

# Public-Private Education Facilities and Infrastructure Act Guidelines

City of Alexandria

September 28, 2022

*Version 2.0*



Document history

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Rev 1.0	Clarifications for solicited projects that do not involve private investment and other minor clarifications. (Docket Item 23-0292)	Julian Gonsalves	Lindsay Dubin	Emily Baker	City Council	09/28/22

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## I. Introduction

The Public-Private Education Facilities and Infrastructure Act of 2002 (Va. Code § 56-575 et seq.) (“PPEA”) authorizes the City of Alexandria to enter into public-private partnership agreements to develop needed qualifying projects in a more timely and/or less costly manner.

Private entities may include innovative technical and financing methods in their proposals and shall be strictly accountable for their representations and information.

All definitions including information regarding the definition of qualifying projects eligible for project consideration under these guidelines, affected jurisdictions, applicability of the Virginia Freedom of Information Act (Va. Code § 2.2-3700 et seq.) (“FOIA”) to submissions, the City’s reservation of rights, conditions on use of public funds, and applicability of other laws can be found in **APPENDIX A. General Provisions** of these guidelines.

These guidelines are intended to supplement, and enable the City to comply with, PPEA’s requirements. If these guidelines and the PPEA conflict, the terms of the PPEA control. These guidelines shall govern all City PPEA projects and shall apply to all City agencies, boards, commissions, and committees. These guidelines are not applicable to independent political subdivisions of the City including but not limited to the Alexandria Redevelopment and Housing Authority, AlexRenew (formerly known as the Alexandria Sanitation Authority), and Alexandria City Public Schools. Submissions may be made that are for a “mixed” project (for example, projects including both an independent political subdivision and the City), where, for certain components, the independent political subdivision may be the responsible public entity, and for certain components, the City may be the responsible public entity.

## II. Requests for City Approval

### A. Unsolicited Conceptual, Competing Conceptual, and Solicited Proposals

A private entity must obtain the City’s approval for PPEA projects or services. See Va. Code §§ 56-575.3(A); 56-575.4. The private entity may seek the City’s approval by submitting proposals on an unsolicited basis or solicited basis.

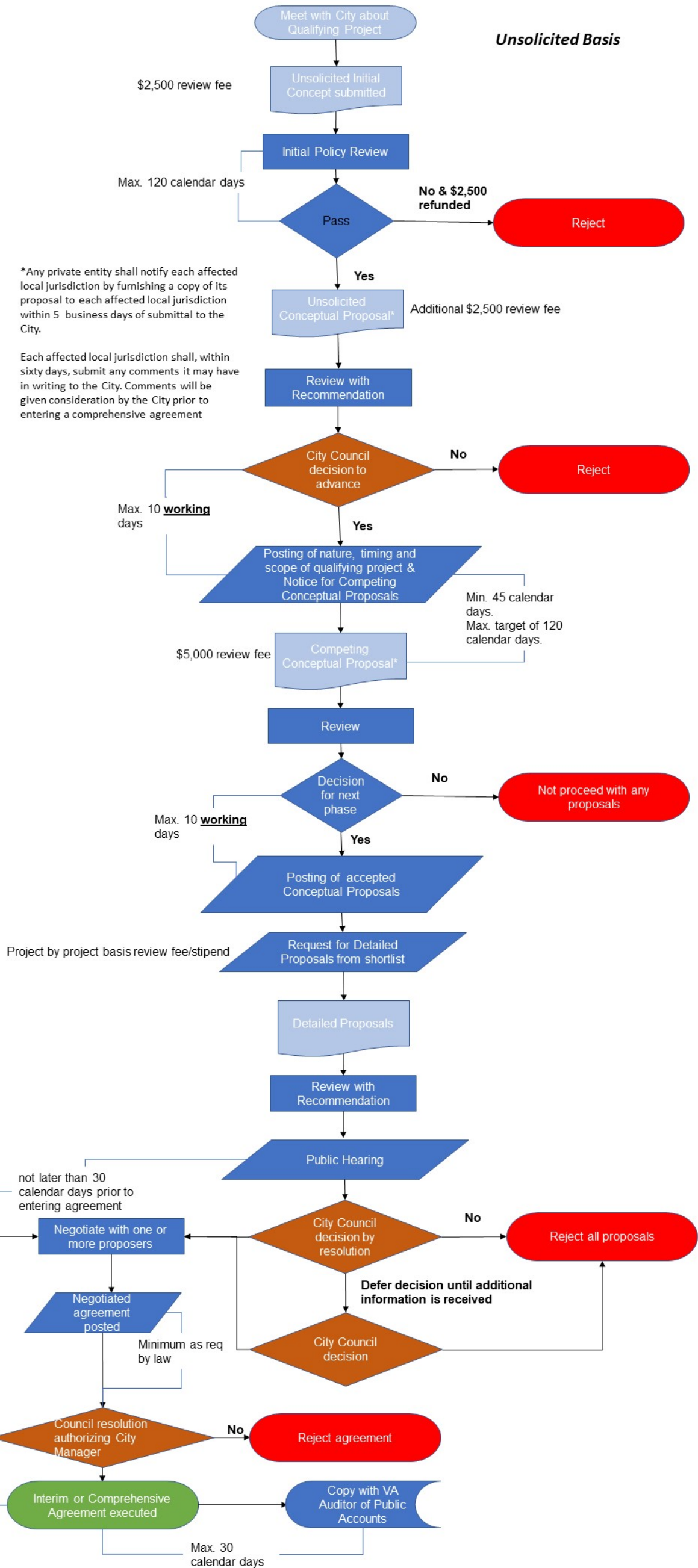
### Unsolicited Basis

If the City has not issued a solicitation pursuant to the PPEA for a specific project, a private entity must first meet with the City about a Qualifying Project as a prerequisite to submission of an **unsolicited initial concept**. For the purposes of these guidelines, a submission on an unsolicited basis is not an offer responding to the City's previously published Request For Expression of Interest (RFEI), Request for Quotes (RFQ), Request for Qualifications (RFQu), Request for Proposals (RFP), Invitation to Bid (ITB), ordinance soliciting franchise proposals, or a City held project specific Industry Forum. After such initial meeting, a private entity may then submit to the City an unsolicited initial concept which shall contain the information required in **APPENDIX B. Required Information for Unsolicited Initial Concept**. If the City Manager or designee determines not to accept the unsolicited initial concept at this phase, the City Manager or designee will notify the private entity and City Council, with an explanation of why no further consideration is warranted, and return the submission along with any accompanying documentation. Upon review of the private entity's unsolicited initial concept submission, the City Manager or designee may choose to accept an unsolicited conceptual proposal for consideration and will so notify the applicant of the decision. The private entity may then submit an **unsolicited conceptual proposal** for approval. See Va. Code § 56-575.4(A).

If the City receives an unsolicited conceptual proposal, the City will review the unsolicited conceptual proposal and the City Manager or designee will provide a recommendation to City Council with respect to such unsolicited conceptual proposal. See Va. Code § 56-575.3(C). If City Council decides to not advance the process, the City shall notify the private entity with an explanation of the decision. If the City Council decides to advance the process, the City shall publish notice regarding the nature, timing, and scope of the qualifying project, and seek **competing conceptual proposals** from other private entities. See Va. Code § 56-575.3:1(B)(11).

Figure 1. depicts steps taken as a part of the unsolicited process.

Figure 1 Unsolicited Process Flowchart

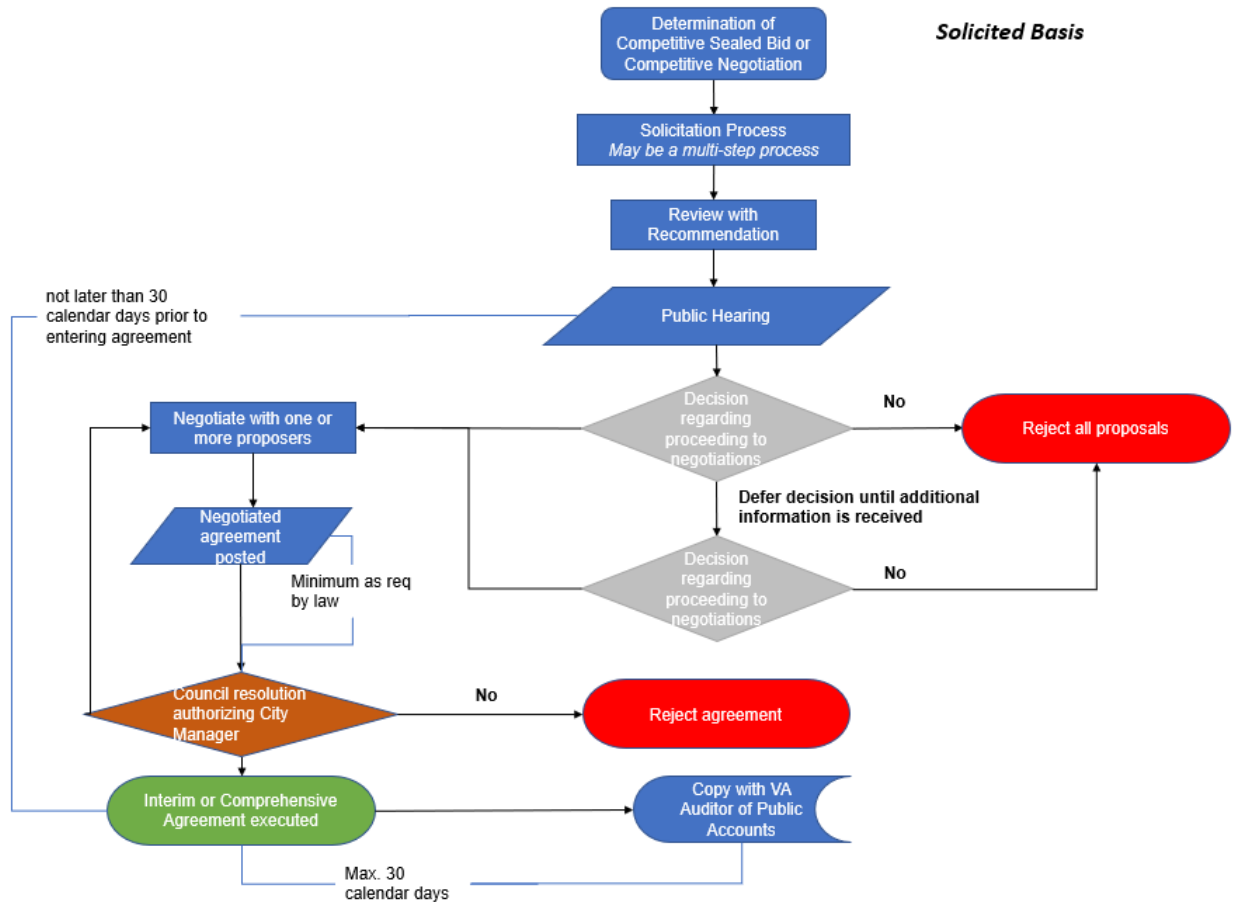


*Solicited Basis*

The City may seek PPEA proposals by issuing a solicitation. See Va. Code § 56-575.4(B). If the City has issued a solicitation pursuant to the PPEA, a private entity may submit a proposal which shall be treated as a **solicited proposal**. The City will set forth in the solicitation the format and the supporting documentation that is required to be submitted, consistent with the provisions of the PPEA. The City may use a multi-step solicitation process. In the case of such a multi-step solicitation process - for the purposes of these guidelines - the term “solicited proposals” includes both interim submissions, such as statements of qualifications, and the proposals themselves. Interim submissions subsequently would be evaluated to create a shortlist for the second phase of the procurement process. Figure 2 depicts illustrative steps taken as a part of the solicited process.



**Figure 2 Illustrative Solicited Process Flowchart\***



\* Refer to solicited process sub-sections within Sections II, III, VI to XII for more specific details on the solicited process.

Depending on the nature of the solicitation, City Council resolution regarding substantially final form of agreement could occur at an earlier stage in the process subject to PPEA statute requirements.

## B. Choice of Procedures

For PPEA projects, the City shall determine whether to use procedures consistent with competitive sealed bidding or with competitive negotiation of “other than professional services.” See Va. Code § 56-575.16(1) and (2). If the City elects not to use competitive sealed bidding for a PPEA project, the Purchasing Agent shall state in writing the reasons for using competitive negotiation before (1) the City issues a solicitation in accordance with Part II(A) or (2) City Council decides to advance the process in accordance with Part II(A) and Part IV(A).

## C. Advisory Committee

The City Manager or designee shall designate a project specific PPEA Advisory Committee (the “Advisory Committee”) to evaluate unsolicited initial concepts

and/or proposals and consult with, and make recommendations to, the City Manager or designee.

After consulting with the City Manager or designee, the Advisory Committee shall coordinate City employee analysis of the specifics, advantages, disadvantages, and the long- and short-term costs of proposals. However, the City Manager or designee may determine that such analysis shall be performed by outside qualified professionals who are not City employees. These professionals may include, but are not limited to, cost estimators, architects, professional engineers, technical advisors, transaction advisors, legal counsel, financial advisors, or certified public accountants not employed by the City.

### III. Proposals

#### A. General Submission Requirements

Whether submissions are made on a solicited basis or unsolicited basis, each submission shall be clearly identified as a “PPEA SUBMISSION.”

For solicited proposals, private entities should submit the number of copies required by the solicitation to the Purchasing Agent or designee.

For unsolicited initial concepts, private entities shall submit an electronic copy ([P3@alexandriava.gov](mailto:P3@alexandriava.gov)) to the City Manager’s Office along with the applicable fee and submit one original and two copies as well (City Manager’s Office, 301 King Street, Suite 3500, Alexandria, Virginia 22314) for any submissions greater than 25 pages. The private entity can make the payment via cashier’s check or electronically. If the private entity makes the payment via cashier’s check, the cashier’s check should be made out to “City of Alexandria” and addressed to City Manager’s Office, 301 King Street, Suite 3500, Alexandria, Virginia 22314 with “PPEA Submission c/o CMO” noted in the memo line. If the private entity makes the payment electronically, the private entity should request for electronic payment details via [P3@alexandriava.gov](mailto:P3@alexandriava.gov) when it submits the unsolicited initial concept. The City shall not review the unsolicited initial concept until the applicable fee is received.

For proposals submitted on an unsolicited basis, private entities shall submit to the Purchasing Agent or designee an electronic copy along with the applicable fee, and submit one original and two copies as well for any submissions greater than 25 pages. Specific details including mailing address, site to upload such electronic proposals, and methods to pay applicable fees shall be documented in communication/notice from the Purchasing Agent or designee.

## B. Review Fees and Stipends

### Review Fees

The PPEA authorizes the City to charge fees to cover the costs of processing, reviewing, and evaluating submissions, including reasonable attorney's fees and fees for financial, technical, and other advisors or consultants.

**Solicited Basis.** When the City issues a solicitation for PPEA proposals, private entities are not required to submit an initial consideration fee.

**Unsolicited Basis.** For such submissions, private entities shall pay the following fees:

- a. An initial consideration fee paid with certified funds shall accompany any unsolicited initial concept or unsolicited conceptual proposal, in accordance with the Fee Schedule below.

#### FEE SCHEDULE:

Review Phase	Fee
Unsolicited Initial Concept	\$2,500
Unsolicited Conceptual Proposal	\$2,500

If the City Manager or designee makes a determination to not accept the Unsolicited Initial Concept, the City shall return the unsolicited initial concept consideration fee of \$2,500 to the private entity.

- b. If the City accepts an unsolicited conceptual proposal for consideration and seeks competing conceptual proposals, competing proposals must be submitted with payment of \$5,000 as the initial consideration fee.
- c. If an unsolicited conceptual and/or competing conceptual proposals are advanced to the detailed review phase, the City shall make a determination on a project by project basis whether to charge a detailed review fee to cover the costs of processing, reviewing, and evaluating submissions. The detailed review fee shall accompany the private entity's detailed proposal and shall be paid with certified funds.
- d. The City Manager or designee has discretion to refund all or part of these proposal review fees to all private entities during the initial consideration or detailed review phases.

### Stipends

During the detailed review phase, the City Manager or designee is authorized to issue stipends to private entities as determined to be appropriate in the City Manager or designee's discretion based upon the nature and scope of the project to be used for development. There is no requirement that the City Manager or designee offer a stipend.

The City Manager or designee is authorized to include the cost of the stipend as a transaction cost to the PPEA project and require the selected private entity to refund the City or pay the unsuccessful private entities directly for the stipend.

## C. Required Information in proposals submitted on a Solicited Basis

The solicitation shall specify the information that must accompany each submission and the factors to be used for evaluation. The Purchasing Agent or designee shall post the solicitation in public areas normally used for posting of the City's notices, including the City's procurement website. The Purchasing Agent or designee may also publish notice of the solicitation in newspapers or other publications of general circulation. Pre-proposal conferences may be held as the Purchasing Agent or designee deems appropriate.

Solicited proposals shall address and meet all requirements of the solicitation and the PPEA statute.

## D. Required Information in proposals submitted on an Unsolicited Basis

### Unsolicited Conceptual and Competing Conceptual Proposals

Unsolicited conceptual proposals and competing conceptual proposals shall contain the information required in **APPENDIX C. Required Information for Unsolicited and Competing Conceptual Proposals** unless waived by the City Manager or designee. See Va. Code § 56-575.4(A). The Purchasing Agent or designee's notice will document any such waivers in the provision requirements of certain information or require additional information in such proposals.

### Detailed Proposals

The required information, if applicable, for detailed proposals is listed in **APPENDIX D. Required Information for Detailed Proposals** unless waived by the City Manager or designee. See Va. Code § 56-575.4(A). The Purchasing Agent

or designee's notice will document any such waivers in the provision requirements of certain information or require additional information in the detailed proposals.

### E. Communication Protocol

When the City issues a solicitation for PPEA proposals, the authorized representatives and communication protocol shall be documented in the solicitation.

For unsolicited initial concepts, the City Manager's Office will serve as the City's point of contact. Upon review of the private entity's unsolicited initial concept submission, if the City Manager or designee makes a determination to accept an unsolicited conceptual proposal for consideration, the Purchasing Agent or designee and City Manager's designee shall then be assigned as the City's authorized representatives during the unsolicited process. The authorized representatives shall be the only sources of information regarding the process, and may request information that clarifies or supplements a proposal.

## IV. Consideration of Unsolicited Conceptual Proposals and Solicitation of Competing Conceptual Proposals

- A. Upon review of a private entity's unsolicited initial concept, the City Manager or designee may choose to consider an unsolicited conceptual proposal and will so notify the private entity and City Council of the decision. After receipt of an unsolicited conceptual proposal, the Advisory Committee shall review the unsolicited conceptual proposal and draft its recommendation. The Advisory Committee through the authorized representatives may request additional information from the private entity prior to making its recommendation.
1. The City Manager or designee shall receive the Advisory Committee's recommendation and shall recommend to City Council whether the process should advance.
  2. The City Manager or designee and the City Council may choose to conduct deliberations in Executive Session as authorized by FOIA to protect the City's negotiating position, protect confidentiality, and the procurement integrity.
  3. In a public meeting, City Council shall make the final decision on whether the process should advance. If City Council determines to advance the process, it shall specify a reasonable time period during which competing conceptual proposals may be submitted after the Purchasing

Agent or designee posts notice of City Council's decision as provided in IV(B) and IV(C) below that shall not be less than 45 days per PPEA but not more than 120 days, unless a longer period is recommended by the City Manager or designee. If City Council decides not to advance the process, City Council shall specify the basis for the decision. See Va. Code § 56-575.3(D).

- B. If City Council decides to advance the process, the Purchasing Agent or designee shall post a notice within 10 days of City Council's decision on the City's procurement website and in a public area regularly used by the City for posting of public notices. The notice shall be posted allowing for at least 45 days for competing proposals to be filed. The Purchasing Agent or designee may also publish the notice in one or more newspapers or periodicals of general circulation in the City.
- C. The notice shall state a private entity's request for approval of a qualifying project, including (i) specific information and documentation to be released regarding the nature, timing, and scope of the qualifying project pursuant to subsection A of § 56-575.4 (ii) the City intends to further evaluate the unsolicited conceptual proposal, and (iii) the City will accept for simultaneous consideration any competing conceptual proposals that comply with these guidelines and the PPEA.
- D. Interested parties may submit competing conceptual proposals within the time period specified by City Council and listed in the notice.

## V. Posting and Inspection of Conceptual Proposals

As part of the unsolicited process, within 10 days of the City's acceptance of a conceptual proposal, whether unsolicited or competing, the Purchasing Agent or designee shall post the conceptual proposal on the City's procurement website. The Purchasing Agent or designee shall also make at least one copy of each conceptual proposal available for public inspection. In addition, the Purchasing Agent or designee may publish a summary of the proposals excluding proprietary confidential information and the location where a copy of the proposals excluding proprietary confidential information are available for public inspection on the City's procurement website and/or if it is deemed necessary in one or more newspapers or periodicals of general circulation in the City.

However, trade secrets, financial records, or other records of the private entity excluded from disclosure under state law shall not be posted or made available for public inspection unless the City and private entity agree otherwise. See Va. Code

§ 56-575.17(A)(2). Va. Code § 56-575.4(G) also imposes an obligation on the City to protect confidential proprietary information submitted by a private entity. When the private entity requests that the City not disclose information, the private entity must make a written request to the City. Please see *Virginia Freedom of Information Act and Confidential Proprietary Information* under **APPENDIX A. General Provisions**.

## VI. Review of Proposals

The Advisory Committee shall review solicited proposals, unsolicited conceptual proposals, and competing conceptual proposals considering, but not limiting such consideration to, any applicable criteria listed in **APPENDIX E. Proposal Evaluation Criteria**. The Advisory Committee shall recommend in writing one of the actions listed below to the City Manager or designee. Upon receipt of the Advisory Committee's recommendation, the City Manager or designee shall determine:

### For Unsolicited Basis:

- (i) not to proceed further with any proposal;
- (ii) to proceed to the detailed review phase with the original unsolicited conceptual proposal;
- (iii) to proceed to the detailed review phase with a competing conceptual proposal; or
- (iv) to proceed to the detailed review phase with multiple proposals.

### For Solicited Basis:

- (i) not to proceed further with any solicited proposal;
- (ii) to proceed to the detailed review phase with a solicited proposal; or
- (iii) to proceed to the detailed review phase with multiple solicited proposals.

The Purchasing Agent or designee shall give written notice to all private entities that submitted a proposal of the decision of the City Manager or designee and the City Manager or designee shall notify City Council of the decision.

## VII. Detailed Review Phase

If the City Manager or designee decides to proceed to the detailed review phase, the Purchasing Agent or designee's written notice to private entities that were shortlisted shall establish a reasonable deadline for submission of detailed proposals based upon the complexity of the project.

The Advisory Committee shall evaluate each detailed proposal considering, but not limiting such consideration to, any applicable criteria listed in **APPENDIX E. Proposal Evaluation Criteria**. After the Advisory Committee has reviewed the detailed proposals, it shall make its recommendations to the City Manager or designee.

### Unsolicited Process and Solicited Proposals that Involve Private Investment

City Council shall receive the City Manager or designee's recommendation and hold a public hearing on the detailed proposals. The public hearing shall be held at least 30 days before execution of an Interim or Comprehensive Agreement.

After the public hearing, City Council shall determine by resolution:

- (i) not to proceed further with any proposal;
- (ii) to defer a decision until it has received additional information from one or more private entities; or
- (iii) to proceed to the negotiation phase with one or more private entities.

### Solicited Proposals that Do Not Involve Private Investment

The City shall determine:

- (i) not to proceed further with any proposal;
- (ii) to defer a decision until it has received additional information from one or more private entities; or
- (iii) to proceed to the negotiation phase with one or more private entities.

The City shall hold a public hearing on the detailed proposals. The public hearing shall be held at least 30 days before execution of an Interim or Comprehensive Agreement.



## VIII. Negotiation Phase

If any proposals proceed to the negotiation phase, the City Manager or designee, in consultation with the Advisory Committee (if required) and through either employees of City or third-party professional consultants, shall begin negotiations with one or more private entities on a Comprehensive Agreement. If desirable or necessary, the City Manager or designee may also negotiate an Interim Agreement while the Comprehensive Agreement is being negotiated. The negotiations shall be based on the detailed proposals that were the subject of the public hearing at the end of the detailed review phase.

The private entity must enter into a Comprehensive Agreement with the City prior to developing, designing, constructing, financing, maintaining, or operating the project.

## IX. Posting and Filing of Proposed Agreements

Once the negotiation phase for an Interim or a Comprehensive Agreement is complete, but before an Interim or a Comprehensive Agreement is executed, the Purchasing Agent or designee shall post the negotiated agreement on the City's purchasing website or on the Commonwealth of Virginia Department of General Services' central electronic procurement website.

In addition, the Purchasing Agent or designee may publish a summary of the negotiated agreement and the location where copies of the negotiated agreement are available for public inspection in a newspaper of general circulation in the City.

The Purchasing Agent or designee shall make at least one copy of the negotiated agreement available for public inspection. Trade secrets, financial records, or other records of the private entity excluded from disclosure under the provisions of Va. Code § 2.2-3705.6(11) shall not be required to be posted, except as otherwise agreed to by the City and the private entity. Va. Code § 56-575.4(G) also imposes an obligation on the City to protect confidential proprietary information submitted by a private entity. When the private entity requests that the City not disclose information, the private entity must make a written request to the City. Please see *Virginia Freedom of Information Act and Confidential Proprietary Information* under **APPENDIX A. General Provisions.**

## X. Interim Agreement

Prior to, or in connection with, the negotiation of the Comprehensive Agreement, the City may enter into an Interim Agreement with the private entity. The Interim

Agreement may (i) permit the private entity to commence and be compensated for initial activities related to the qualifying project, including, but not limited to, project planning and development, design and engineering, environmental analysis and mitigation, surveying, and ascertaining the availability of financing for the proposed facilities or services; (ii) establish the process and timing of the negotiation of the Comprehensive Agreement; and (iii) contain other provisions related to the development or operation of a qualifying project. See Va. Code § 56-575.9:1.

City Manager is authorized to enter into an Interim Agreement after City Council review and resolution authorizing execution of such Agreement. See Va. Code § 56-576.16(5).

## XI. Comprehensive Agreement

The Comprehensive Agreement shall include the components listed in **APPENDIX F. Required Components of Comprehensive Agreement** and other terms agreed to by the parties. Any changes in the Comprehensive Agreement shall be made by written amendment.

City Manager is authorized to enter into a Comprehensive Agreement after City Council review and resolution authorizing execution of such Agreement. See Va. Code § 56-576.16(5).

Within 30 days after the City enters into a Comprehensive Agreement, the Purchasing Agent or designee shall submit a copy to the Commonwealth of Virginia's Auditor of Public Accounts.

## XII. Public Access of Procurement Records

Once an Interim or Comprehensive Agreement has been executed, the Purchasing Agent shall make procurement records available for public inspection upon request by any person filing a FOIA request with the City Attorney's Office. Procurement records for public disclosure shall not include trade secrets of the private entity or financial records of the private entity that are not generally available to the public through regulatory disclosure or otherwise. See Va. Code § 56-575.17(D) and *Virginia Freedom of Information Act and Confidential Proprietary Information* under **APPENDIX A. General Provisions**.

## Appendix A. General Provisions

### A.1. Definitions

For the purposes of these Guidelines, the following terms shall have the below designated meaning:

- (i) "Affected Local Jurisdiction" means any county, city or town in which all or a portion of a qualifying project is located.
- (ii) "City" means the City of Alexandria, the City Manager or designee, and/or agents of the City of Alexandria.
- (iii) "Competing Conceptual Proposal" means a proposal containing information required in Appendix C submitted to the City on an unsolicited basis in response to posted notice seeking competing conceptual proposals following City Council decision to advance the process on a Qualified Project in response to an Unsolicited Conceptual Proposal. See Part II(A), Part IV and Appendix C.
- (iv) "Comprehensive Agreement" means the comprehensive agreement between the private entity and the responsible public entity required by § 56-575.9 of the PPEA.
- (v) "Detailed Proposal" means a proposal containing information required in Appendix D submitted to the City after the City advances the process on a Qualified Project following a conceptual proposal. See Part VII and Appendix D.
- (vi) "Develop" or "Development" means to plan, design, develop, finance, lease, acquire, install, construct, or expand.
- (vii) "Interim Agreement" means an agreement between a private entity and a responsible public entity that provides for phasing of the development or operation, or both, of a qualifying project. Such phases may include, but are not limited to, design, planning, engineering, environmental analysis and mitigation, financial and revenue analysis, or any other phase of the project that constitutes activity on any part of the qualifying project.
- (viii) "Operate" means to finance, maintain, improve, equip, modify, repair, or operate.
- (ix) "Private entity" means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, non-profit entity, or other business entity who has expressed interest in partnering with the City by making a submission pursuant to these Guidelines.
- (x) "Responsible public entity" means a public entity that has the power to develop or operate the applicable qualifying project.
- (xi) "Revenues" means all revenues, income, earnings, user fees, lease payments, or other service payments arising out of or in connection with

supporting the development or operation of a qualifying project, including without limitation, money received as grants or otherwise from the United States of America, from any public entity, or from any agency or instrumentality of the foregoing in aid of such facility.

- (xii) “Solicitation” means a City initiated procurement evidenced by the issuance of Request for Quotes (RFQ), Request for Qualifications (RFQu), Request for Proposals (RFP), Invitation to Bid (ITB), or other mechanism used to solicit proposals.
- (xiii) “Solicited Proposal” means a submission made to the City in response to a solicitation pursuant to PPEA. For the purposes of these guidelines, in a multi-step solicitation process, the term “solicited proposals” includes both interim submissions, such as statements of qualifications, and the proposals themselves. See Part II(A)
- (xiv) “Unsolicited Conceptual Proposal” means a proposal containing information required in Appendix C submitted to the City on an unsolicited basis following acceptance of an unsolicited initial concept. See Part II(A), Part IV and Appendix C.
- (xv) “Unsolicited Initial Concept” means a submission containing the information required in Appendix B made to the City on an unsolicited basis following a meeting with the City about a potential Qualified Project. See Part II(A) and Appendix B.
- (xvi) "User fees" mean the rates, fees or other charges imposed by the private entity of a qualifying project for use of all or a portion of such qualifying project pursuant to the comprehensive agreement pursuant to § 56-575.9.

## A.2. Qualifying Projects

PPEA projects must meet the below definition of "qualifying project" which includes public buildings and facilities, including:

- (i) A building or facility that meets a public purpose and is developed or operated by or for a public entity;
- (ii) Improvements and equipment to enhance public safety and security of buildings principally used by a public entity;
- (iii) Utility, telecommunications, and other communications infrastructure;
- (iv) A recreational facility;

- (v) Technology infrastructure, services, and applications, including automated data processing, word processing and management information systems, and related equipment, goods, and services;
- (vi) Services to increase the productivity or efficiency of the responsible public entity through technology or other means;
- (vii) Technology, equipment, or infrastructure to deploy wireless broadband services to businesses, or residential areas;
- (viii) Necessary or desirable improvements to unimproved publicly-owned real estate;

Such definition and categories have been selected by the City from the permissible categories enumerated in the PPEA. Va. Code § 56-575.1.

### A.3. Affected Jurisdictions

Any private entity requesting approval from, or submitting a proposal to the City shall notify each affected local jurisdiction by furnishing a copy of its request or proposal to each affected local jurisdiction within 5 working days of submittal to the City.

Each affected local jurisdiction shall, within sixty days after receiving such notice, submit any comments it may have in writing on the proposed qualifying project to the City and indicate whether the facility is compatible with the local comprehensive plan, local infrastructure development plans, the capital improvements budget, or other government spending plan. Such comments will be given consideration by the City prior to entering a Comprehensive Agreement with a private entity.

For the purposes of these guidelines, affected local jurisdiction means any county, city or town in which all or a portion of a qualifying project is located. Va. Code § 56-575.1.

### A.4. Virginia Freedom of Information Act and Confidential Proprietary Information

Generally, submissions from private entities are subject to the FOIA.

In accordance with Va. Code § 2.2-3705.6(11)(b), proposal documents are subject to disclosure if requested, except to the extent that they relate to (i) trade secrets

of the private entity; (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity, where, if such information was made public prior to the execution of an Interim Agreement or a Comprehensive Agreement, the financial interest or bargaining position of the City or private entity would be adversely affected. The private entity must invoke this exception in accordance with Va. Code § 2.2-3705.6(11)(b).

Va. Code § 56-575.4(G) imposes an obligation on the City to protect confidential proprietary information submitted by a private entity. When the private entity requests that the City not disclose information, the private entity must make a written request to the City:

1. Invoking the exclusion upon submission of the data or other materials to the City;
2. Identifying with specificity the data or other materials for which protection is sought; and
3. Stating the reasons why protection is necessary.

The City is only authorized and obligated to protect confidential proprietary information. The entire proposal shall not be designated confidential by the private entity and private entities must reasonably differentiate between the proprietary and non-proprietary information contained therein.

Upon timely receipt of a request that designated portions of a proposal be protected from disclosure as confidential and proprietary, the City shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The City will send the private entity a written determination of the nature and scope of the protection.

To protect other information submitted by the private entity from disclosure, the City shall determine whether public disclosure prior to the execution of an Interim Agreement or Comprehensive Agreement would adversely affect the financial interest or bargaining position of the City or the private entity. In accordance with Va. Code § 56-575.4(G), the City shall take appropriate action to protect confidential and proprietary information provided by the private entity pursuant to an agreement under Va. Code § 2.2-3705.6(11).

Upon a final determination by the City to afford less protection than requested by the private entity, the private entity will be afforded an opportunity to withdraw its proposal. A proposal so withdrawn will be treated in the same manner as a proposal not accepted for consideration.

Once an Interim Agreement or Comprehensive Agreement has been entered into, the City will make the procurement records available upon request in accordance with Va. Code § 2.2-4342 and Va. Code § 2.2-3705.6(11)(b)(iii).

The City reserves the right to rely upon any other relevant FOIA exemptions that may be applicable in responding to FOIA requests.

### A.5. Reservation of Rights

The City shall administer these guidelines in accordance with the PPEA and shall have the right to:

1. Terminate evaluation of a proposal or to reject a proposal at any time for any reason. Private entities shall have no recourse against the City for such termination or rejection. Private entities will be notified in writing of the City's rejection of their proposal.
2. Suspend or terminate negotiations with a private entity before execution of an Interim Agreement or Comprehensive Agreement.
3. The City may follow up, hold industry workshops, or conduct independent one-on-one meetings with private entities to further develop the scope of the proposed project and advance the consideration of potential commercial terms for the project.
4. The City may choose to issue the solicitation documents in draft format to short-listed private entities and hold one-on-one meetings in order to solicit feedback on the proposed solicitation documents and draft Comprehensive Agreement.
5. Request revisions of, and negotiate with private entities about, provisions in a proposal.
6. Request or obtain additional information about any proposal.
7. Issue addenda to or cancel any request for proposals or invitation to bid.
8. Revise, supplement, or withdraw any part of these guidelines.

9. Modify the Fee Schedule in these guidelines for a specific project or for all future projects.
10. Keep review fees required by these guidelines unless an unsolicited proposal is not accepted for consideration by the City.
11. Assess, retain and/or waive any and all fees required to be paid by private entities in accordance with these Guidelines
12. Submit one or more proposals for review by outside consultants or advisors selected by the City without notice to the private entity. Such consultants or advisors shall be required to maintain the confidentiality of the process and information, unless otherwise authorized by the City in the consultants or advisors capacity as a designee of the City. Such consultants or advisors must refer all requests for information to the City.
13. Conduct accelerated selection and review for proposals involving a qualifying project that the City deems a priority subject to applicable provisions of law.

The City shall not be liable for the costs incurred by private entities in developing proposals or in negotiating agreements. Any information the City makes available to private entities shall be provided solely as a convenience to the private entity and without representation or warranty of any kind. Private entities may not rely upon any oral responses to inquiries. If a private entity has a question regarding application of these guidelines, the private entity must submit the question in writing to the Purchasing Agent, and the City will respond in writing as it determines appropriate.

#### A.6. Use of Public Funds

Interim Agreements and Comprehensive Agreements are subject to all Virginia constitutional and statutory requirements and Alexandria City Code provisions governing the expenditure of public funds. When a transaction involves the expenditure of federal assistance or contract funds, such funds are subject to any applicable mandatory federal laws or regulations.

#### A.7. Applicability of Other Laws

Nothing in the PPEA shall affect the duty of the City to comply with all other applicable laws not in conflict with the PPEA. The applicability of the Virginia Public Procurement Act (Va. Code § 2.2-4300 *et seq.*) is as set forth in the PPEA.



## A.8. Other terms

The term “may” is permissive; the terms “shall” and “will” are mandatory, not merely directive. All references to any gender shall be deemed to include all others, as the context may require. Terms used in the plural include the singular, and vice versa, unless the context otherwise requires. The term “days” mean calendar days unless explicitly noted as working days.

## Appendix B. Required Information for Unsolicited Initial Concept

*Submit only the information required in this Unsolicited Initial Concept form and the associated review fee. Submissions should be prepared as simply as possible, with straightforward, concise descriptions to satisfy the requirements. The applicant shall submit to the City Manager’s Office (c/o City Manager) an electronic copy ([P3@alexandriava.gov](mailto:P3@alexandriava.gov)) along with the applicable fee, and for any submissions greater than 25 pages submit one original and two copies as well (City Manager’s Office, 301 King Street, Suite 3500, Alexandria, Virginia 22314). The applicant can make the payment via cashier’s check or electronically. If the private entity makes the payment via cashier’s check, the cashier’s check should be made out to “City of Alexandria” and addressed to City Manager’s Office, 301 King Street, Suite 3500, Alexandria, Virginia 22314 with “PPEA Submission c/o CMO” noted in the memo line. If the private entity makes the payment electronically, the private entity should request for electronic payment details via [P3@alexandriava.gov](mailto:P3@alexandriava.gov) when it submits the unsolicited initial concept. The City shall not review the unsolicited initial concept until the applicable fee is received. If the City determines to proceed to the conceptual proposal phase, the City will notify the applicant.*

### I. INTRODUCTION OF ENTITY/FIRM

a) Applicant Name: \_\_\_\_\_

*Note: In the case of partnership or any other form of a joint venture, complete Section I (b) to (h) for each partner or joint venture member as well. In addition, identify the name and role of each team member in the space below.*

Team Member Names (Roles):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

b) Legal Name of Entity (if different from Applicant Name):

\_\_\_\_\_

c) Address: \_\_\_\_\_

\_\_\_\_\_

d) Tax ID Number (EIN) of the Legal Entity: \_\_\_\_\_

e) Contact Person, and contact information (i.e., telephone number, e-mail address): \_\_\_\_\_

\_\_\_\_\_

f) Type of organization (i.e. Corporation, General Partnership, Limited Partnership, Unincorporated Association, Limited Liability Company, Sole Proprietorship). Identification number issued to the entity by the State Corporation Commission (SCC), if applicable. An SCC identification number is not required at this stage but shall be required prior to executing an Interim Agreement or Comprehensive Agreement. Foreign corporations desiring to transact business in the State of Virginia shall register with the SCC in accordance with Section 13.1-757 of the Code of Virginia, as amended:

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g) Small, Women-owned, and Minority-owned Business (SWaM) status:

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h) Indication whether or not the Firm or any of its principals are currently debarred from submitting bids to City of Alexandria, Virginia, or any other state or political subdivision.

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i) Additional personnel names & contact information (These individuals should be responsible for answering City’s questions concerning the concept.):

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II. TECHNICAL INFORMATION

Title of the concept: \_\_\_\_\_

Specify the qualifying project category based on “Qualifying Project” defined in Appendix A:

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Abstract of the concept is attached

The abstract must include a concise discussion of the following:

1. Objectives
2. Approach Methodology
3. Nature and extent of anticipated outcome
4. How will the work address the City’s needs?

5. Additional information required from the City

III. FINANCIAL INFORMATION

Proposed price or total estimated cost (both upfront development and construction cost as well as total project lifecycle cost on a nominal, non-discounted basis):

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Financial Plan:

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Supplemental information (e.g. excel worksheet) attached (Optional)

IV. PROCEDURAL INFORMATION

Period of time for which the concept is valid:

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Select and elaborate as appropriate:

Proprietary data has been submitted with this proposal and is deemed confidential by the private entity in the event of a request submitted to the City under the Virginia Freedom of Information Act.

*Any proprietary data must be clearly designated.*

Other affected local jurisdictions or private parties have received this proposal. Please explain:

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Other affected local jurisdictions, government entities or private parties may provide funding for this proposal. Please explain:

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There are patents, copyrights and/or trademarks or other intellectual property applicable to the goods or services proposed. Please explain:

---

---

There is additional information not requested in this form that would allow the City to evaluate this proposal at this phase. Describe:

---

---

V. SIGNATURE

\_\_\_\_\_  
Name: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

*The individual who signs this form must be authorized to represent and contractually obligate the private entity.*

## Appendix C. Required Information for Unsolicited and Competing Conceptual Proposals

Unsolicited and Competing Conceptual Proposals shall contain the following information in the following format, plus such additional information as the City may request subsequent to receipt of the unsolicited proposal:

For submissions greater than 25 pages submit one original and two copies in addition to an electronic copy along with the applicable fee. Each copy shall be bound in a single volume where practical, except that information for which a claim of confidential or proprietary information is made should be submitted in a separately bound document or volume for convenience of review by the City. Any such volume containing confidential or proprietary information shall be clearly marked on its cover. Alternately, the private entity may submit an additional volume which is consistent in all material respects with the submitted proposal with the exception that all confidential proprietary information is redacted; the cover of such a redacted volume shall be clearly marked as “Redacted”.

The proposal shall contain a table of contents, which cross references the requirements by category. Each proposal shall be structured so that it contains individual tabs/sections detailing proposed services. Proposals shall be prepared as simply as possible, with straightforward, concise descriptions of the private entity’s capabilities to satisfy the requirements of the proposed offering. Offerors shall submit their proposals with the required information in the order listed below.

Proposal submitted shall meet standards of professional writing established for the type of report or written material provided, shall be thoroughly researched for accuracy of content, and shall be submitted in a format outlined herein. Whenever possible, proposals submitted shall comply with the following guidelines:

- The proposal shall be limited to a page size of 8 ½” x 11”, single space and type size shall not be less than 10-point font for each response item;
- The proposal may include 11" x 17" pages for planning and design concepts and images as well as financial projections;
- All copies shall be printed on at least thirty percent (30%) recycled-content and/or tree-free paper;
- All copies shall be double-sided;
- Covers or binders shall be recyclable, made from recycled materials, and/or easily removable to allow for recycling of pages (proposals with glued bindings that meet all other requirements are acceptable);
- The use of plastic covers or dividers should be avoided;

- To promote standardization of the evaluation procedure, private entities are required to organize contents of the proposal as follows:
  - TABLE OF CONTENTS
  - EXECUTIVE SUMMARY
  - I. QUALIFICATIONS AND EXPERIENCE
  - II. PROJECT CHARACTERISTICS
  - III. PROJECT FINANCING
  - IV. PROJECT BENEFITS AND COMPATIBILITY
  - V. FORMS

I. QUALIFICATIONS AND EXPERIENCE

- a. Identify the legal structure, *i.e.*, type of business entity, of the firm or consortium of firms making the proposal. Identify the organizational structure of the private entity for the project, the management approach, and how each partner or member and major subcontractor or major service provider in the structure fits into the overall team or consortium. Identify all members of the private entity’s team, including major subcontractors or major service providers (20% of more of potential project size) known to the private entity, at the time a proposal is submitted for the conceptual phase. Identified team members, including major subcontractors or major service providers may not be substituted or replaced once a project is approved and comprehensive agreement executed without the written approval of the City.
- b. Describe the experience of the firm or consortium of firms making the proposal and the key principals involved in the proposed project. Include experience with projects of comparable size and complexity and prior experience bringing similar projects to completion on budget and in compliance with design, land use, service and other standards. Describe the length of time in business, business experience, public sector experience, and other engagements of the firm or consortium of firms. Describe the past technical performance history on recent projects of comparable size and complexity, including disclosure of any legal claims or litigation by or against the firm or consortium of firms. Describe projects on which members of the team or consortium previously have collaborated. Identify any firms that will provide design, construction, maintenance, performance, and completion guarantees and warranties and a description of such guarantees and warranties to the extent known. Provide bios of the key individuals who will be involved in the project.
- c. Provide a current or most recent audited financial statement of the firm or consortium of firms which is the private entity, and the financial statement of

- each partner with an equity interest of 20 percent or greater. Submit the most recent Securities and Exchange Commission 10-K and 10-Q reports, if applicable.
- d. For each firm or major subcontractor or major service provider that will perform construction, design, or major service activities, provide a sworn certification by an authorized representative of the firm attesting to the fact that the firm is not currently debarred or suspended by any federal, state or local government entity.

## II. PROJECT CHARACTERISTICS

- a. Provide a topographic map (1:2000 or other appropriate scale) indicating the location of the qualifying project.
- b. Identify any facility, building, infrastructure, or improvement included in a proposal as part of a qualifying project specifically or conceptually. Provide a description of the proposed project, including the conceptual design if applicable, in sufficient detail so that type and intent of the project, its location, and the communities that may be affected are clearly identified.
- c. Statement of the plans for securing all necessary real property interests, such as easements, rights-of-way, etc., for the project. The statement must include the names and addresses, if known, of the current owners of the necessary property and the location of any property the private entity requests the City to condemn.
- d. Identify and describe any work to be performed by the City and/or any other public or private entity, and the timeline for performance.
- e. Identify any anticipated adverse social, economic, and environmental impacts of the project. Specify the strategies or actions to mitigate known or anticipated adverse impacts of the project. Indicate if any environmental or archaeological assessment has been completed.
- f. Identify the projected positive social, economic, and environmental impacts of the project.
- g. Identify the proposed schedule for the work on the project, including sufficient time for the City to review the proposal and plans, and the estimated time for completion.



- h. State assumptions related to ownership, legal liability, and operation of the project and the existence of any restrictions on the City's use of the project.
- i. Provide information about phased or partial openings of the proposed project prior to completion of the entire work.
- j. List other assumptions relied on or any contingencies that must occur for the project to be successful.

### III. PROJECT FINANCING

- a. Provide a preliminary estimate and estimating methodology of the cost of the work by phase, segment, or both, if any.
- b. Submit a plan for the development, design, construction, financing, maintenance and operation, as applicable, of/for the project showing the anticipated schedule by which financing and funds will be required. Describe the anticipated costs of and proposed sources and uses for such funds, including any anticipated debt service costs. The operation and maintenance plan should account for anticipated staffing levels and associated costs. Include any supporting due diligence studies, analyses or reports.
- c. Include a list and discussion of assumptions underlying all major financial elements of the plan. Assumptions should include all fees associated with financing given the recommended financing approach. In addition, complete disclosure of interest rate assumptions should be included. Any ongoing operational or financing related fees, if applicable, should also be disclosed as well as any assumptions with regard to increases in such fees.
- d. Identify the risks and methods for dealing with these risks.
- e. Identify any local, state, or federal resources that the private entity (e.g., the proposer) contemplates requesting for the project. Describe the total commitment, if any, expected from governmental sources (and identify each such source) and the timing of any anticipated commitment, both one-time and ongoing. Such disclosure should include any direct or indirect guarantees or pledges of the City's credit or revenue.
- f. Identify the amounts and the terms and conditions for any revenue sources.

- g. Identify any aspect of the project that could disqualify the project from obtaining tax-exempt financing.
- h. Identify any third parties that the private entity (e.g., the proposer) contemplates will provide financing for the project and describe the nature and timing of each such commitment.

#### IV. PROJECT BENEFIT AND COMPATIBILITY

- a. With the City's Strategic Plan, Capital Improvement Program, Master Plan, applicable Small Area Plans other adopted City plans as a reference, describe the anticipated benefits to the community, region or state, including anticipated benefits to the economic condition of the City, and identify who will benefit from the project and how they will benefit. Such social and economic impacts should include but are not limited to community benefits, including, if applicable and known, the economic impact the project will have on the City and local community in terms of amount of tax revenue to be generated for the City, social benefits related to equity, diversity and inclusion, the number of jobs generated for City residents, the level of pay and fringe benefits of such jobs, the training opportunities for apprenticeships and other training programs generated by the project, and the number and value of subcontracts generated for City subcontractors.
- b. Explain the strategy and plan to involve and inform the general public, business community, local governments, and governmental agencies in areas affected by the project.
- c. Describe the private entity's understanding of the compatibility of the project with any local economic development goals.
- d. Describe the private entity's understanding of the compatibility of the project with the City's Strategic Plan, Capital Improvement Program, Master Plan, Small Area Plans, other adopted applicable City plans, or indication of steps required for acceptance into such plans.

#### V. FORMS

Proposals shall include the following completed forms:

- Required Information Form
- Certified Statement of Non-Collusion Form
- Disclosure relating to City Officials and Employees
- Sub-Contractor's List

**REQUIRED INFORMATION FORM**

*In the case of partnership or any other form of a joint venture, provide information for partner or joint venture member as well.*

- 1. Minority Business Firm Yes [ ] No [ ]
- Small Business Firm Yes [ ] No [ ]
- Sole Proprietorship Yes [ ] No [ ]
- General Partnership Yes [ ] No [ ]
- Limited Partnership Yes [ ] No [ ]
- Limited Liability Company Yes [ ] No [ ]
- Corporation Yes [ ] No [ ]
- Unincorporated Association Yes [ ] No [ ]

- 2. Legal Name \_\_\_\_\_
- Address \_\_\_\_\_
- City \_\_\_\_\_
- State \_\_\_\_\_ Zip Code \_\_\_\_\_

- 3. TAX ID Number (EIN) \_\_\_\_\_

- 4. If the Private Entity is a corporation, provide the following:  
State of Incorporation \_\_\_\_\_ Charter number of the Virginia Certificate of Authority \_\_\_\_\_ Date of Incorporation \_\_\_\_\_

*An SCC identification number is not required during the solicitation stages but shall be required prior to executing an Interim Agreement or Comprehensive Agreement. Foreign corporations desiring to transact business in the State of Virginia shall register with the State Corporation Commission in accordance with Section 13.1-757 of the Code of Virginia, as amended.*

- 5. Indication whether or not the Firm or any of its principals are currently debarred from submitting bids to City of Alexandria, Virginia, or any other state or political subdivision, or who would be obligated to disqualify themselves from participation in any transaction arising from or in connection to the project pursuant to the Virginia State and Local Government Conflict of Interests Act (Va. Code § 2.2-3100 et seq.) ("COIA")

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Each corporation is to provide the names of the following or equivalent officers:

President \_\_\_\_\_

Vice-President \_\_\_\_\_

Secretary \_\_\_\_\_

Treasurer \_\_\_\_\_

Registered Agent \_\_\_\_\_

\_\_\_\_\_  
Private Entity's Name

\_\_\_\_\_  
Private Entity's Authorized Signatory

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title of Authorized Signatory (person authorized to represent and contractually obligate the private entity)

Contact Information of Authorized Signatory

Telephone \_\_\_\_\_

E-mail \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

**CERTIFIED STATEMENT OF NON-COLLUSION**

A. This is to certify that the undersigned is seeking, offering or agreeing to transact business or commerce with the City of Alexandria, a municipal corporation of Virginia, or seeking, offering or agreeing to receive any portion of the public funds or moneys, and that the offer or agreement or any claim resulting therefrom is not the result of, or affected by, any act of collusion with another person engaged in the same line of business or commerce; or any act of fraud punishable under Article 1.1 (Virginia Governmental Frauds Act), Chapter 12 (Miscellaneous), Title 18.2 (Crimes and Offenses Generally) of the Code of Virginia (1950), as amended.

B. This is to further certify that the undersigned has read and understands the following:

(1) The City is authorized by Section 18.2-498.4 of the Code of Virginia (1950) as amended, to require this certified statement. That section also provides that any person that is required to submit this statement that knowingly makes a false statement shall be guilty of a Class 6 felony.

(2) Section 18.2-498.3 of the Code of Virginia (1950), as amended, provides that any person, in any commercial dealing in any matter within the jurisdiction of any local government or any department or agency thereof, who knowingly falsifies, conceals, misleads, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be guilty of a Class 6 felony.

(3) Section 59.1-68.7 of the Code of Virginia (1950), as amended, provides that any combination, conspiracy or agreement to intentionally rig, alter or otherwise manipulate, or to cause to be rigged, altered or otherwise manipulated, any Proposal submitted to any governmental unit for the purpose of allocating purchases or sales to or among persons, raising or otherwise fixing the prices of goods or services, or excluding other persons from dealing with the state or any other governmental unit shall be unlawful. Any person violating the foregoing shall be guilty of a Class 6 felony.

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Private Entity’s Name

---

Private Entity’s Authorized Signatory

Date

---

Name and Title of Private Entity’s Authorized Signatory

**DISCLOSURES RELATING TO CITY OFFICIALS AND EMPLOYEES**

A. I hereby state that, as of this date (check one):

- ( ) Our firm has **no reason** to believe that any member of the City Council, any official or employee of the City, or any member of any commission, committee, board or corporation controlled or appointed by the City Council has already received, in connection with or related in any way to this Contract, or has been promised, in the event this Contract is awarded to the firm, any commission, finder's fee or other thing of value
- ( ) Our firm has reason to believe that the following City Council members, City officials and/or employees, and/or members of a Council-appointed or -controlled commission, committee, board or corporation have already received, in connection with or related in any way to this Contract, or have been promised, in the event this Contract is awarded to the firm, any commission, finder's fee or other thing of value:

_____	_____
Name	Title/Position
_____	_____
Name	Title/Position

B. I hereby state that, as of this date:

- ( ) Our firm has no reason to believe that any member of the City Council or any official or employee of the City would or may be financially affected, whether affirmatively or negatively, and whether personally or through a spouse or other family member, if this Contract were awarded to the firm
- ( ) Our firm has reason to believe that the following members of the City Council and officials and employees of the City would or may be financially affected, whether affirmatively or negatively, and whether personally or through a spouse or other family member, if this Contract were awarded to the firm:

_____	_____
Name	Title/Position
_____	_____
Name	Title/Position

\_\_\_\_\_

Private Entity's Name

\_\_\_\_\_

Private Entity's Authorized Signatory	Date
---------------------------------------	------

\_\_\_\_\_

Name and Title of Private Entity's Authorized Signatory

**SUB-CONTRACTOR’S LIST**

The following list provides the name of the proposed prime contractor and the proposed 1<sup>st</sup> tier subcontractors that the prime contractor proposes to perform the work in reference to the proposal. The general type of work to be performed and the approximate percentage of the total work per prime and 1<sup>st</sup> tier subcontractor shall be annotated.

VENDOR NAME	MBE/DBE/SWaM Select and add number	TYPE of WORK	% of TOTAL WORK
Prime Contractor			
1 <sup>st</sup> Tier Sub-Contractors			
TOTAL % OF CONTRACT AMOUNT			100%

Private Entity Information

NAME	
TITLE	
COMPANY	
SIGNATURE/DATE	

## Appendix D. Required Information for Detailed Proposals

Information required for Detailed Proposals shall be determined based upon the nature and scope of the project. The following are *illustrative examples* of the additional information which may be required by the City unless included in the conceptual proposal:

1. For each firm or major subcontractor or major service provider that will perform construction, design, or major service activities, provide a completed qualification statement that reviews all relevant information regarding technical qualifications and capabilities, firm resources, and business integrity of the firm, including bonding capacities, insurance coverage, and firm equipment. This statement shall also include a mandatory disclosure by the firm for the past five years any of the following:
  - a. bankruptcy filings
  - b. claims for liquidated damages in excess of \$100,000
  - c. fines, assessments or penalties in excess of \$100,000
  - d. judgments or awards in contract disputes in excess of \$100,000
  - e. contract defaults, contract terminations
  - f. license revocations, suspensions, other disciplinary actions
  - g. debarments or suspensions by a governmental entity
  - h. findings of non-responsibility
  - i. safety performance issues, including fatality incidents, “Experience Modification Rating,” “Total Recordable Injury Rate” and “Total Lost Workday Incidence Rate”
  - j. violations of any federal, state or local criminal or civil law
  - k. criminal indictments or investigations
  - l. claims filed by or against the firm in excess of \$100,000
  
2. Project Experience: List the last five projects for which the private entity provided services with similar scope, budget, and complexity. Demonstrate ability to meet schedules or deadlines. Please include:
  - a. Month and Year Project Started and Completion Date
  - b. Owner Name, Location, and Contact Information
  - c. Role of the Firm and the Responsibilities
  - d. Key staff from this proposed team who worked on the project
  - e. Description of Project and how it demonstrates ability to deliver this project
  - f. Total Cost and/or Fees Paid to Your Firm
  - g. Performance against project schedule



- h. Lesson learned on the project that may be applied on this proposed project
3. Project Team: Provide key personnel's professional qualifications, certifications, education, experience on projects with similar scope of work, and their knowledge of Virginia regulations, policies, and procedures. Provide the organizational structure of Project Team and resumes of Key Team Members. Resumes shall include: Name, Project Role, Years of Service with Firm, Education, Licensing / Certifications, 3-5 example projects with description and role on team.
4. For a proposed social or community-based infrastructure project, conceptual designs, massings, and renderings.
5. Conceptual site plan indicating proposed location and configuration of the project on the proposed site. Any facility, building, infrastructure, or improvement included in a proposal as part of a qualifying project shall be identified specifically or conceptually.
6. Provide a schedule for the initiation of and completion of the qualifying project to include the proposed major responsibilities and timeline for activities to be performed by both the public and private entity.
7. Include list of all permits and approvals required for the qualifying project from local, state, or federal agencies and a projected schedule for obtaining such permits and approvals.
8. Identify contingency plans for addressing public needs if the project is not completed according to projected schedule.
9. Propose allocation of risk and liability for work completed beyond the Comprehensive Agreement's completion date and assurances for timely completion of the project.
10. Conceptual (single line) plans and elevations depicting the general scope, appearance, and configuration of the proposed project.
11. Updated plans for securing all necessary real property interests, such as easements, rights-of-way, etc., for the project. The statement must include the names and addresses, if known, of the current owners of the necessary property and the location of any property the private entity requests the City to condemn.

12. A list of public utility facilities, if any, that will be crossed by the qualifying project and a statement of the plans of the private entity to accommodate such crossings.
13. List all firms that will provide proposed design, construction, and completion guarantees and warranties, and a brief description of the guarantees and warranties.
14. List of proposed public facilities or other public improvements required of the City to complete the project.
15. Description of the proposed participation of, use by, and financial involvement of the City. Include the proposed terms and conditions for the project if they differ from the City's Standard Form contract for this type of project.
16. Estimated total life-cycle costs specifying methodology and assumptions of the project, and the proposed project start date. The life-cycle cost analysis should include an analysis of the projected return, rate of return, or both; the expected useful life of the facilities; estimated annual operating expenses, and handback provisions. The information should also include each party's anticipated commitment; equity, debt, and other financing mechanisms; and a schedule of project revenues and project costs.
17. A discussion of assumptions about user fees or rates, lease payments and other service payments, and the methodology and circumstances for changes to such user fees, lease payments, and other service payments over time.
18. Analysis of the financial feasibility of the proposed project, including its impact on similar facilities operated or planned by the City. Include a description of any financial plan proposed for the project, and all underlying data supporting any conclusions reached in the analysis or the selection by the applicant of the financing plan proposed for the project.
19. Identify the proposed plan for obtaining sufficient numbers of qualified workers in all trades or crafts required for the project.
20. Worker safety programs: Describe worker safety training programs, job-site safety programs, accident prevention programs, written safety and health plans, including incident investigation and reporting procedures.
21. Provide proposed SWaM plan.

22. Identification of known government or public support for the project. Government or public support should be demonstrated through resolutions of government departments or boards, minutes of meetings, letters, or other official communications.
23. Demonstration of consistency with the City's Strategic Plan, Capital Improvement Program, Master Plan, applicable Small Area Plan, other adopted applicable City plans, or a schedule of the steps necessary for acceptance into such plans.
24. Description of an ongoing evaluation system or database to track key performance criteria, including schedules, cash management, quality, worker safety, change orders, and legal compliance.
25. Identification of any known conflicts of interest or other factors that may impact consideration of the proposal, including the identification of persons who would be obligated to disqualify themselves from participation in any transaction in connection to the project because of COIA.
26. Acknowledgement of conformance with the Ethics in Public Contracting provisions of Va. Code §§ 2.2-4367 through 2.2-4377.
27. Updated Forms.
28. Additional material and information requested by the City.

## Appendix E. Proposal Evaluation Criteria

The following are some of the factors that may be considered by the City in the evaluation and selection of PPEA proposals. Specific criteria and weighting shall be determined based upon the nature and scope of the project, and may vary depending on the phase of the process. The City will develop specific criteria and scoring for each specific solicited proposal.

### **A. Qualifications and Experience**

Factors to be considered in determining whether the private entity possesses the requisite qualifications and experience may include but shall not be limited to:

1. Professional qualifications and experience with similar projects;
2. Demonstrated ability to perform the work;
3. Demonstrated record of successful past performance, including timeliness of project delivery, compliance with plans and specifications, quality of workmanship, cost-control and project safety;
4. Demonstrated conformance with applicable laws, codes, standards, regulations, and agreements on past projects;
5. Leadership structure;
6. Project manager's experience;
7. Management approach;
8. Organizational chart, including project staffing plans, the skill levels of the proposed task leaders, workforce, apprenticeship and other training programs offered for the project, and the proposed safety plans for the project; and
9. Financial condition of the private entity.

### **B. Project Characteristics**

Factors to be considered in evaluating the project characteristics may include but shall not be limited to:

1. Project definition;
2. Proposed project schedule (development, design, construction);
3. Operation of the project, and ongoing operations;
4. Maintenance of the project;
5. Technological and technical feasibility;
6. Technical approach to implementation of the project;
7. Conformity to state and City laws, regulations, codes, guidelines and standards;
8. Environmental and resiliency impacts;
9. Property and Condemnation impacts;
10. Utility impacts;
11. State and local permits; and
12. Handback considerations.

### **C. Project Financing**

Factors to be considered in determining whether the proposed project financing allows adequate access to the necessary capital to finance the project may include but shall not be limited to:

1. Cost and economic benefit to the City;
2. Financing, including any debt source, and its impact on the debt or debt burden of the City;
3. Financial plan, including overall feasibility and reliability of plan; past performance with similar plans and similar projects; default implications; degree to which private entity has conducted due diligence investigation and results of any such studies;
4. Estimated costs;

5. Life-cycle cost analysis;
6. The identity, credit history, and past performance of any third party that will provide financing for the project and the nature and timing of their commitment; and
7. Such other items as the City deems appropriate.

#### **D. Project Benefit and Compatibility**

Factors to be considered in determining the proposed project's compatibility with the City's long-term development goals and objectives may include but shall not be limited to:

1. Community benefits, including the economic impact the project will have on the City in terms of amount of tax revenue generated for the City, the number of jobs generated for area residents, the level of pay and fringe benefits of such jobs, and the number and value of subcontracts generated for area and SWaM subcontractors;
2. Community support or opposition, or both;
3. Public involvement strategy;
4. Compatibility with existing and planned facilities;
5. Compatibility with City, regional, and state economic development efforts; and
6. Compatibility with the City's land use and transportation plans.

#### **E. Other Factors**

Other factors that may be considered in the evaluation and selection of PPEA proposals include, but are not limited to the following:

1. The general reputation, industry experience, and financial capacity of the private entity;
2. The eligibility of the facility for accelerated selection, review, and documentation;

3. Local citizen and government comments;
4. The private entity's compliance with a minority business enterprise participation plan or good faith effort to comply with the goals of such plans;
5. The private entity's plans to employ local contractors and residents;
6. The ability of the facility to address the needs identified in the appropriate state, regional or local plans by improving safety, increasing sustainability, and/or enhancing economic efficiency; and
7. Innovations proposed by the private entity; and
8. Other criteria that the City deems appropriate.

## Appendix F. Required Components of Comprehensive Agreement

The terms of the comprehensive agreement shall include but not be limited to:

1. Delivery of maintenance, performance, and payment bonds or letters of credit in connection with the development or operation of the qualifying project, in the forms and amounts satisfactory to the City and in compliance with Va. Code § 2.2-4337 for those components of the qualifying project that involve construction;
2. Review and approval of plans and specifications for the qualifying project by the City;
3. City's inspection of the qualifying project to ensure the private entity's compliance with the Comprehensive Agreement and any development plans and specifications;
4. Maintenance of liability insurance or self-insurance reasonably sufficient to insure coverage of the project and the tort liability to the public and employees and to enable the continued operation of the qualifying project;
5. City's monitoring of the practices of the private entity to ensure proper maintenance of the qualifying project;
6. Terms under which the private entity will reimburse the City for City services, if any;
7. Filing of appropriate financial statements by private entity on a periodic basis;
8. Policy and procedures governing the rights and responsibilities of the parties if the Comprehensive Agreement is terminated or there is a material default by the private entity. Such policies and guidelines shall include conditions governing assumption of the duties and responsibilities of the private entity by the City and the transfer or purchase of property or other interests of the private entity by the City;
9. User fees, lease payments, or service payments as may be established upon agreement of the parties. A copy of any service contract between a private entity and the City shall be filed with the City. Any payments or fees shall be



- the same for persons using the facility under like conditions and shall not materially discourage use of the qualifying project;
10. Any grants from, or loans by, the City from amounts received from federal, state, or local government sources;
  11. The terms and conditions under which the County may contribute financial resources, if any, for the qualifying project;
  12. Incorporation of the duties of the private entity from the PPEA;
  13. Certification by the private entity and its team members that all material representations, information, and data provided in connection with a proposal are true and correct as of the time of disclosure. If material changes occur with respect to any representations, information or data provided for a proposal, the private entity shall immediately notify the City. Any violation of this section of the Comprehensive Agreement by the private entity shall give the City the right to terminate the agreement, withhold payment or other consideration due, and seek any other remedy available under the law;
  14. Requirement for the written approval of the City for the private entity to substitute or replace identified key team members, including major subcontractors performing over 20% of work. The agreement shall specify the key team members;
  15. The date for the commencement of activities related to the qualifying project. See Va. Code § 56-575.4(F); and
  16. Other requirements of the PPEA or terms that the City determines serve the public interest, such as liquidated damages and reporting of SWAM and Tier 2 data.
  17. Equal Employment Opportunity Agreement
  18. Any other provision required by applicable law.