



Legislation Text

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City of Gainesville - Unsolicited Bid Proposal Process (B)

This item seeks City Commission approval of a pilot *unsolicited bid proposal process* for the City of Gainesville.

The City over the past several months has received several unsolicited proposals for review. The City Commission made a motion on June 17, 2021 (Agenda #210090) for Staff to bring back unsolicited proposal process for their review.

At the February 10, 2022 GPC, Staff presented a draft policy and gathered feedback from City Commission. Action items for further research included:

- Surveying other cities in Florida on their unsolicited proposal process including structure and fee methodology
- Considering a multi-step process for unsolicited proposal review
- Including a reduced or waived fee for non-profit organizations
- Streamlining data criteria for proposals

The following contains additional context regarding public-private partnerships and the Florida Statutes that governs that process and overview of an updated draft policy incorporating the City Commission's feedback.

History of Public Private Partnership in Florida

In 2013, House Bill (HB) 85 passed the legislature. This law standardized the public-private partnership "P3" process and created a statutory framework that local governments must adhere to when procuring a P3, which is extremely prescriptive. In standardizing the P3 process, the legislation preempted local governments from following their current P3 procurement procedures and eliminated the flexibility necessary to negotiate and contract with private entities in a manner that is most appropriate for that specific project. The flexibility to negotiate the terms of P3 contracts is paramount when considering the complexities of large-scale projects that often draw on various funding sources and involve teams of developers, investors and contractors.

During the 2015 legislative session, HB 63 and Senate Bill (SB) 824 were filed to implement a majority of the recommendations made by the P3 Task Force. Provisions favorable to cities included increasing flexibility in contracting for P3s by allowing contracting timelines to be extended in certain situations and clarifying authority to local governments to require unsolicited bids to be accompanied with a fee to cover the costs of reviewing the proposal.

In 2016, SB 124 amended the statutory framework that local governments must adhere to when engaging in public-private partnerships. The legislation provided supplemental authority to local governments, thereby allowing cities to rely on Home Rule authority to enter into P3 agreements or follow the process in Florida Statutes. This crucial change encourages cities that have not undertaken a P3 project in the past to follow the Florida Statute but allows those experienced in this procurement method to rely on their established procedures. Finally, the legislation authorizes local governments to collect a fee, as determined by local ordinance, to cover

the costs associated with reviewing unsolicited proposals.

Florida Statute 255.065 gives rules and guidelines on Public Private Partnership procedures. The current legislation is included with this agenda item as Attachment A.

Research

Staff from the Procurement Divisions of General Government and GRU, the City Manager's Office, the City Attorney's Office, and the Department of Sustainable Development Economic Opportunity and Special Projects Planning Division have reviewed unsolicited proposal processes from other cities, agencies and the Florida Statutes relative to public private partnerships (F.S. 255.065). Information was collected from 22 entities including 14 local governments, 4 counties, a utility agency, a transit agency, an aviation agency, and a university:

- Alachua County, FL
- City of Coral Springs, FL
- City of Ft. Lauderdale, FL
- City of Hollywood
- City of Jacksonville
- City of Lake City, FL
- City of Miami
- City of Miramar
- City of Palm Bay, FL
- City of Pembroke Pines
- City of South Miami, FL
- City of Tallahassee, FL
- Collier County, FL
- City of Tampa, FL
- Escambia County, FL
- Emerald Coast Utilities Authority, Pensacola, FL
- Hillsboro County Aviation Authority, FL
- University of North Florida
- City of Augusta, Georgia
- City of Chesapeake, VA
- Multnomah County, Oregon
- Seattle Washington Transit System

A summary table of the results of this research is included with this agenda item as Attachment B. Some high level takeaways include:

- Ten of the 14 agencies in Florida followed Florida Statute 255.065 for public-private partnership proposals.
- The fees charged ranged from no cost up to \$25,000.
- The estimated average fee, based on those that included one, was \$19,400.
- None of these agencies included a non-profit waiver for fees.

City of Gainesville Unsolicited Proposal Process

The City of Gainesville wishes to encourage investment in the City by private entities to facilitate funding sources for the development of public projects and to provide for the greatest flexibility in contracting for

public projects under Florida Statute 255.065. In order to promote efficient and effective use of the P3 method of project delivery, Staff recommends that the City Commission adopt a policy and uniform procedures to be used by both the City and private entities for the procurement of such projects.

The recommended policy (Attachment C) includes the following components:

- Differentiation between an unsolicited conceptual and detailed proposal, and the required information needed by the City to consider either proposal;
- Phased fee approach for unsolicited conceptual and detailed proposals, including ability for the City to waive fees for nonprofit organizations;
- Detailed description of steps for submitting a conceptual and detailed unsolicited proposal;
- Description of competitive review process including Evaluation Team criteria; and
- Description of negotiation process if unsolicited proposal is chosen by the City Commission for implementation, including Negotiation Team criteria

Regarding the fee structure, Staff calculated a blended rate for an Evaluation Team that will consist of representatives from the following departments: Financial Services, Government Affairs & Community Relations, Strategy, Planning and Innovation, Sustainable Development, subject matter experts, and a representative from the Office of Equity and Inclusion. Based on a conservative 216 hours to review unsolicited proposals, it is estimated that the blended administrative costs equal just over \$16,000.

Staff recommends that the conceptual proposal include a review fee of \$1,000 and the detailed proposal a review fee of \$5,000. These fees represent a significantly discounted administrative review fee compared to estimated administrative costs of \$16,000 to review submissions.

Staff recommends a waiver of the fees for a conceptual and/or detailed proposal for non-profit organizations in the following focus areas: affordable housing, economic development, and projects within the Gainesville Community Reinvestment Area.

It is also recommended that Staff review the impact of this policy and the process described over the next six months. If it is determined that changes are needed, the policy can be modified and updated at the end of the pilot period.

Strategic Connection: Goal 1: Equitable Community

The proposed policy supports a phased fee approach for the review of unsolicited proposals and reserves the right for the City to charge additional fees if necessary to cover the costs of processing, reviewing, and evaluating any unsolicited proposal; including a fee to cover the costs of attorneys, architects, engineers, consultants, and financial advisors incurred by the City for review and response to the unsolicited proposal.

The City Commission: 1) hear a brief presentation; 2) approve the proposed policy for implementation as a six month pilot program.

