

City of Gainesville, Florida

Unsolicited Proposal Process

Section 1 - Definitions

1. "City" means City of Gainesville, Florida
2. "Manager" - City Manager or General Manager of GRU
3. Unsolicited Proposal – An unsolicited proposal, for the purpose of this Document:
 - a. Is independently originated and developed by the offeror;
 - b. Is prepared without City supervision, endorsement, direction, or direct City involvement;
 - c. Includes sufficient detail to permit a determination that City support would be in the public interest
 - d. Is not an advance proposal for a known City requirement that can be acquired by competitive methods, and
 - e. Does not address a previously published City requirement.
4. An Unsolicited Proposal should be distinguished from the following:
 - a. Advertising or Promotional Material: Material designed to acquaint the City with a prospective proposer's current products or potential capabilities, or designed to determine City's interest in procuring such products or services.
 - b. Contributions: Concepts, suggestions, or mere ideas presented to the City for use, with no indication on the part of the offeror that it will continue in its efforts with regard to such concepts, suggestions, or ideas on behalf of the City.
 - c. Technical Correspondence: Written inquiries regarding the City's interest in developing infrastructure projects, preproposal explorations, technical inquiries and research proposals.

Section 2 - Process

1. Any person or legal entity may submit an unsolicited proposal for the design, construction, operation, ownership, acquisition, or leasing of public infrastructure or a qualifying public project (as defined in Florida Statute 255.065*), which unsolicited proposal will be governed by this City process.
2. The City shall require a non-refundable processing fee of [_____] \$25,000. ~~This same fee will be required for any subsequent competing proposals that are submitted for review.~~
3. An additional cost may be charged which will be based upon the level of expertise deemed necessary by City to review the proposal, and will not be greater than the direct costs which are associated with evaluating the unsolicited proposal. Direct costs may include, but are not limited to: 1) the cost of City staff time required to process, evaluate, review and respond to the proposal; and (2) the costs of consulting attorneys, engineers, and financial advisors. Should the project proceed beyond the initial review, and be published for competition, additional fees may be charged as agreed to by the parties. Failure on the part of the private entity to provide such additional fees within thirty (30) days of receipt of the City's written

request for payment may result in the City stopping any further review or consideration of the unsolicited proposal until the fees are paid.

4. Upon receipt of an unsolicited proposal and payment of the required fee, the Manager shall note the date and time of receipt and shall determine, within 90 days, whether to move forward with the City's unsolicited proposal process. The Manager will accept (and move forward) or reject the unsolicited proposal based upon the following criteria:

a. Whether the proposal/project is in the public's best interest;

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~~a.b.~~ The cost of the proposal/project and their funding sources;

~~b.c.~~ Whether the proposal/project may be accomplished through the use of City resources and any "but for" related analysis;

~~c.d.~~ The need for the proposal/project;

~~d.e.~~ The scientific, technical, socioeconomic merits of the proposal;

~~e.f.~~ The contribution of the proposal/project to the City's goals/objectives;

~~f.g.~~ The qualifications, the technical, financial and management capabilities, and the experience of the proposer considered both as a whole as well as in terms of any legal entities who may comprise the proposer, inclusive of any sub-contractors;

~~g.h.~~ The general reputation of the proposer and any team members;

~~h.i.~~ The proposer's financial capacity to perform its obligations in a proposed contract;

~~i.j.~~ The financial viability and feasibility of the submitted proposal;

~~j.k.~~ The cost, if any, to proceed with implementation of the proposal and any other information the City deems appropriate for such initial evaluation;

~~k.l.~~ The adherence of the unsolicited proposal(s) to other City procurement policies and applicable ordinances.

5. In order for the Manager to make such determination, any unsolicited proposal shall contain, at minimum, the following items as appropriate to the proposed project:
 - a. Sufficient information and supporting documentation which will allow the City to evaluate the criteria listed in section ~~4(d)~~ above;
 - b. A statement as to how the project will support the goals of the City and the public's best interest including a detailed business plan outlining how the project meets a public need in the City and how the project will be executed to meet that need.
 - c. A site plan indicating the location of the proposed project;
 - d. A description of the project, including a conceptual design or architectural rendering of the public infrastructure which is to be completed;
 - e. A proposed schedule for development of the project, together with any proposed terms for operation and an estimate of the life cycle of the proposed project;
 - f. A statement setting forth a method by which the private entity proposes to secure any property interests required for the proposed project;

- g. A statement setting forth the proposer's plans for developing, financing, constructing, and/or operating and maintaining the project, including the identification of any revenue, public or private proposed debt or equity investment proposed by the proposer. The financing plan shall address any and all means by which the costs of the project will be borne by persons other than the City;
 - h. Names and addresses of persons who may be contacted for further information concerning the proposal;
 - i. Names of the project team, an organizational chart, resumes, and references including contact information;
 - j. A financial plan for the entire time period of the proposed private entity involvement in the project. A detailed, professional, investment-grade financial pro forma including income statement and balance sheet is required;
 - k. A detailed narrative outlining its experience in developing, operating, and maintaining projects similar to the one proposed;
 - l. Performance guarantees, if any, and any proposed bonding to be provided by the proposer;
 - m. The names of owners, directors and officers of the proposer, and such information as may be necessary to evaluate the qualifications of the critical personnel to be engaged in the project;
 - n. A list of all engineering, construction firms and consultants proposed to be employed on the project, together with their qualifications and a description of their role in the proposal;
 - o. A listing of all proposed obligations and requirements of the City and any other governmental agencies, including, but not limited to, contributions to the project financing, staffing and permitting;
 - p. Such additional material and information a responsible public entity may reasonably expect, in order to review and evaluate such proposal.
6. The City may seek the advice of internal staff or external advisors, attorneys or consultants, or any combination thereof, whose relevant experience can assist the City in determining whether to accept the unsolicited proposal for competitive publication.
7. If a proposal is not deemed by the City to be complete or in sufficient detail it may be rejected ~~at the sole discretion of the Manager~~by the City Commission. If rejected, the Manager shall inform the proposer in writing of the reason for the rejection and shall provide the proposer a copy of the item explaining the reason for rejection ~~with notification to the City Commission~~. It is not the intent or the obligation of the Manager to assist the proposer in completing the proposal and the Manager shall bear no responsibility to itemize or advise the proposer on the incomplete items or terms of the proposal.
8. If the City decides to accept an unsolicited proposal for competitive review, the City will follow the procedural notice requirement as provided in 41-500 of the City's Procurement Procedures.
9. Final ratification ~~of Manager's determination~~ of whether to accept or reject an unsolicited proposal and to publically publish a 'Notice of Receipt of an Unsolicited Proposal' shall be

made by the City Commission. Following a determination of acceptance or rejection, the Manager shall respond to the proposer in writing as to the acceptance or rejection of the unsolicited proposal.

10. If the City accepts the unsolicited proposal for publication of a "Notice of Receipt of an Unsolicited Proposal", then the Manager shall publish a notice on the City's website and in a newspaper of general circulation stating that the City has received an unsolicited proposal. The "Notice" will be posted for minimum of 21 working days and a maximum of 120 working days (dependent on the complexity of the proposal) ("the Response Period") after the initial date of publication. Such period may be extended by the City Commission based on a request from the Manager explaining why a longer response period is in the best interest of the City. The Manager shall identify the procedures that will be utilized for evaluating the proposals in the Notice of Receipt of an Unsolicited Proposal. Once the City decides to receive competing proposals it may utilize its existing proposal evaluation procedures for evaluating proposals or may adopt project specific procedures.
11. Proposal documents submitted by private entities are public records under Chapter 119 Florida Statutes, subject to any exemption otherwise provided by law. Processing of any public records shall be handled in accordance with existing procedures governing the handling of public records.
12. After the Response Period has expired, the City Manager shall within forty-five work days (45) days, or longer, as specified in the advertisement, evaluate all competing proposals and rank them in order of preference utilizing the criteria published for the specific proposal/project. The Manager's ranking shall be subject to ratification by the City Commission.
13. Upon City Commission ratification, the Manager shall negotiate with the top ranked proposer(s) and may through such negotiations, arrive at a mutually satisfactory agreement.
14. The City may negotiate with the top-ranked proposers in the order of their ranking, and may through such negotiations, aim to arrive at a mutually satisfactory agreement.
15. If only one proposal is received, the City may negotiate in good faith with the one proposer and if not satisfied with results, may at its discretion terminate negotiations with the proposer.
16. No proposer is guaranteed an award of contract as a result of being favorably ranked for ~~this~~ a project. The issuance of an unsolicited proposal shall create no rights in the proposer including rights as a bidder, under contract or intellectual property: The City in its discretion, reserves the right to reject all proposals at any point in the process prior to the full execution of a contract with a proposer.

* Section 255.065 of the Florida Statutes, Public-Private partnerships; public records and public meeting exemptions, is the basis for this unsolicited proposal process.