



SECTION 3. COUNTY ADMINISTRATION

3.56 GUIDELINES FOR PUBLIC/PRIVATE PARTNERSHIPS, UNSOLICITED PROPOSALS AND EVALUATION PROCESS

I. INTRODUCTION, POLICY AND INTENT. Consistent with the provisions contained in Section 255.065, Florida Statutes, Florida encourages redevelopment of underdeveloped and underutilized properties through public/private partnerships (hereinafter “P3”) where appropriate. The County recognizes properly structured P3s 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 public-private partnership is a contractual agreement between a public agency (federal, state or local) and a private sector person or 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 Seminole County’s Public/Private Partnership Program, all parties must comply with the following Guidelines for P3 Applications and Evaluation Process (hereinafter “Guidelines”).

The County reserves the right at all times to reject any or all bids/proposals at any time before signing a Comprehensive Agreement for any reason and may decline to pursue the Proposed Project. In the latter event, the County may accept new proposals for the Proposed Project should the County choose to restart the process at a later date. Discussions between the County and Private Entities about needed infrastructure, improvements, or services shall not limit the ability of the County to later decide to use standard procurement procedures to meet its infrastructure needs, whether the project will be a public/private partnership or not.

These Guidelines are applicable to the P3 program consistent with Section 255.065, Florida Statutes for Unsolicited Proposals. These Guidelines are an alternative process to, and do not amend, Seminole County Administrative Code Policy 3.55, Purchasing Policy, or the Procurement of Personal Property or Services pursuant to Chapter 287, Florida Statutes.

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

Board of County Commissioners: The Seminole County Board of County Commissioners.

Certify: To attest, under penalty of perjury, that the information being certified is true and correct.



County: Seminole County, Florida, which may act through its Board of County Commissioners and County Manager, as the context and applicable law permits.

Comprehensive Agreement: The agreement between the Contracting Person and the County that is required before the development or operation of a Proposed Project.

Contracting Person: 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 a Comprehensive or Interim Agreement with the County.

Detailed Proposal: A proposal for a Proposed Project after the Initial Stage review, 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: The phase of Proposed Project evaluation where the County has completed the Initial Stage, but has requested additional and/or more detailed information regarding proposals for a Proposed Project.

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

Fee: A rate, fee, or other charge associated with the use of a Proposed Project, as defined by a Comprehensive Agreement.

Initial Proposal: An unsolicited proposal for a Proposed Project accepted for consideration and evaluation by the County.

Initial Stage: The initial phase of Proposed Project evaluation when the County assesses whether a Proposed Project serves a public purpose and appears to meet the minimum criteria for a Proposed Project or certain goals of the County and the County reviews and evaluates proposals received from the private sector for pursuing a Proposed Project as a P3.

Interim Agreement: An agreement, before or in connection with the negotiation of a Comprehensive Agreement, between the County and a Contracting Person whereby the Contracting Person may be authorized by the County to conduct due diligence or further studies or investigations related to the Proposed 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 Person and the County 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 County and signed in writing.



Lease Payment: Any form of payment, including a land lease, by a governmental or private entity to the Contracting Person and/or the County for the use of a Proposed Project.

Lifecycle Cost Analysis: An analysis calculating the cost of an asset over its entire life span, including the cost of planning, 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 County if a standard, non-P3 delivery method was used. The Comprehensive Agreement must identify if there is no cost to the County of an asset projected for the County.

Notice of Receipt: At a minimum, the notice that the County shall publish to advise the general public that the County has received an unsolicited proposal and to solicit Responses for the same type of project or concept that is reflected in the unsolicited proposal.

Operate: To operate a Proposed Project.

P3: A Public-Private Partnership.

P3 Project: A Public-Private Partnership project.

Public-Private Partnership Program or P3 Program: The County's public-private partnership program implemented in accordance with these Guidelines.

Private Entity: 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 "Respondent" that submits a proposal in response to a Solicitation.

Private Entity: Also means each individual entity participating in or comprising a Proposer's or Respondent's team.

Proposer: A Private Entity that submits or is considering submitting an unsolicited proposal and/or a response to a Notice of Receipt. "Proposer" is the Private Entity with whom the County is expected to contract for a Proposed Project. 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 Project(s):

(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, 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 that involves a facility to be owned or operated by the County that the County designates as a Proposed Project.

Notwithstanding anything herein to the contrary, a Proposed Project may also include, in addition to the public facility or project, ancillary components, such as but not limited to, 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 County.

Respondent: A Private Entity that submits a proposal in response to a Solicitation.

Response: A response to a solicitation for proposals, for qualifications, for a response to a Notice of Receipt by the County of an unsolicited proposal, and for the purposes of these guidelines is also synonymous with the word “proposal.”

Revenue: All revenue, income, earnings, Fees, Lease Payments, and/or other payments supporting the development or operation of a Proposed Project, including money received as a grant or otherwise from the federal government, a governmental entity, or any agency or instrumentality of the federal government or governmental entity in aid of the Proposed Project.

Solicitation: A written request for services issued by the County through a Notice of Receipt soliciting responses for a P3 project, including, but not limited to, business plans, expressions of interest, ideas, offers, proposals, qualifications, or any combination thereof.

III. UNSOLICITED PROPOSALS.

A. General. The County may publicize its needs and encourage interested parties to submit unsolicited proposals subject to the terms and conditions of the P3 Program. If any proposals are received without issuance of a Solicitation, the proposals may be treated as an unsolicited proposal and may be evaluated through the County’s approved P3 Program. All unsolicited proposals shall be sent to the County Manager and, upon the County Manager’s receipt of an unsolicited proposal, the no contact rule as set forth in Section 287.057(23), Florida Statutes, shall commence.

The P3 Program is intended to create a process to guide the County’s evaluation of potentially competing proposals from the private sector that offer solutions, private financing, innovations and efficiencies in support of the Proposed Project, allocate risk amongst the County and the Private Entity, and benefit the public.



B. Content of Unsolicited Proposals.

(1) General. Proposer submitting an unsolicited proposal requesting approval of a Proposed Project as a P3 project shall specifically identify all facilities, buildings, infrastructure and improvements included in the proposal. Although the County may have identified development opportunities, they are not exclusive and Private Entities are encouraged to submit proposals they believe are consistent with the County's goals.

Private Entities are urged to include in their proposal innovative financing methods, including the imposition of Fees or other forms of payments in lieu of or in addition to payments from the County. The P3 Program is a flexible development tool allowing for the use of innovative financing techniques. Additionally, the Proposer can structure its role on the Proposed 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 Project, the Proposer is encouraged to consider different types of public-private partnership 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. They shall provide a concise description of the Proposer's qualifications and capabilities to complete the Proposed Project and the benefits to be derived by the County from the Proposed Project. As described in more detail below, proposals must include:

(a) a description of the Proposed Project;

(b) a description of the method by which the Proposer plans to secure any necessary property interests required for the Proposed Project;

(c) provide a conceptual plan that details how the Respondent 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 and the following information:

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 were preferred;

Provide an explanation of the Respondent'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; and

Provide the names of the funding sources for previous projects of a similar size as applicable;

(d) the name and address of the Proposers and the name of the project leader who may be contacted for additional information concerning the 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 County reasonably requests.

(3) Format.

(a) General. Unsolicited proposals shall be submitted in the following format:

1. Pages shall be numbered and organized by paginated table of contents corresponding to the tabbed sections identified below.

2. The submittal 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

TAB 8: Addenda

3. The contents shall be printed on 3-hole punched 8½" x 11" paper (except A/E drawings and renderings).

4. Drawings and renderings shall be printed no larger than 36" x 54".

5. Supplemental materials in alternate formats may be allowed to describe the proposal in more detail.

6. All submissions shall be addressed to: *County Manager, Seminole County, 1101 East First Street, Sanford, Florida 32771* in a sealed envelope marked as follows:

Property ID (common name, address and folio numbers)

Proposer's Name

Mailing Address

Proposal Date



All submittals shall be in the format requested by this Section unless a waiver of any particular requirement or requirements is agreed to by the County.

(b) TAB 1 – Executive Summary. Provide a cover letter, signed by an authorized representative of the Proposer, including the information detailed below:

1. Identify the nature of the Proposed Project and the public benefit to be gained thereby;

2. Identify all Private Entities who will be directly involved in the Proposed Project by name, scope of services they will be providing to the project, address, email address, and telephone number;

3. Identify the principal(s) of each Private Entity who will be directly involved in the Proposed Project, including their title, mailing address, phone number, and email address;

4. Identify the person(s) in charge of negotiations with the County and decision making on behalf of the Proposer; and

5. Identify any persons comprising the Proposer who may be disqualified from participation in any transaction arising from or in connection to the Proposed 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 the Proposer, a statement of qualifications; and experience in projects of similar complexity, scope and scale to the Proposed Project. The unsolicited proposal must also describe, as to each Private Entity participating on the Proposer team, relevant experience with respect to other public-private partnership projects of any type.

(e) TAB 4 - Proposal. The Proposer must provide:

1. An overview of the Proposed Project;

2. Design concept renderings and a concept site plan and elevations that collectively illustrate the location, size, and context of the Proposed Project;

3. A summary of 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);



4. Identification of any known or suspected synergies and incompatibilities between the Proposed Project and any other existing, planned or contemplated public facility within the County or any neighboring city or affected jurisdiction and the manner in which the Proposer anticipates addressing same; and

5. Identification of 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 Project and should generally summarize why the unsolicited proposal offers the County value for money over the Proposed Project’s life cycle as opposed to procuring the project using more traditional procurement methods, including the County funding the project itself.

(g) TAB 6 – Community Impact.

1. Identify all anticipated community benefits.
2. Identify all known stakeholders for the Proposed Project.
3. Discuss the Proposed Project’s compatibility with existing and planned facilities.

(h) TAB 7 – Miscellaneous. Use this Section to present additional information supporting the proposal.

(i) TAB – Addenda. Use this Section to present details of any item cited or referenced in the proposal.

C. Flexibility in Structure. The County encourages creativity and flexibility in the structure of a Proposed Project where appropriate. By way of example, where appropriate and available, the County may contribute off-site parcels of real property to a Contracting Person in exchange for the Contracting Person to design, construct, finance, operate and maintain a Proposed Project. In such an event, the value of the Contracting Person’s services to the Proposed Project are expected to be equal to or greater than the fair market value of the real property interest they seek to obtain. The County will exercise full and proper due diligence in the evaluation and selection of Proposed Projects, including those utilizing creative or flexible structures.

D. Request for Clarifications. The County may request in writing, clarifications to any submission, including unsolicited proposals, which shall be promptly provided by the Proposer.

E. Application Fee. Contemporaneously with the submission of an unsolicited proposal, the Proposer shall pay an application fee to the County in the amount of FIFTY THOUSAND AND NO/DOLLARS (\$50,000.00) to cover the costs of processing, reviewing and evaluating the proposal, including the fees and costs for private consultants to assist in the evaluation. The application fee is non-refundable and shall be delivered to the County Manager’s Office. However, portions of the application fee may be refundable if the Proposer chooses not to participate in the Detailed Stage



Evaluation, as more particularly set forth below. If extraordinary costs associated with the County's preliminary evaluation are encountered, the County may require additional fees from the Proposer.

F. Process for Submission and Evaluation. The County shall provide deadlines for submission of certain requested information related to proposal or project evaluation. Failure to meet such deadlines may result in the rejection of the proposal.

The County shall not be liable for any costs incurred by the Private Entities in preparing, submitting or presenting an unsolicited proposal.

All unsolicited proposals must be organized in the manner outlined in these Guidelines and submitted with the application fee defined herein. No page limitation is imposed, but brevity is appreciated. All proposals shall be submitted as one original, thirteen copies and one electronic copy (searchable PDF format on CD). The original copy containing original signatures shall be marked **ORIGINAL** on the cover letter.

In accordance with Section 255.065(15), Florida Statutes, the Initial Proposal and all Responses pertaining to the Proposed Project are exempt from public records disclosure under Section 119.07(1), Florida Statutes and Section 24(a), Article I of the State Constitution until such time as the County provides notice of its intended decision to either reject the Initial Proposal or enter into a Comprehensive Agreement with one of the Respondents. The County shall abide by the timelines for disclosure of the Initial Proposal, all Responses and related meetings, as contemplated in Section 255.065(15), Florida Statutes.

Only unsolicited proposals apparently complying with these Guidelines and containing information sufficient for meaningful evaluation will be considered. Within sixty (60) days of receiving an unsolicited proposal, the County staff will preliminarily review it to determine whether to accept and recommend it for Initial Stage evaluation. After the County staff's Initial Stage evaluation, the general concept of the unsolicited proposal shall be presented to the Board of County Commissioners, and, if the County wishes to continue considering the unsolicited proposal, it may, at its sole and exclusive option, either advertise its receipt of the unsolicited proposal ("Notice of Receipt") and solicit other proposals or conduct further evaluation of the unsolicited proposal before advertising for alternative and perhaps competitive proposals. If the County determines not to proceed, then the County shall send a letter to the Proposer and return THIRTY-FIVE THOUSAND AND NO/DOLLARS (\$35,000.00) of the application fee.

Under either scenario, once the County decides to advertise for alternative and perhaps competitive proposals, the manner and timing for said advertisement and competitive proposal process shall be in accordance with Section IV of these Guidelines. At the conclusion of the competitive proposal submission period, the County will commence Initial Stage evaluation of any competing proposals timely submitted. Upon completion of Initial Stage evaluation of the proposal(s), the County will identify those Respondents that meet the minimum criteria for the Proposed Project to inform them that they may continue the process. That process may require submission of a Detailed Proposal from the Respondents and, if not already provided by the unsolicited Proposer, a Detailed



Proposal may be required from them as well. At that point, the County may commence a Detailed Stage evaluation in accordance with Section V of these Guidelines.

IV. COMPETITIVE PROPOSAL SUBMISSION. If the County determines it is interested in further considering any unsolicited proposal, it shall publish public a Notice of Receipt of same and invite competing bids during a competitive bidding period. Said period shall be not less than twenty-one days (21) and shall be of a duration the County shall specify in its sole and exclusive option, up to one-hundred twenty (120) days. The public Notice of Receipt shall minimally state the County has received an unsolicited proposal and will accept bids for the same type of project or concept. If more than one unsolicited proposal is received for the same or similar project or concept, only one public notice shall be required for the Proposed Project. At the County's sole and exclusive option, the public notice may provide more details to be required in responses thereto. The notice shall be posted on the County's website, published in the Florida Administrative Register and a newspaper of general circulation at least once a week for two weeks, and advertised in any other manner considered appropriate by the County to encourage competition and provide notice to Private Entities interested in submitting alternative and perhaps competing proposals. A copy of the notice will also be mailed to each local government reasonably identified as one that may be impacted by the Proposed Project. The no contact rule as set forth in Section 287.057(23), Florida Statutes, applies to each solicitation of competing proposal and all Respondents to the solicitation shall comply with Section 287.057(23), Florida Statutes.

Respondents submitting competitive proposals in response to the notice shall comply with any other requirements specified in the notice and pay an application fee of FIFTY THOUSAND AND NO/DOLLARS (\$50,000.00). The initial Proposer(s) shall also submit a proposal in response to the notice providing such further details about the unsolicited proposal as may be required by the notice. The initial Proposer shall receive a credit for its initial unsolicited proposal application fee. The County may require additional fees from the Proposer(s) or Respondent(s), due to extraordinary costs associated with the County's evaluation.

After the public notification and proposal submission period has expired, the County may determine:

- (1) Not to proceed further with any proposal/bids;
- (2) To proceed to the Detailed Stage with the initial unsolicited proposal(s) and all of the sufficient competitive proposals. Only proposals apparently complying with these Guidelines and containing information sufficient for meaningful evaluation shall be considered. The County shall directly notify a Respondent in the event its proposal does not meet this threshold and return THIRTY-FIVE THOUSAND AND NO/DOLLARS (\$35,000.00) of the application fee to the Respondent. Upon the receipt of the Detailed Proposals, the County shall rank the proposals received in order of preference. In ranking the proposals, the County may consider factors that include, but are not limited to, professional qualifications, general business terms, innovative design techniques or cost-reduction terms, finance plans, and any other factor determined by the County. Part of the ranking process, at the County's discretion, may require submission of a



Detailed Proposal for evaluation by the County from every Proposer and Respondent whose proposals the County may consider. The Detailed Proposals shall supplement the Initial Proposal. Detailed Proposals shall comply with the requirements of Section V of these Guidelines.

V. DETAILED STAGE EVALUATION AND INTERVIEWS WITH RESPONDENTS.

Some Proposed Projects may require more details from Respondent or Proposers and more evaluation by the County. On those projects, the County may request a Detailed Stage Evaluation before awarding a contract. On projects for which County has enough information from proposers in the Initial Proposal, the County may waive, or modify the Detailed Stage evaluation.

Each Respondent and/or Proposer submitting a Detailed Proposal or modified Detailed Proposal shall waive any reimbursement of the application fee. The County may require additional fees from the Proposer or Respondent, if a supplemental payment is required due to extraordinary costs associated with the County's evaluation.

If the County requests a Detailed Stage evaluation, then the County may require the Proposer or Respondent to provide any or all of the following information as part of a Detailed Proposal depending upon the Proposed Project's requirements or the information received thus far by the County in Initial Proposals or Responses to Notice of Receipt or other information as requested by the County:

(1) 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 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.

(2) Detailed analysis of the financial feasibility of the Proposed Project, including its impact on similar facilities operated or planned by the County or neighboring jurisdictions and include a detailed description of any financing plan for the project, comparing that plan with financing alternatives available to the County, 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.

(3) For each Private Entity participating on the Proposer 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 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 public/private partnerships and, finally, as many of its other most recent projects as possible. For each project identified, provide at least the following information:

(a) Client and Project Identification:



1. Client's name, project name and project location;
2. Primary contact name, address, telephone and fax numbers, and e-mail address of the client;
3. The role of the Private Entity in the project; and
4. Project description, including year completed, type, size, unit mix and major tenants and their percentage of space plan allocation;

(b) Identification of 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

(c) A description of the extent of public involvement in each of the public private partnership projects.

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

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

(5) 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.

(6) Identify all necessary permits and approvals to be obtained for the Proposed Project and how long the Respondent/Proposer anticipates it taking to secure same.

(7) 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 Respondent/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.

(8) To the greatest extent possible, the Respondent/Proposer must describe the operational and management plan for the Proposed 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 Respondent/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.

(9) Identify the sources and amount of debt and equity to be used to capitalize the Proposed Project and the relationships of the funding sources to the project (e.g., outside lender, parent company, institutional lender, private placement funding, etc.).

(10) 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 Proposal.

(11) Identify any parcels of land that must be acquired for the Proposed Project, the anticipated means for acquiring same and all projected costs, both hard and soft, necessary to acquire same. Also specify the anticipated timing for acquisition.

(12) Identify all assumptions underlying the proposal.

(13) Indicate opportunities that exist for increasing cost savings beyond the initial proposed financial plan.

(14) Outline the financial penalties, if any, that would result should the Respondent/Proposer fail to meet certain identified performance standards and milestones.

(15) Identify any work required from or otherwise to be performed by the County.

(16) Identify any restrictions on the County's use of the Proposed Project.

(17) Identify any federal, state, or local resources or commitment the Respondent/Proposer contemplates requesting for the Proposed Project.

(18) Identify any special use of technology or innovations and efficiencies in project design, construction, operations and/or maintenance.

(19) Identify all impacts on the County's debt burden.

(20) State the estimated project cost to the County over the Proposed Project's life cycle.

(21) Identify the ratio of debt to equity in the Proposer's financing plan and discuss the stability and terms of loans and investments.

(22) Project the number and value of subcontracts generated for area subcontractors and/or small or minority business enterprises.

(23) Identify any anticipated adverse social, economic, environmental and transportation impacts of the Proposed Project measured against the County's Comprehensive Plan and any applicable ordinances. Specify the strategies or actions to



mitigate known adverse impacts of the Proposed Project. Indicate if necessary environmental assessments have been completed.

(24) Any information identified in the Initial Proposal that was deferred to the Detailed Proposal or which the County has identified as needing further development or assessment.

(25) Design criteria anticipated for the Proposed Project as may be requested by the County, including, but not limited to, finishes for the structure and materials and details of LEED compliance.

(26) Additional material and information as the County deems appropriate.

VI. RESPONSES TO COUNTY SOLICITATIONS. Responses to Solicitations shall comply with all requirements of the soliciting document (Notice of Receipt) and any applicable laws, statutes, rules, regulations, guidelines, and ordinances pertaining thereto.

VII. INTERIM AND COMPREHENSIVE AGREEMENTS.

A. General. Before entering into the negotiation of an Interim or Comprehensive Agreement, the County will designate specific County 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 County's review, approval, and control of project design and performance standards for construction, operations, and maintenance, for which compensation to the Contracting Person may be adjusted should the performance standards not be met. Terms will also include the County'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 Person 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 County deems appropriate for the Proposed Project. Timelines for the negotiation with the Proposer or Respondent will be developed consistent with the scope and timing of the Proposed Project.

Any Interim or Comprehensive Agreement shall define the rights and obligations of the County and the Contracting Person with regard to the Proposed Project. Prior to entering into a Comprehensive Agreement, an Interim Agreement may be entered into that permits a Respondent/Proposer or other Private 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 project's feasibility. The Interim Agreement is a discretionary step, not necessary in all cases, but available should the County determine more investigation or due diligence is necessary about the Proposed Project before entering into a Comprehensive Agreement. The County 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 Project, the Respondent/Proposer shall enter into a Comprehensive Agreement with the County.



Any changes in the terms of an Interim or Comprehensive Agreement, as may be agreed upon in writing by the parties from time to time, and in order to be enforceable shall be added to the Interim or Comprehensive Agreement only by written amendment. Verbal changes shall not be enforceable against the County. No act or omission or verbal representation or statement shall be treated as an expressed or implied waiver of this requirement and all waivers shall be in writing signed by the party who is alleged to have waived any of the terms and/or conditions of the Agreement. The requirements of this paragraph in particular, shall not be modified, amended or waived except in writing signed by both parties. A Comprehensive Agreement may provide for the development or operation of separate phases or segments of a Proposed Project. Parties submitting bids/proposals understand that representations, information and data supplied in support of, or in connection with, proposals play a critical role in the competitive evaluation process and the ultimate selection of a proposal by the County. Accordingly, as part of the Comprehensive Agreement, the Respondent/Proposer and its team members shall certify that all material representations, information and data provided in support of or in connection with a proposal are true and correct. Such certifications shall be made by the Respondent/Proposer's authorized representative who shall be an individual who has knowledge of the information provided in the proposal. If material changes occur with respect to any representations, information and data provided for the proposal, the Respondent/Proposer shall immediately notify the County of same in writing. Notwithstanding any language contained within the Interim or Comprehensive Agreement, any violation of this Section shall give the County the right to terminate the Agreement, withhold payment, if any is due, and seek any other remedy available under the law.

Before awarding a Comprehensive Agreement, the County shall hold a public hearing on the proposal to be awarded. The County may also make available to the public any proposed Comprehensive Agreement before approving same by posting the Agreement on the County's website or by any other manner considered appropriate by the County to provide notice to the public.

The County reserves the right at all times to reject any or all proposals at any time before signing a Comprehensive Agreement for any reason and may decline to pursue the Proposed Project. In the latter event, the County may accept new proposals for the Proposed Project should the County choose to restart the process at a later date. Discussions between the County and Private Entities about needed infrastructure, improvements, or services shall not limit the ability of the County to later decide to use standard procurement procedures to meet its infrastructure needs, whether the project will be a public/private partnership or not.

B. 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 Respondent/Proposer, if any, under an Interim Agreement shall be negotiated and specifically referenced in the Interim Agreement.

C. Comprehensive Agreements. The Board of County Commissioners must approve any Comprehensive Agreement entered into pursuant to the P3 Program between the County and a Contracting Person before the Agreement becomes enforceable. The County shall accept no liability for development or operation of a Proposed Project before entering into a Comprehensive Agreement. Each Comprehensive Agreement shall define the rights and obligations of the County and the Contracting Person regarding the Proposed Project. The terms of the Comprehensive Agreement shall be tailored to address the specific Proposed 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, maintenance, or operation of the Proposed Project;
- (2) The County's review and approval of the design of the Proposed Project;
- (3) The rights of the County 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 Person and/or liquidated damages due from the Contracting Person 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 Project, including design, construction, and operations;
- (5) The services to be provided by the County and the terms of compensation due the County 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 Person, including the conditions governing assumption of the



duties and responsibilities of the Contracting Person by the County and the transfer or purchase of property or other interests of the Contracting Person by the County;

(7) The terms under which the Contracting Person will file, with the County, financial statements pertaining to the Qualified Project;

(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.

(11) Classifications according to reasonable categories for assessment of Fees;

(12) The terms and conditions under which the County will contribute financial resources, if required for the Proposed 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 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 County; and

(16) Other requirements of the P3 Program or applicable law or that the County deems appropriate.

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

(a) The Contracting Person will be expected to assume singlepoint responsibility and liability for all planning, designing, financing, constructing, operating, and maintaining the Proposed Project.

(b) 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 Person in the Comprehensive Agreement.

(c) The County encourages the Contracting Person 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 may be incorporated in the Comprehensive Agreement.

(d) The County may require that one or more of the Private Entities and/or their principal members provide performance guaranties of all obligations undertaken in the Comprehensive Agreement. This requirement would be in addition to the statutory



requirement for a performance and payment bonds and any other performance security required by the Comprehensive Agreement. Private Entities interested in entering into a public-private partnership with the County under the P3 Program must be willing to provide this security if deemed necessary by the County.

VIII. SOLICITED PROPOSALS. Reserved.

IX. GOVERNING PROVISIONS.

(1) In the event of any conflict between these Guidelines and the County Charter, or any federal, state, or County law or administrative authority, the terms of the respective Charter, laws or administrative rules and regulations shall control.

(2) The provisions and requirements of these Guidelines shall apply to Unsolicited Proposals and solicitations pursuant to a Notice of Receipt for P3 Projects by the County, unless otherwise provided in the solicitation.

X. AUTHORITY. Resolution 2017-R-186 adopted December 12, 2017