluation of the Unsolicited Proposal (at which time the Proposer's application fee becomes non-refundable);
3. Reject unsolicited proposal. Direct City staff to advertise the City's receipt of the unsolicited proposal and solicit other proposals for the same or similar Proposed P3 Project (at which time the application fee shall be fully returned to the Proposer); or,
4. Reject the unsolicited proposal (at which time the application fee less \$3,250.00 shall be returned to the Proposer).

If the City Commission pursues option #2 above, City staff shall commence the Initial Stage Evaluation consistent with section IV of these Guidelines. If the City

Commission pursues option #3 above and directs City staff to advertise the Unsolicited Proposal and solicit other proposals, the manner and timing for said competitive bidding process shall be in accordance with section V of these Guidelines. If the City Commission pursues option #4, the City will provide written notice to the Proposer of the City Commission's rejection.

IV. INITIAL STAGE EVALUATION.

A. Initial Stage Evaluation Process.

After the first public City Commission meeting wherein the Unsolicited Proposal is presented, public comment is heard, and the City Commission determines that the Unsolicited Proposal should be evaluated, City staff and necessary consultants shall engage in the Initial Stage Evaluation. The Initial Stage Evaluation's primary focus is to determine if the Unsolicited Proposal is in the public's interest. In making this determination, City staff and its consultants shall focus on the following six (6) factors:

1. The benefits to the public if the City pursues the Unsolicited Proposal.
2. The financial structure of and the economic efficiencies achieved by the Unsolicited Proposal.
3. The qualifications and experience of the Proposer that submitted the Unsolicited Proposal and such Proposer's (and its team's) ability to perform the Proposed P3 Project.
4. The Proposed P3 Project's compatibility with regional infrastructure plans.
5. Public comments submitted at the City Commission meeting.
6. Any other factors deemed relevant by City staff and its consultants, including but not limited to, is the Proposed P3 Project consistent with the City's Charter, Comprehensive Plan, and Strategic Plan.

City staff and its consultants shall prepare the Initial Stage Evaluation Report for the City Commission addressing the foregoing factors, including City staff recommendation as to whether the Unsolicited Proposal should proceed or not proceed, and address the public comments made at the first City Commission meeting.

B. Initial Stage Evaluation Report.

The Initial Stage Evaluation Report shall be placed on an upcoming City Commission meeting no later than 90 days after the first City Commission meeting (unless the City Commission grants an extension). The City shall provide advance written notice to the Proposer (**not less than ten (10) days prior to the date that the Unsolicited Proposal will be considered for at a second meeting by the City Commission**) and publish a notice on the Palm Beach County website (utilized for City legal notices) as to the date and time of the City Commission's second consideration of the Unsolicited Proposal. The published notice shall state that public entities potentially affected by the Unsolicited Proposal and members of the public will be afforded a second opportunity to provide comment on the Unsolicited Proposal at the City Commission meeting.

At the second City Commission meeting, City staff and/or its consultants shall present the Initial Stage Evaluation Report on the Unsolicited Proposal and the City Commission shall have the right to ask questions of City staff and its consultants and the Proposer (if present). The City Commission shall consider each of the six (6) factors set forth in the Initial Stage Evaluation Report and determine if the Unsolicited Proposal is in the public's interest. In making this determination, the City Commission, within its sole and absolute discretion, may pursue one of the following options:

1. Determine that the Unsolicited Proposal is in the public's interest; that a competitive bidding process is not required; and direct City staff to commence the Detailed Stage Evaluation of the Unsolicited Proposal and/or commence negotiations for an Interim Agreement or Comprehensive Agreement;
2. Determine that the Unsolicited Proposal needs further evaluation and/or direct changes to the Initial Stage Evaluation Report (with a time and date certain for City staff and its consultants to bring the revised Initial Stage Evaluation Report back to the City Commission for further consideration);
3. Determine that while the Unsolicited Proposal appears to be (or not to be) in the public's interest, direct City staff to solicit other competitive bids for the same or similarly Proposed P3 Project; or,
4. Reject the Unsolicited Proposal as not in the public's interest.

If the City Commission pursues option #1 above, City staff shall publish in the Florida Administrative Register for at least seven (7) days a report that provides the following:

1. The date and time of the City Commission's decision that Unsolicited Proposal is in the public's interest.
2. The Initial Stage Evaluation Report (original or as revised) or summary thereof; and,
3. And, a link to the City Commission meetings at issue where the Report's findings are discussed.

V. COMPETITIVE BIDDING

If the City Commission determines at any time that it is interested in further consideration of a Proposed P3 Project, whether due to an Unsolicited Proposal that was received and/or rejected or otherwise, the City Commission shall direct City staff to publish a solicitation for the Proposed P3 Project. Such solicitation shall acknowledge the receipt of the Unsolicited Proposal (if applicable) and invite competing Bids.

The terms, evaluation criteria, and selection process shall be outlined in the solicitation which may be made by a request for proposals, invitation to negotiate, or other method as deemed appropriate by the City's Financial Services Department. Responses to the solicitation shall comply with all requirements of the soliciting document(s) and shall comply with any applicable laws, statutes, rules, regulations, adopted guidelines, and ordinances pertaining thereto.

The City's solicitation shall be advertised and remain open for at least twenty-one (21) days. The exact due date for submission of Bids shall be set by the City in the solicitation in its sole and exclusive discretion after the twenty-one (21) days have expired. If applicable, the public acknowledgment shall (at a minimum) state the City has received an Unsolicited Proposal and that the City will accept Bids for the same or similar type of Proposed P3 Project. The solicitation shall be posted on the City's website (and/or other solicitation platform specifically utilized by the City for procurements) and posted on the Palm Beach County website (which the City utilizes for legal notices). The City may post a notice of the solicitation in the Palm Beach Post and/or the Florida Administrative Register as these may be deemed appropriate by City staff to encourage competition among private entities. The City's Cone of Silence applies to each solicitation for competing Bids and all Bidders shall comply with the City's Cone of Silence. **The Cone of Silence shall commence at the time the City first posts the solicitation for competing Bids**

If applicable, the Proposer that submitted the original Unsolicited Proposal is required to submit a competing Bid in response to the City's solicitation if said Proposer desires to be

considered by the City for award of the solicitation. The Proposer's Bid may differ from its Unsolicited Proposal (in the Proposer's sole discretion).

Once the deadline for the submission of competing Bids in response to the City solicitation has passed, the City shall review all competing Bids received. If none are received, the City Commission shall be notified of the same. If more than one (1) competing Bids are received, the City may evaluate those Bids based upon the evaluation criteria set forth in the solicitation (if any). After such evaluation, the City Commission shall make a decision at a public meeting to:

- A. Proceed to the Detailed Stage Evaluation with more than one of the competing Bids submitted in response to the City's solicitation;
- B. Proceed to the Detailed Stage of review with only one (1) of the competing Bids received and reject all other competing proposals or bids; or
- C. Not proceed further with any competing Bids and cancel the solicitation.

VI. DETAILED STAGE EVALUATION

Some Proposed P3 Projects may require more details from the Proposer or Bidder(s) and more evaluation by the City. For those Proposed P3 Projects, the City may engage in a Detailed Stage Evaluation before commencing negotiations of an Interim or Comprehensive Agreement. On Proposed P3 Projects for which the City has enough information from the Proposer or Bidder, the City Commission may waive or modify the Detailed Stage Evaluation.

The Proposer or Bidder(s) invited to submit a detailed proposal or modified detailed proposal and participate in the Detailed Stage Evaluation, shall pay a detailed proposal application fee to be determined by the City, which the City may require if extraordinary costs are associated with the City's Detailed Stage evaluation.

If the City requests a Detailed Stage Evaluation, then the City may require the Proposer or Bidder(s) to provide any or all of the following information as part of the evaluation depending upon the Proposed P3 Project's requirements or the information received thus far by the City:

- A. A lifecycle cost analysis specifying methodology and assumptions supporting same and the proposed start date of construction; anticipated roles of all parties; the source and amount of all equity, debt, and other financing mechanisms funding the design, construction, operations and maintenance of the Proposed P3 Project; and a schedule of anticipated revenues and costs during project operations and the manner in which said costs would be funded and

revenues distributed. The lifecycle cost analysis shall include a detailed analysis of the projected rate and amount of return, expected useful life of the facility, and estimated annual operating and maintenance expenses.

B. Detailed analysis of the financial feasibility of the Proposed P3 Project, including its impact on similar facilities operated or planned by the City and include a detailed description of any financing plan for the project, comparing that plan with financing alternatives available to the City, and all underlying data and assumptions supporting any conclusions reached in the analysis of the financing plan proposed for the proposed project. The analysis shall also include any feasibility studies that support assumptions about project usage, revenue, and costs.

C. In the case of an Unsolicited Proposal (or if the information is not provided in a Bidder's Bid), for each private entity participating on the selected Proposer's team, provide a statement listing all prior projects and clients' names and contact information for the past five years. If any private entity has worked on more than ten (10) projects during this period, it may limit its prior project list to ten most relevant projects but shall include first all projects similar in scope and size to the proposed project; second, all other P3 projects and, finally, as many of its other most recent projects as possible. For each project identified, provide at least the following information:

1. Client and Project Identification:

- a. Client's name, project name and project location;
- b. Primary contact name, address, telephone number, and email address of the client;
- c. The role of the private entity in the project; and
- d. Project description, including the year completed, type, size, unit mix, and major tenants and their percentage of space plan allocation.

2. Identify the cumulative dollar amount of the private entity's involvement and type of involvement, including changes, and a brief explanation of the financial structure used to finance the project; and

3. Describe the extent of public involvement in each of the public private partnership projects.

The response from the Proposer shall also identify the Proposer's financial capacity to develop and operate the Proposed P3 Project as proposed; by specifying the source and amount of equity and debt capital the Proposer intends to access to deliver the Proposed P3 Project in a compliant and timely manner. Each response must state the name of each identified investor and lender on the Proposed P3 Project. The Proposer/Bidder must identify its bonding capacity, insurance limits and any factor impacting the ability to complete the proposed project in a timely and professional manner;

D. Describe the plan for the design, construction, financing, operation and maintenance of the Proposed P3 Project, including the anticipated schedule of funds to be paid to the Proposer or Bidder during the project's life cycle and any anticipated performance-based conditions on said payments and the manner of measuring same.

E. Describe the type and amount of fees, lease payments, and other payments anticipated over the term of any applicable Interim or Comprehensive Agreement and the methodology and circumstances for changes to same over time.

F. Identify all necessary permits and approvals to be obtained for the Proposed P3 Project and how long the Proposer/Bidder anticipates it taking to secure same.

G. Identify the anticipated duration of design and construction, listing major milestones for each phase and giving corresponding anticipated dates for same. Also identify the anticipated duration during which the Bidder/Proposer will operate and maintain the facility and the nature of project ownership at all stages of the project from inception to expiration of the Comprehensive Agreement.

H. To the greatest extent possible, the Bidder/Proposer must describe the operational and management plan for the Proposed P3 Project; other circumstances that will increase the viability of the proposed project; adjacent uses and emerging projects that could impact the value or influence the use of the proposed project; connections to public transportation; availability and existing capacity of public infrastructure, and required extensions or improvements; any assumptions the bidder/proposer is making to support any of the representations contained in the proposal and the source of information giving rise to each assumption; the means for adding capacity to the proposed project; and the means for ensuring additional costs or service disruptions will not be imposed on the public in the event of material default or cancellation of any Comprehensive Agreement.

- I. Identify the sources and amount of debt and equity to be used to capitalize the Proposed P3 Project and the relationships of the funding sources to the project (e.g., outside lender, parent company, institutional lender, private placement funding, etc.).
- J. Identify the sources and anticipated amounts of working capital to cover design, construction and operating costs, and to adequately maintain the facility or services from the start-up through completion of the project as defined by the Unsolicited Proposal or Bid.
- K. Identify any parcels of land that must be acquired for the Proposed P3 Project, the anticipated means for acquiring same and all projected costs, both hard and soft, necessary to acquire same. In addition, specify the anticipated timing for acquisition.
- L. Identify all assumptions underlying the Unsolicited Proposal or Bid.
- M. Indicate opportunities that exist for increasing cost savings beyond the initial proposed financial plan.
- N. Outline the financial penalties, if any, that would result should the Bidder/Proposer fail to meet certain identified performance standards and milestones.
- O. Identify any work required from or otherwise to be performed by the City.
- P. Identify any restrictions on the City's use of the Proposed P3 Project.
- Q. Identify any federal, state, or local resources or commitment the bidder/proposer contemplates requesting for the Proposed P3 Project.
- R. Identify any special use of technology or innovations and efficiencies in project design, construction, operations, and/or maintenance.
- S. Identify all impacts on the City's debt burden.
- T. State the estimated project cost to the City over the Proposed P3 Project's life cycle.
- U. Identify the ratio of debt to equity in the Bidder/ Proposer's financing plan and discuss the stability and terms of loans and investments.
- V. Project the number and value of subcontracts generated for area subcontractors and/or small or minority business enterprises.

- W. Identify any anticipated adverse social, economic, environmental, and transportation impacts of the proposed project measured against the City's Comprehensive Plan, Strategic Plan, and any applicable ordinances. Specify the strategies or actions to mitigate known adverse impacts of the Proposed P3 Project. Indicate if necessary environmental assessments have been completed.
- X. Any information identified in the Unsolicited Proposal or Bid that was deferred to the detailed proposal or which the City has identified as needing further development or assessment.
- Y. Design criteria anticipated for the Proposed P3 Project as may be requested by the City, including, but not limited to, finishes for the structure and materials and details for LEED or Green Globes compliance.
- Z. Additional material and information as the City deems appropriate.
- AA. Job creation and other positive socio-economic impacts before, during and after the Proposed P3 Project is completed.

VII. INTERIM AND COMPREHENSIVE AGREEMENTS

A. General

Before entering into the negotiation of an Interim or Comprehensive agreement, the City will designate specific City staff and consultants to review and negotiate appropriate terms. The terms to be negotiated shall include, but not be limited to, the scope, design, amenities, total cost, and duration of the proposed project. Terms will also include the City's review, approval and control of project design and performance standards for construction, operations and maintenance, for which compensation to the proposer may be adjusted should the performance standards not be met. Terms will also include the City's right to inspect construction, operations and maintenance as well as the records relating to the cost of such operations; periodic financial reporting by the Contracting Entity of project financial performance; events of default and the parties' rights and responsibilities in the event of same; fees, lease payments or service payments to be paid under the agreement; and any other terms the City deems appropriate for the Proposed P3 Project. Timelines for the negotiation with the Proposer/Bidder will be developed consistently with the scope and timing of the Proposed P3 Project.

Any Interim or Comprehensive agreement shall define the rights and obligations of the City and the Contracting Entity with regard to the proposed project. Prior to entering into a Comprehensive agreement, an Interim Agreement may be entered into that permits a Contracting Entity to perform activities, which may be

compensable, related to the proposed project, usually in the nature of continued due diligence activities to inform the ultimate decision maker about the Proposed P3 Project's feasibility. The Interim Agreement is a discretionary step, not necessary in all cases, but available should the City determine more investigation or due diligence is necessary about the Proposed P3 Project before entering into a Comprehensive Agreement. The City shall not be bound to enter into a Comprehensive Agreement merely because it entered into an Interim Agreement. However, prior to developing or operating the Proposed P3 Project, the Contracting Entity shall enter into a Comprehensive Agreement with the City. All Interim Agreements and Comprehensive Agreements require City Commission approval to be enforceable.

Unless the Interim Agreement or Comprehensive Agreement expressly authorizes the City Manager to approve changes, any and all changes to the approved terms of an Interim or Comprehensive agreement shall only be enforceable by written amendment approved by the City Commission. Verbal changes shall not be enforceable against the City. No act or omission or verbal representation or statement shall be treated as an expressed or implied waiver of this requirement by the City and all waivers must be in writing and approved by the City Commission to waive any approved terms and/or conditions of an Interim or Comprehensive Agreement.

A Comprehensive Agreement may provide for the development or operation of separate phases or segments of a Proposed P3 Project.

The Contract Entity entering an Interim Agreement or Comprehensive Agreement for a Proposed P3 Project with the City understand that representations, information, and data supplied in support of, or in connection with, their underlying Unsolicited Proposal and/or Bid play a critical role in the competitive evaluation process and the ultimate selection of an Unsolicited Proposal and/or Bid by the City. Accordingly, as part of the Interim or Comprehensive Agreement, the Contracting Entity and its team members shall certify that all material representations, information, and data provided in support of or in connection with its underlying Unsolicited Proposal and/or Bid are true and correct. Such certifications shall be made by the Contracting Entity's authorized representative who shall be an individual who has knowledge of the information provided in the Unsolicited Proposal and/or Bid. If material changes occur with respect to any representations, information and data provided for the Unsolicited Proposal and/or Bid, the Contracting Entity shall immediately notify the City of same in writing. Notwithstanding any language contained within the Interim or Comprehensive

Agreement, any violation of this section shall give the City the right to terminate the Interim or Comprehensive Agreement, withhold payment, if any is due, and seek any other remedy available under the law.

The City may make available to the public any proposed or drafted Interim or Comprehensive Agreement before accepting same by posting the proposed or draft agreement on the City's website.

B. Presentations

Prior to any Interim or Comprehensive Agreements being approved by the City Commission, a minimum of one (1) public presentation to the City Commission and two (2) community engagement meetings must occur to ensure the general public and affected entities have an opportunity to understand the Proposed P3 Project.

C. Interim Agreements

The scope of an Interim Agreement may include, but not be limited to:

1. Project planning and development;
2. Design and engineering;
3. Environmental analysis and mitigation;
4. Surveying;
5. Ascertaining the availability of financing for the proposed project;
6. Geotechnical investigation of subsurface conditions at the proposed project site;
7. Setting the timing of the negotiation of the Comprehensive Agreement; and
8. Any other provisions related to any aspect of the development or operation of a proposed project that the parties deem appropriate prior to executing a comprehensive agreement.

The terms of compensation to the Contracting Entity, if any, under an Interim Agreement shall be negotiated and specifically set forth in the Interim Agreement. The Interim Agreement should also address the process (and any resulting remedies) if the City Commission decides not to move forward to a Comprehensive Agreement.

D. Comprehensive Agreements

Each Comprehensive Agreement shall define the rights and obligations of the City and the Contracting Entity regarding the Proposed P3 Project. The terms of the Comprehensive Agreement shall be tailored to address the specific Proposed P3 Project and may include, but not be limited to:

1. The delivery of security, including performance and payment bonds, letters of credit and other security in connection with, but not limited to, any acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the proposed project;
2. The City's review and approval of the design of the Proposed P3 Project;
3. The rights of the City to inspect the construction, operation and maintenance of the proposed project to ensure compliance with specified performance standards and adjustments in the compensation to be paid to the Contracting Entity and/or liquidated damages due from the Contracting Entity should they fail to meet specified performance standards and/or deadlines;
4. The maintenance of insurance policies reasonably sufficient to ensure coverage of all aspects of the Proposed P3 Project, including design, construction and operations;
5. The services to be provided by the City and the terms of compensation due the City for same;
6. The policy and procedures that will govern the rights and responsibilities of the parties if the Comprehensive Agreement is terminated or there is a material default by the Contracting Entity, including the conditions governing assumption of the duties and responsibilities of the Contracting Entity by the City and the transfer or purchase of property or other interests of the Contracting Entity by the City;
7. The terms under which the Contracting Entity will file, with the City, financial statements pertaining to the qualified project prepared in accordance with generally accepted accounting principles on a periodic basis but not less than annually;
8. A schedule of Fees or Lease Payments and circumstances for, and method of calculating, anticipated adjustments to same over the project life cycle;
9. The mechanism by which Fees, Lease Payments, or other payments, if any, may be established from time to time upon agreement of the parties. Any

payments or Fees shall be set at a level that are the same for all persons using the facility under like conditions and that will not materially discourage use of the proposed project;

10. Service or concession contracts;

11. Classifications according to reasonable categories for assessment of Fees;

12. The terms and conditions under which the City will contribute financial resources, if required for the Proposed P3 Project;

13. The terms and conditions under which existing site conditions will be assessed and deficiencies therein addressed, including identification of the responsible party for conducting the assessment and taking necessary remedial action;

14. The terms and conditions under which capacity for the Proposed P3 Project may be increased or enlarged;

15. A periodic reporting procedure incorporating a description of the impact of the proposed project, financially and socially, on the City; and

16. Other requirements of the P3 Program or applicable law or that the City deems appropriate.

With respect to the construction component of the Proposed P3 Project, the City generally anticipates addressing the following in the Comprehensive Agreement:

1. The Contracting Entity will be expected to assume single point responsibility and liability for all planning, designing, financing, constructing, operating, and maintaining the proposed project.

2. The risk of inadequate geotechnical investigation or improper interpretation of the results of the geotechnical investigation, as well as all other unforeseen site conditions, will be allocated to the Contracting Entity in the comprehensive agreement.

3. The City encourages the Contracting Entity to propose a formula for the mutual sharing of cost savings realized during construction by virtue of value engineering initiatives and efficiencies. Mutually agreed upon terms for the sharing of such savings will be incorporated in the Comprehensive Agreement.

4. The City may require that the Contracting Entity or one or more of the private entities and/or their principal members involved provide performance guaranties of all obligations undertaken in the Comprehensive Agreement. This requirement is in addition to the statutory requirement for a performance and payment bonds and any other performance security required by the comprehensive agreement.

E. Legal Requirements for Agreements

All Interim Agreements and Comprehensive Agreements will be subject to the City's annual budgeting and appropriation process. All agreements will require that the Contracting Entities agree that the City's financial obligation in any agreement are payable exclusively from duly appropriated or otherwise legally available funds and shall not be construed to be debt, liability or obligation within the meaning of any applicable constitutional or statutory limitation or requirement. Unless the appropriate constitutional and/or statutory process are followed and appropriately approved, neither the City nor the State of Florida nor any political subdivision or agency thereof will pledge any of its full faith and credit or its taxing power to make any payments under any agreement.

VIII. RESERVATION OF RIGHTS AND LEGAL REQUIREMENTS

The City reserves the right at all times to reject any or all Unsolicited Proposals and/or Bids at any time before entering an agreement for any reason and in the City's sole and absolute discretion. The City may decline to pursue a Proposed P3 Project in its sole and absolute discretion and, at any time, the City may accept new proposals for a Proposed P3 Project should the City choose to restart the process at a later date. Unsolicited Proposals and Bids rejected by the City and discussions between the City and Proposers and Bidders regarding needed infrastructure, improvements, or services shall not limit the ability of the City to later decide to use standard procurement procedures to meet the City's needs for the same.

The City also reserves the right to waive all nonmaterial irregularities on any and all Unsolicited Proposals and Bids.

All costs and expenses, including reasonable attorneys' fees, incurred by any Proposer or Bidder in preparing an Unsolicited Proposal and Bid are the sole responsibility of the Proposer or Bidder including without limitation any and all costs and fees related to any and all disputes.

All Unsolicited Proposals and Bids submitted to the City shall become the property of the City. The City has the full right to use any or all ideas presented, whether or not selected or rejected.

In the event of any disputes arising out of these Guidelines, these Guidelines shall be governed by and construed in accordance with the laws of the State of Florida. All Proposers and Bidders irrevocably submits to the jurisdiction of any Florida State or Federal court sitting in Palm Beach County, Florida, in any action or proceeding arising out of or relating to this Guidelines and/or the submission of an Unsolicited Proposal and/or Bid. The Parties hereby each irrevocably agree that all claims and counterclaims in respect of any such action or proceeding may be heard and determined in any such Florida State court or in such Federal court and irrevocably waive, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of any such action or proceeding. **Further, to encourage prompt and equitable resolution of any dispute, each party hereby waives its rights to a trial by jury in any litigation, claim, or proceeding related to or arising from these Guidelines and/or the submission of an Unsolicited Proposal and/or Bid.**

By submitting an Unsolicited Proposal or Bid, each Proposer and each Bidder unequivocally consents and certifies that they have read these Guidelines and fully agree with and will abide by these Guidelines unless waived in writing by the City Commission.

IX. CONFLICTING PROVISIONS

The provisions and requirements of these Guidelines shall apply to City-issued solicitations for P3 Projects unless otherwise provided in the solicitation.

Unsolicited proposals which are submitted to the City solely for the purpose of purchasing City-owned real property shall adhere to the requirements of Section 2-1 of the City Code of Ordinances.

If there are any conflicting provisions between these Guidelines and section 255.065, Florida Statutes, these Guidelines shall take precedence. However, the provisions of these Guidelines should be construed with Section 255.065, Florida Statutes, in such a manner as to avoid conflicts. Otherwise, all federal, state, or other local laws (including the City Charter and Code of Ordinances) shall take precedence over these Guidelines.

X. CONFLICTS OF INTEREST

With all P3 Projects, the City must ensure that the professional consultants and individuals involved are free from conflicting professional or personal interests. Such competing interests have the potential to make it difficult for consultants and individuals to discharge their contractual obligations impartially, and otherwise create an appearance of impropriety, even if none exists, that can undermine confidence in the City's process. To this end, the following is intended to provide guidance to firms and individuals directly or indirectly performing services for the City in connection with P3 Projects, either solicited or unsolicited.

All firms and individuals performing work or contemplating the performance of work for the City on P3 Projects are also expected to understand and comply with existing City conflicts of interest regulations and policies and Florida law, including local laws related to conflicts of interest under the Palm Beach County Code of Ethics.

Unless prohibited by law, the City will consider requests for exceptions to this policy on a case-by-case basis. The City Commission will consider all such requests and decide if the exception is warranted in its sole discretion.

A. Owner's Representatives

1. Firms: A firm serving as one of the City's consultants or as a subconsultant in the development of procurement documents, evaluation criteria, or technical criteria for a City P3 Project (collectively, "Owner's Representative") is prohibited from participating in any capacity on a proposer team for that P3 Project or any other P3 Project under procurement by the City. This prohibition extends to the Owner's Representative's affiliates and shall remain in place for a period up to and including, and in limited instances beyond, the date said project is closed and final payment has been rendered or until the City determines that any such conflicts no longer exist.

A firm continuing to serve as one of the City's Owner's Representatives for a P3 Project after the project has been closed is prohibited from participating on a proposer's team for that P3 Project or any other P3 Project unless and until the City grants an exception.

It is the intent of the City to separately procure an Owner's Representative for each P3 Project. Generally, any Design or other Consulting Firm meeting a project's requirements for an Owner's Representative is eligible to participate in such procurement, but the City will not allocate an Owner's Representative's scope of work to any Consulting Firm unless the Firm consents to serve as an Owner's Representative and agrees to be bound by these guidelines.

2. Individuals: Any individual who works for or has worked for an Owner's Representative and was involved in the development of procurement documents, evaluation criteria, or technical criteria for the P3 Project is prohibited from participating in any capacity on a proposer team for that P3 Project under procurement by the City. This prohibition shall remain in place until the date said project is closed and final payment has been rendered for the P3 Project that the individual was involved in, and in limited instances beyond, or until the City determines that any such conflict no longer exists or until or unless the City grants an exception.

Any individual who was an employee of the City within the past 2 years or who had any involvement or oversight of the formulation, or analysis of any P3 Project or development of procurement documents, evaluation criteria, or technical criteria for the P3 Project, is prohibited from participating in any capacity on a proposer team for that P3 Project or any other P3 Project under procurement by the City. This prohibition shall remain in place until the Project Closeout Date for the P3 Project that the individual was involved in, and in limited instances beyond, or until the City determines that any such conflict no longer exists or until or unless the City grants an exception.

B. City Consultants and Subconsultants for Non-P3 Projects Converted to P3 Projects

1. Firms: A firm serving or who has served as one of the City's consultants or as a subconsultant for one or more projects within the City that is/are converted to a P3 Project may participate on a proposer team with the approval of the City Commission. A firm may seek approval by submitting a written request to the Purchasing Division in Financial Services. The request shall describe the facts and circumstances of the requester's involvement on the project including level of design (percent complete, the number of component design plans by other firms, etc.), the last date of any involvement by the firm, and the nature of its proposed participation for a proposer team on the P3 Project under procurement by the City.

A firm serving or who has served as one of City's consultants or subconsultants for a project is prohibited from participating on a proposal team submitting an unsolicited proposal for that project. A firm serving or who has served as one of the City's primary consultants for a project is prohibited from participating on a proposal team should the City elect to advertise the project as a P3 Project as a result of an unsolicited proposal.

2. Individuals: An individual who works or has worked for a City consultant or subconsultant that was involved in a City project that is converted to a P3 Project may not directly or indirectly serve in any capacity for a proposer team on that P3 Project until the date said project is closed and final payment has been rendered or until the City determines that any such conflict no longer exists through the granting of an exception prior to the submission of the solicitation.

Any individual who was an employee of the City within the past 2 years or whom had any involvement or oversight of the formulation, or analysis of any City Project converted to a P3 Project or development of procurement documents,

evaluation criteria, or technical criteria for a City Project converted to a P3 Project, is prohibited from participating in any capacity on a proposer team for that P3 Project or any other P3 Project under procurement by the City. This prohibition shall remain in place until the date said project which the individual was involved is closed, the City determines that any such conflict no longer exists, or until or unless the City grants an exception.

C. Requests for Exceptions

A firm or individual may seek an exception to the above guidelines by submitting a written request for exception to the City's Purchasing Division in Financial Services. The decision to approve or deny a request shall be made by the City Commission within a reasonable time after submission of a complete request.

The request shall describe the facts and circumstances of the requester's involvement on the P3 Project and the nature of its proposed participation for a proposer team on another P3 Project under procurement by the City. The request shall specifically disclose whether the requester at any time (a) was involved in the preparation of procurement documents, technical criteria, or evaluation criteria for the P3 Project or any other P3 Project; (b) participated in P3 Project-related meetings or conference calls with an Owner's Representative or with City's legal advisors or financial advisors; or (c) works or has worked for one of the City's Owner's Representatives or for the City on a P3 Project after the project is closed and final payment has been rendered for such P3 Project. The City retains the right to accept or deny any request for exception to this policy in its sole and absolute discretion and any delays or costs resulting from the failure to request an exception in a timely manner shall be the responsibility of the firm or individual.

XI. CHANGES

These Guidelines have been adopted by the City Commission and may only be changed, modified, or waived by approval of the City Commission. All waivers must be put in writing after approval by the City Commission to be deemed effective.

END OF GUIDELINES

Appendix A – Process Flow Chart

