

Meeting Notice

Partnership for Public Facilities and Infrastructure Act Guidelines Task Force Meeting

Dec. 6, 2013

3:00 p.m. – 5:00 p.m.

Building 4050, Conference Room 101

4050 Esplanade Way

Tallahassee, FL 32399-0950

Meeting Agenda

- I. Introduction and Adoption of Minutes
- II. Review and assignment of eight items the Task Force must consider in reviewing public-private partnerships and developing recommendations:
- III. Other Business
- IV. Adjourn

For information regarding this meeting, please contact Marlene Williams with the Department of Management Services at (850) 488-6285.

Partnership for Public Facilities and Infrastructure Act Guidelines Task Force Meeting

Meeting Date: Oct. 24, 2013

110 Senate Office Building
404 South Monroe Street
Tallahassee, FL

Agenda

- I. Call to Order, Introduction, and Adoption of Minutes
- II. Staff Overview of House Bill 85
- III. Presentation from the National Council on Public-Private Partnerships
- IV. Presentation from the Canadian Consulate General
- V. Presentation from the Florida School Boards Association
- VI. Presentation on Local Government Infrastructure Financing
(Break for Lunch)
- VII. Panel discussion on Financing of Public-Private Partnerships
- VIII. Presentation from the Florida Department of Transportation
- IX. Presentation from the Florida Association of Counties
- X. Presentation from the Florida League of Cities, Inc.
- XI. Other Business and Public Testimony
- XII. Adjourn

Call to Order

Meeting called to order and welcome at 9:09 a.m. by Chair Nichols

Roll Call

Roll was called at 9:10 a.m. by task force staff

Members present:

Craig Nichols, Chair
Frank Attkisson, Vice Chair
George Burgess
Sonya Little
Michael Oelnick
John (Jay) Smith
Andy Tuck

Members absent:

None

Business

Motion for Approval of Meeting Minutes from 8-28-13 task force meeting at 9:14 a.m.

Vote: All in favor, 0 opposed, 0 abstained

Resolved: Motion carried

Staff Overview of HB 85 began at 9:15 a.m.

DMS staff provided an overview of HB 85, signed into law as Chapter 2013-223, Laws of Florida.

Presentation from the National Council on Public-Private Partnerships began at 9:30 a.m.

Mr. Rick Norment, Executive Director of the National Council on Public-Private Partnerships provided an overview of the use public-private partnerships (P3s) in other states with case studies to include best practices and lessons learned. Mr. Norment answered questions from task force members.

Presentation from the Government of Canada began at 10:28 a.m.

Mr. Marc-Andre Hawkes, Consul and Sr. Trade Commissioner, provided testimony on the use of P3s by the Canadian government. Mr. Hawkes provided testimony regarding Canada's 20 years of P3 experience, best practices, lessons learned, and information relating to the centralization and decentralization of P3 processes. Mr. Hawkes answered questions from task force members.

Fifteen Minute Break began at 11:16 a.m.

Testimony from Florida School Boards Association began at 11:30 a.m.

Dr. Wayne Blanton, Executive Director of the Florida School Boards Association, provided testimony relating to use of P3s by Florida's school boards and the needs, interests, and concerns of school boards relating to P3s. Mr. Bill Graham, a former school board member in Florida, provided testimony relating to the effectiveness of using alternative financing to meet school board infrastructure needs. Both representatives answered questions from task force members.

Presentation on Local Government Infrastructure Financing began at 11:52 a.m.

Mr. Randall C. Clement, Bryant Miller Olive, provided information relating to the traditional structure of local government financing of infrastructure projects, local government powers, tax exempt financing concepts, and considerations for local governments regarding the use of P3s. Mr. Clement answered questions from task force members.

Break for lunch at 12:30 p.m.

Meeting reconvened at 1:50 p.m.

Panel Discussion on Financing of Public-Private Partnerships at 1:51 p.m.

A moderated panel with representatives from both the public and private sectors to discuss how P3 projects can best use the strengths of both the public and private sectors, including balancing the financial needs of both parties. The panel discussed potential project revenue streams and availability payments, value for money analysis, and providing insight into how a public entity should evaluate the economics of P3 projects. The panel answered questions from task force members.

Moderator: Mr. Lee Weintraub, Becker & Poliakoff

Panelists: Mr. Lowell Clary, Clary Consulting
Mr. Randall C. Clement, Bryant Miller Olive
Mr. John Dionisio, Meridiam Infrastructure
Mr. Chris Kinsley, Florida Board of Governors

Presentation from the Florida Department of Transportation at 2:50 p.m.

Mr. Leon Corbett, Project Finance Manager for the Florida Department of Transportation, provided information regarding current use of P3s for infrastructure construction in Florida, including case studies and best practices, the need for education and outreach, and information relating to value proposition and appropriate revenue streams. Mr. Corbett answered questions from task force members.

Motion for One Hour Meeting Extension at 3:25 p.m.

Motion by George Burgess, Second by Jay Smith

Vote: All in favor, 0 abstained

Resolved: Motion carried

Five Minute Break at 3:25 p.m.

Presentation from the Florida Association of Counties at 3:30 p.m.

Mr. Chip Fletcher, County Attorney, Hillsborough County provided information regarding examples of county P3 projects, practical challenges for counties regarding the P3 law, questions and suggestions for task force clarifications regarding the law. Mr. Fletcher answered questions from task force members.

Presentation from the Florida League of Cities at 3:50 p.m.

Mr. Michael Parker, City of Tallahassee, and Mr. Kevin Crowder, Redevelopment Management Associates, provided testimony regarding the P3 law, use of P3s by municipalities, suggestions for task force clarifications regarding the law. Both presenters answered questions from task force members.

Other Business and Public Testimony at 4:15 p.m.

The Floor was opened for comment, questions and statements from members.

The Floor was opened for public comment, questions and statements. No public comment was provided.

Adjournment at 4:20 p.m.

Partnership for Public Facilities and Infrastructure Act Guidelines Task Force

Tentative Schedule

Dec. 2 – 6	Meeting to discuss the eight items tasked for consideration and review of questions and comments to consider
Dec. 12	Deadline for members to provide staff with any additional questions and comments to consider (distributed to members)
Week of Jan. 6	Meeting to present and discuss all preliminary concepts
Week of Jan. 27	Meeting to present, discuss, and vote on final concepts for inclusion in recommendations
As Needed	Meeting(s) called as necessary to finalize final concepts for draft report development
May	Meeting to review draft report of task force recommendations
June	Meeting to vote on final report of task force recommendations
July 1	Submission of final report of task force recommendations to Governor, Speaker of the House and Senate President

Public-Private Partnerships: A Three State Comparison

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Public-Private Partnerships: A Three State Comparison

Section Titles	Florida Law Chapter 2013-223, Laws of Florida	Virginia Law Chapter 22.1	Texas Law Chapter 2267
Definitions	<p>287.05712 Public-private partnerships.— (1) DEFINITIONS.—As used in this section, the term:</p> <p>(a) "Affected local jurisdiction" means a county, municipality, or special district in which all or a portion of a qualifying project is located.</p> <p>(b) "Develop" means to plan, design, finance, lease, acquire, install, construct, or expand.</p> <p>(c) "Fees" means charges imposed by the private entity of a qualifying project for use of all or a portion of such qualifying project pursuant to a comprehensive agreement.</p> <p>(d) "Lease payment" means any form of payment, including a land lease, by a public entity to the private entity of a qualifying project for the use of the project.</p> <p>(e) "Material default" means a nonperformance of its duties by the private entity of a qualifying project which jeopardizes adequate service to the public from the project.</p> <p>(f) "Operate" means to finance, maintain, improve, equip, modify, or repair.</p>	<p>§ 56-575.1. Definitions. As used in this chapter, unless the context requires a different meaning:</p> <p>"Affected jurisdiction" means any county, city or town in which all or a portion of a qualifying project is located.</p> <p>"Appropriating body" means the body responsible for appropriating or authorizing funding to pay for a qualifying project.</p> <p>"Commission" means the State Corporation Commission.</p> <p>"Comprehensive agreement" means the comprehensive agreement between the private entity and the responsible public entity required by § 56-575.9.</p> <p>"Develop" or "development" means to plan, design, develop, finance, lease, acquire, install, construct, or expand.</p> <p>"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,</p>	<p>Sec. 2267.001. DEFINITIONS. In this chapter:</p> <p>(1) "Affected jurisdiction" means any county or municipality in which all or a portion of a qualifying project is located.</p> <p>(2) "Comprehensive agreement" means the comprehensive agreement authorized by Section 2267.058 between the contracting person and the responsible governmental entity.</p> <p>(3) "Contracting person" means a person who enters into a comprehensive or interim agreement with a responsible governmental entity under this chapter.</p> <p>(4) "Develop" means to plan, design, develop, finance, lease, acquire, install, construct, or expand a qualifying project.</p> <p>(5) "Governmental entity" means: A. a board, commission, department, or other agency of this state, including an institution of higher education as defined by Section 61.003, Education Code, that elects to operate under this chapter through the adoption of a</p>

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	<p>(g) "Private entity" means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public-benefit corporation, nonprofit entity, or other private business entity.</p> <p>(h) "Proposal" means a plan for a qualifying project with detail beyond a conceptual level for which terms such as fixing costs, payment schedules, financing, deliverables, and project schedule are defined.</p> <p>(i) "Qualifying project" means:</p> <ol style="list-style-type: none"> 1. A facility or project that serves a public purpose, including, but not limited to, any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity; 2. An improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the 	<p>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.</p> <p>"Lease payment" means any form of payment, including a land lease, by a public entity to the private entity for the use of a qualifying project.</p> <p>"Material default" means any default by the private entity in the performance of its duties under subsection E of § 56-575.8 that jeopardizes adequate service to the public from a qualifying project.</p> <p>"Operate" means to finance, maintain, improve, equip, modify, repair, or operate.</p> <p>"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.</p> <p>"Public entity" means the Commonwealth and any agency or authority thereof, any county, city or town and any other political subdivision of the Commonwealth, any public body politic and corporate, or any regional entity that serves a public purpose.</p>	<p>resolution by the institution's board of regents; and</p> <p>B. a political subdivision of this state that elects to operate under this chapter by the adoption of a resolution by the governing body of the political subdivision.</p> <p>(6) "Interim agreement" means an agreement authorized by Section 2267.059 between a contracting person and a responsible governmental entity that proposes the development or operation of the qualifying project.</p> <p>(7) "Lease payment" means any form of payment, including a land lease, by a governmental entity to the contracting person for the use of a qualifying project.</p> <p>(8) "Material default" means any default by a contracting person in the performance of duties imposed under Section 2267.057(f) that jeopardizes adequate service to the public from a qualifying project.</p> <p>(9) "Operate" means to finance, maintain, improve, equip, modify, repair, or operate a qualifying project.</p> <p>(10) "Qualifying project" means:</p> <ol style="list-style-type: none"> A. any ferry, mass transit facility, vehicle

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	<p>public sector;</p> <p>3. A water, wastewater, or surface water management facility or other related infrastructure; or</p> <p>4. Notwithstanding any provision of this section, for projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned or operated by a municipal electric utility, only those projects that the governing board designates as qualifying projects pursuant to this section.</p> <p>(j) "Responsible public entity" means a county, municipality, school board, or any other political subdivision of the state; a public body corporate and politic; or a regional entity that serves a public purpose and is authorized to develop or operate a qualifying project.</p> <p>(k) "Revenues" means the income, earnings, user fees, lease payments, or other service payments relating to the development or operation of a qualifying project, including, but not limited to, money received as grants or otherwise from the Federal Government, a public entity, or an agency or instrumentality thereof in aid of the qualifying project.</p> <p>(l) "Service contract" means a contract between a public entity and the private entity</p>	<p>"Qualifying project" means (i) any education facility, including, but not limited to a school building, any functionally related and subordinate facility and land to a school building (including any stadium or other facility primarily used for school events), and any depreciable property provided for use in a school facility that is operated as part of the public school system or as an institution of higher education; (ii) any building or facility that meets a public purpose and is developed or operated by or for any public entity; (iii) any improvements, together with equipment, necessary to enhance public safety and security of buildings to be principally used by a public entity; (iv) utility and telecommunications and other communications infrastructure; (v) a recreational facility; (vi) technology infrastructure, services, and applications, including, but not limited to, telecommunications, automated data processing, word processing and management information systems, and related information, equipment, goods and services; (vii) any services designed to increase the productivity or efficiency of the responsible public entity through the use of technology or other means, (viii) any technology, equipment, or infrastructure designed to deploy wireless broadband services to schools, businesses, or</p>	<p>parking facility, port facility, power generation facility, fuel supply facility, oil or gas pipeline, water supply facility, public work, waste treatment facility, hospital, school, medical or nursing care facility, recreational facility, public building, or other similar facility currently available or to be made available to a governmental entity for public use, including any structure, parking area, appurtenance, and other property required to operate the structure or facility and any technology infrastructure installed in the structure or facility that is essential to the project's purpose; or</p> <p>B. any improvements necessary or desirable to unimproved real estate owned by a governmental entity.</p> <p>(11) "Responsible governmental entity" means a governmental entity that has the power to develop or operate an applicable qualifying project.</p> <p>(12) "Revenue" means all revenue, income, earnings, user fees, lease payments, or other service payments that support the development or operation of a qualifying project, including money received as a grant or otherwise from the federal government, a governmental entity, or any agency or</p>

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	<p>which defines the terms of the services to be provided with respect to a qualifying project.</p>	<p>residential areas; (ix) any improvements necessary or desirable to any unimproved locally- or state-owned real estate; or (x) any solid waste management facility as defined in § 10.1-1400 that produces electric energy derived from solid waste.</p> <p>"Responsible public entity" means a public entity that has the power to develop or operate the applicable qualifying project.</p> <p>"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.</p> <p>"Service contract" means a contract entered into between a public entity and the private entity pursuant to § 56-575.5.</p> <p>"Service payments" means payments to the private entity of a qualifying project pursuant to a service contract.</p> <p>"State" means the Commonwealth of Virginia.</p>	<p>instrumentality of the federal government or governmental entity in aid of the project.</p> <p>(13) "Service contract" means a contract between a governmental entity and a contracting person under Section 2267.054.</p> <p>(14) "Service payment" means a payment to a contracting person of a qualifying project under a service contract.</p> <p>(15) "User fee" means a rate, fee, or other charge imposed by a contracting person for the use of all or part of a qualifying project under a comprehensive agreement.</p>

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		<p>"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.</p>	
<p>Legislative Intent/Declaration of Public Purpose</p>	<p>(2) LEGISLATIVE FINDINGS AND INTENT.—</p> <p>The Legislature finds that there is a public need for the construction or upgrade of facilities that are used predominantly for public purposes and that it is in the public's interest to provide for the construction or upgrade of such facilities.</p> <p>(a) The Legislature also finds that:</p> <ol style="list-style-type: none"> 1. There is a public need for timely and cost-effective acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, operation, implementation, or installation of projects serving a public purpose, including educational facilities, transportation facilities, water or wastewater management facilities and infrastructure, technology infrastructure, roads, highways, bridges, and other public infrastructure and government facilities within the state which serve a public need and purpose, and that such public need may not be wholly satisfied by existing procurement methods. 2. There are inadequate resources to develop new educational facilities, 	<p>§ 56-575.2. Declaration of public purpose.</p> <p>A. The General Assembly finds that:</p> <ol style="list-style-type: none"> 1. There is a public need for timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, operation, implementation, or installation of education facilities, technology infrastructure and other public infrastructure and government facilities within the Commonwealth that serve a public need and purpose; 2. Such public need may not be wholly satisfied by existing methods of procurement in which qualifying projects are acquired, designed, constructed, improved, renovated, expanded, equipped, maintained, operated, implemented, or installed; 3. There are inadequate resources to develop new education facilities, technology infrastructure and other public infrastructure and government facilities for the benefit of citizens of the Commonwealth, and there is demonstrated evidence that public-private partnerships can meet these needs by improving the schedule for delivery, lowering 	<p>Sec. 2267.002. DECLARATION OF PUBLIC PURPOSE; CONSTRUCTION OF CHAPTER.</p> <p>(a) The legislature finds that:</p> <ol style="list-style-type: none"> (1) there is a public need for timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, operation, implementation, and installation of education facilities, technology and other public infrastructure, and government facilities in this state that serve a public need and purpose; (2) the public need may not be wholly satisfied by existing methods of procurement in which qualifying projects are acquired, designed, constructed, improved, renovated, expanded, equipped, maintained, operated, implemented, or installed; (3) there are inadequate resources to develop new education facilities, technology and other public infrastructure, and government facilities for the benefit of the citizens of this state, and there is demonstrated evidence that partnerships between public entities and private entities or other persons can meet these needs by improving the schedule for

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	<p>transportation facilities, water or wastewater management facilities and infrastructure, technology infrastructure, roads, highways, bridges, and other public infrastructure and government facilities for the benefit of residents of this state, and that a public-private partnership has demonstrated that it can meet the needs by improving the schedule for delivery, lowering the cost, and providing other benefits to the public.</p> <p>3. There may be state and federal tax incentives that promote partnerships between public and private entities to develop and operate qualifying projects.</p> <p>4. A procurement under this section serves the public purpose of this section if such procurement facilitates the timely development or operation of a qualifying project.</p> <p>(b) It is the intent of the Legislature to encourage investment in the state by private entities; to facilitate various bond financing mechanisms, private capital, and other funding sources for the development and operation of qualifying projects, including expansion and acceleration of such financing to meet the public need; and to provide the greatest possible flexibility to public and private entities contracting for the provision of public services.</p>	<p>the cost, and providing other benefits to the public;</p> <p>4. Financial incentives exist under state and federal tax provisions that promote public entities to enter into partnerships with private entities to develop qualifying projects;</p> <p>5. Authorizing private entities to develop or operate one or more qualifying projects may result in the availability of such projects to the public in a more timely or less costly fashion, thereby serving the public safety, benefit, and welfare.</p> <p>B. An action under § 56-575.4 shall serve the public purpose of this chapter if such action facilitates the timely development or operation of qualifying projects.</p> <p>C. It is the intent of this chapter, among other things, to encourage investment in the Commonwealth by private entities and facilitate the bond financing provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 or other similar financing mechanisms, private capital and other funding sources that support the development or operation of qualifying projects, to the end that financing for qualifying projects be expanded and accelerated to improve and add to the convenience of the public, and such that public and private entities may have the greatest possible flexibility in contracting with each other for the provision of the public services that are the subject of this chapter.</p>	<p>delivery, lowering the cost, and providing other benefits to the public;</p> <p>(4) financial incentives exist under state and federal tax provisions that encourage public entities to enter into partnerships with private entities or other persons to develop qualifying projects; and</p> <p>(5) authorizing private entities or other persons to develop or operate one or more qualifying projects may serve the public safety, benefit, and welfare by making the projects available to the public in a more timely or less costly fashion.</p> <p>(b) An action authorized under Section 2267.053 serves the public purpose of this chapter if the action facilitates the timely development or operation of a qualifying project.</p> <p>(c) The purposes of this chapter include:</p> <p>(1) encouraging investment in this state by private entities and other persons;</p> <p>(2) facilitating bond financing or other similar financing mechanisms, private capital, and other funding sources that support the development or operation of qualifying projects in order to expand and accelerate financing for qualifying projects that improve and add to the convenience of the public; and</p> <p>(3) providing governmental entities with the greatest possible flexibility in contracting with</p>

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		D. This chapter shall be liberally construed in conformity with the purposes hereof.	private entities or other persons to provide public services through qualifying projects subject to this chapter. (d) This chapter shall be liberally construed in conformity with the purposes of this section. (See Florida Law, sect. 15, p. 21) (e) The procedures in this chapter are not exclusive. This chapter does not prohibit a responsible governmental entity from entering into an agreement for or procuring public and private facilities and infrastructure under other statutory authority.
Applicability			Sec. 2267.003. APPLICABILITY. This chapter does not apply to: (1) the financing, design, construction, maintenance, or operation of a highway in the state highway system; (2) a transportation authority created under Chapter 451, 452, 453, or 460, Transportation Code; or (3) any telecommunications, cable television, video service, or broadband infrastructure other than technology installed as part of a qualifying project that is essential to the project.
Pre-Approval of a Qualifying Project	287.0572(4), F.S., PROCUREMENT PROCEDURES.— A responsible public entity may receive unsolicited proposals or may solicit proposals	§ 56-575.3. Prerequisite for operation of a qualifying project. A. Any private entity seeking authorization under this chapter to develop or operate a	APPROVAL REQUIRED; SUBMISSION OF PROPOSAL FOR QUALIFYING PROJECT. (a) A person may not develop or operate a qualifying project unless the person obtains

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	<p>for qualifying projects and may thereafter enter into an agreement with a private entity, or a consortium of private entities, for the building, upgrading, operating, ownership, or financing of facilities.</p> <p>(a) The responsible public entity may establish a reasonable application fee for the submission of an unsolicited proposal under this section. The fee must be sufficient to pay the costs of evaluating the proposal. The responsible public entity may engage the services of a private consultant to assist in the evaluation.</p> <p>(b) The responsible public entity may request a proposal from private entities for a public-private project or, if the public entity receives an unsolicited proposal for a public-private project and the public entity intends to enter into a comprehensive agreement for the project described in such unsolicited proposal, the public entity shall publish notice in the Florida Administrative Register and a newspaper of general circulation at least once a week for 2 weeks stating that the public entity has received a proposal and will accept other proposals for the same project. The timeframe within which the public entity may accept other proposals shall be determined by the public entity on a project-by-project basis based upon the complexity of the project and the public benefit to be gained by allowing a longer or shorter period of time within which other proposals may be received; however, the</p>	<p>qualifying project shall first obtain approval of the responsible public entity under § 56-575.4. Such private entity may initiate the approval process by requesting approval pursuant to subsection A of § 56-575.4 or the responsible public entity may request proposals or invite bids pursuant to subsection B of § 56-575.4.</p> <p>B. Any facility, building, infrastructure or improvement included in a proposal as a part of a qualifying project shall be identified specifically or conceptually.</p> <p>C. Upon receipt by the responsible public entity of a proposal submitted by a private entity initiating the approval process pursuant to subsection A of § 56-575.4, the responsible public entity shall determine whether to accept such proposal for consideration in accordance with § 56-575.16. If the responsible public entity determines not to accept for consideration the proposal submitted by the private entity pursuant to subsection A of § 56-575.4, it shall return the proposal, together with all fees and accompanying documentation, to the private entity.</p> <p>D. The responsible public entity may reject any proposal initiated by a private entity pursuant to subsection A of § 56-575.4 at any time. If the responsible public entity rejects a proposal initiated by a private entity that purports to develop specific cost savings, the public entity shall specify the basis for the rejection.</p>	<p>the approval of and contracts with the responsible governmental entity under this chapter. The person may initiate the approval process by submitting a proposal requesting approval under Section 2267.053(a), or the responsible governmental entity may request proposals or invite bids under Section 2267.053(b).</p> <p>(b) A person submitting a proposal requesting approval of a qualifying project shall specifically and conceptually identify any facility, building, infrastructure, or improvement included in the proposal as a part of the qualifying project.</p> <p>(c) On receipt of a proposal submitted by a person initiating the approval process under Section 2267.053(a), the responsible governmental entity shall determine whether to accept the proposal for consideration in accordance with Sections 2267.052 and 2267.065 and the guidelines adopted under those sections. A responsible governmental entity that determines not to accept the proposal for consideration shall return the proposal, all fees, and the accompanying documentation to the person submitting the proposal.</p> <p>(d) The responsible governmental entity may at any time reject a proposal initiated by a person under Section 2267.053(a).</p>

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	<p>timeframe for allowing other proposals must be at least 21 days, but no more than 120 days, after the initial date of publication. A copy of the notice must be mailed to each local government in the affected area.</p> <p>(c) A responsible public entity that is a school board may enter into a comprehensive agreement only with the approval of the local governing body.</p> <p>(d) Before approval, the responsible public entity must determine that the proposed project:</p> <ol style="list-style-type: none"> 1. Is in the public's best interest. 2. Is for a facility that is owned by the responsible public entity or for a facility for which ownership will be conveyed to the responsible public entity. 3. Has adequate safeguards in place to ensure that additional costs or service disruptions are not imposed on the public in the event of material default or cancellation of the agreement by the responsible public entity. 4. Has adequate safeguards in place to ensure that the responsible public entity or private entity has the opportunity to add capacity to the proposed project or other facilities serving similar predominantly public purposes. 5. Will be owned by the responsible public entity upon completion or termination of the agreement and upon payment of the amounts financed. 		

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	<p>(e) Before signing a comprehensive agreement, the responsible public entity must consider a reasonable finance plan that is consistent with subsection (11); the project cost; revenues by source; available financing; major assumptions; internal rate of return on private investments, if governmental funds are assumed in order to deliver a cost-feasible project; and a total cash-flow analysis beginning with the implementation of the project and extending for the term of the agreement.</p> <p>(f) In considering an unsolicited proposal, the responsible public entity may require from the private entity a technical study prepared by a nationally recognized expert with experience in preparing analysis for bond rating agencies. In evaluating the technical study, the responsible public entity may rely upon internal staff reports prepared by personnel familiar with the operation of similar facilities or the advice of external advisors or consultants who have relevant experience.</p>		
Adoption of Guidelines by Responsible Public Entities	<p>287.05712(3), F.S. PUBLIC-PRIVATE PARTNERSHIP GUIDELINES TASK FORCE.- (a) There is created the Partnership for Public Facilities and Infrastructure Act Guidelines Task Force for the purpose of recommending guidelines for the Legislature to consider for purposes of creating a uniform process for establishing public-private</p>	<p>§ 56-575.3:1. Adoption of guidelines by responsible public entities. A. A responsible public entity shall, prior to requesting or considering a proposal for a qualifying project, adopt and make publicly available guidelines that are sufficient to enable the responsible public entity to comply with this chapter. Such guidelines shall be</p>	<p>Sec. 2267.052. ADOPTION OF GUIDELINES BY RESPONSIBLE GOVERNMENTAL ENTITIES. (a) Before requesting or considering a proposal for a qualifying project, a responsible governmental entity must adopt and make publicly available guidelines that enable the governmental entity to comply with this chapter. The guidelines must be reasonable,</p>

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	<p>partnerships, including the types of factors responsible public entities should review and consider when processing requests for public-private partnership projects pursuant to this section. [...]</p> <p>(d) In reviewing public-private partnerships and developing recommendations, the task force must consider:</p> <ol style="list-style-type: none"> 1. Opportunities for competition through public notice and the availability of representatives of the responsible public entity to meet with private entities considering a proposal. 2. Reasonable criteria for choosing among competing proposals. 3. Suggested timelines for selecting proposals and negotiating an interim or comprehensive agreement. 4. If an accelerated selection and review and documentation timelines should be considered for proposals involving a qualifying project that the responsible public entity deems a priority. 5. Procedures for financial review and analysis which, at a minimum, include a cost-benefit analysis, an assessment of opportunity cost, and consideration of the results of all studies and analyses related to the proposed qualifying project. 6. The adequacy of the information 	<p>reasonable, encourage competition, and guide the selection of projects under the purview of the responsible public entity.</p> <p>B. For a responsible public entity that is an agency or institution of the Commonwealth, the guidelines shall include, but not be limited to:</p> <ol style="list-style-type: none"> 1. Opportunities for competition through public notice and availability of representatives of the responsible public entity to meet with private entities considering a proposal; 2. Reasonable criteria for choosing among competing proposals; 3. Suggested timelines for selecting proposals and negotiating an interim or comprehensive agreement; 4. Authorization for accelerated selection and review and documentation timelines for proposals involving a qualifying project that the responsible public entity deems a priority; 5. Financial review and analysis procedures that shall include, at a minimum, a cost-benefit analysis, an assessment of opportunity cost, and consideration of the results of all studies and analyses related to the proposed qualifying project. These procedures shall also include requirements for the disclosure of such analysis to the appropriating body for review prior to execution of an interim or comprehensive agreement; 6. Consideration of the nonfinancial benefits of a proposed qualifying project; 	<p>encourage competition, and guide the selection of projects under the purview of the responsible governmental entity.</p> <p>(b) The guidelines for a responsible governmental entity described by Section 2267.001(5)(A) must:</p> <ol style="list-style-type: none"> (1) require the responsible governmental entity to: <ol style="list-style-type: none"> (A) make a representative of the entity available to meet with persons who are considering submitting a proposal; and (B) provide notice of the representative's availability; (2) provide reasonable criteria for choosing among competing proposals; (3) contain suggested timelines for selecting proposals and negotiating an interim or comprehensive agreement; (4) allow the responsible governmental entity to accelerate the selection, review, and documentation timelines for proposals involving a qualifying project considered a priority by the entity; (5) include financial review and analysis procedures that at a minimum consist of: <ol style="list-style-type: none"> (A) a cost-benefit analysis; (B) an assessment of opportunity cost; (C) consideration of the degree to which functionality and services similar to the functionality and services to be provided by the proposed project are already available in the private market; and

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	<p>released when seeking competing proposals and providing for the enhancement of that information, if deemed necessary, to encourage competition.</p> <p>7. Current exemptions from public records and public meetings requirements, if any changes to those exemptions are necessary, or if any new exemptions should be created in order to maintain the confidentiality of financial and proprietary information received as part of an unsolicited proposal.</p> <p>8. Recommendations regarding the authority of the responsible public entity to engage the services of qualified professionals, which may include a Florida-registered professional or a certified public accountant, not otherwise employed by the responsible public entity, to provide an independent analysis regarding the specifics, advantages, disadvantages, and long-term and short-term costs of a request by a private entity for approval of a qualifying project, unless the governing body of the public entity determines that such analysis should be performed by employees of the public entity.</p> <p>(e) The task force must submit a final report of its recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2014. (f) The task force is terminated December 31, 2014. The establishment of guidelines pursuant to this section or the</p>	<p>7. A mechanism for the appropriating body to review a proposed interim or comprehensive agreement prior to execution, which shall be in compliance with applicable law and the provisions of subsection I of § 56-575.4 pertaining to the approval of qualifying projects;</p> <p>8. Establishment of criteria for (i) the creation of and the responsibilities of a public-private partnership oversight committee with members representing the responsible public entity and the appropriating body or (ii) compliance with the requirements of Chapter 42 (§ 30-278 et seq.) of Title 30. Such criteria shall include the scope, costs, and duration of the qualifying project, as well as whether the project involves or impacts multiple public entities. The oversight committee, if formed, shall be an advisory committee to review the terms of any proposed interim or comprehensive agreement;</p> <p>9. Analysis of the adequacy of the information released when seeking competing proposals and providing for the enhancement of that information, if deemed necessary, to encourage competition pursuant to subsection G of § 56-575.4;</p> <p>10. Establishment of criteria, key decision points, and approvals required to ensure that the responsible public entity considers the extent of competition before selecting proposals and negotiating an interim or</p>	<p>(D) consideration of the results of all studies and analyses related to the proposed qualifying project;</p> <p>(6) allow the responsible governmental entity to consider the nonfinancial benefits of a proposed qualifying project;</p> <p>(7) include criteria for:</p> <p>(A) the qualifying project, including the scope, costs, and duration of the project and the involvement or impact of the project on multiple public entities;</p> <p>(B) the creation of and the responsibilities of an oversight committee, with members representing the responsible governmental entity, that acts as an advisory committee to review the terms of any proposed interim or comprehensive agreement; and</p> <p>(C) compliance with the requirements of Chapter 2268;</p> <p>(8) require the responsible governmental entity to analyze the adequacy of the information to be released by the entity when seeking competing proposals and require that the entity provide more detailed information, if the entity determines necessary, to encourage competition, subject to Section 2267.053(g);</p> <p>(9) establish criteria, key decision points, and approvals required to ensure that the responsible governmental entity considers the extent of competition before selecting proposals and negotiating an interim or comprehensive agreement; and</p>

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	<p>adoption of such guidelines by a responsible public entity is not required for such entity to request or receive proposals for a qualifying project or to enter into a comprehensive agreement for a qualifying project. A responsible public entity may adopt guidelines so long as such guidelines are not inconsistent with this section.</p>	<p>comprehensive agreement; and 11. The posting and publishing of public notice of 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) a reasonable time period as determined by the responsible public entity to encourage competition and public-private partnerships in accordance with the goals of this chapter, such reasonable period not to be less than 45 days, during which time the responsible public entity shall receive competing proposals pursuant to subsection A of § 56-575.4; and (iii) a requirement for advertising the public notice in the Virginia Business Opportunities publication and posting a notice on the Commonwealth's electronic procurement website shall be included. C. For a responsible public entity that is not an agency or institution of the Commonwealth the guidelines may include the provisions set forth in subsection B in the discretion of such public entity. However, the guidelines of a responsible public entity that is not an agency or institution of the Commonwealth shall include: 1. A requirement that it engage the services of qualified professionals, which may include an architect, professional engineer, or certified public accountant, not otherwise employed by</p>	<p>(10) require the posting and publishing of public notice of a proposal requesting approval of a qualifying project, including: (A) specific information and documentation regarding the nature, timing, and scope of the qualifying project, as required under Section 2267.053(a); (B) a reasonable period of not less than 45 days, as determined by the responsible governmental entity, to encourage competition and partnerships with private entities and other persons in accordance with the goals of this chapter, during which the responsible governmental entity must accept submission of competing proposals for the qualifying project; and (C) a requirement for advertising the notice on the governmental entity's Internet website and on TexasOnline or the state's official Internet website. (c) The guidelines of a responsible governmental entity described by Section 2267.001(5)(B): (1) may include the provisions required under Subsection (b); and (2) must include a requirement that the governmental entity engage the services of qualified professionals, including an architect, professional engineer, or certified public accountant, not otherwise employed by the governmental entity, to provide independent analyses regarding the specifics, advantages,</p>

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		<p>the responsible public entity, to provide independent analysis regarding the specifics, advantages, disadvantages, and the long- and short-term costs of any request by a private entity for approval of a qualifying project unless the governing body of the responsible public entity determines that such analysis of a request by a private entity for approval of a qualifying project shall be performed by employees of the responsible public entity; and</p> <p>2. A mechanism for the appropriating body to review a proposed interim or comprehensive agreement prior to execution.</p>	<p>disadvantages, and long-term and short-term costs of any proposal requesting approval of a qualifying project unless the governing body of the governmental entity determines that the analysis of the proposal is to be performed by employees of the governmental entity.</p>
<p>Approval of Qualifying Projects by the Responsible Public Entity</p>	<p>287.05712(5), F.S., PROJECT APPROVAL REQUIREMENTS.—</p> <p>An unsolicited proposal from a private entity for approval of a qualifying project must be accompanied by the following material and information, unless waived by the responsible public entity:</p> <p>(a) A description of the qualifying project, including the conceptual design of the facilities or a conceptual plan for the provision of services, and a schedule for the initiation and completion of the qualifying project.</p>	<p>§ 56-575.4. Approval of qualifying projects by the responsible public entity.</p> <p>A. A private entity may request approval of a qualifying project by the responsible public entity. Any such request shall be accompanied by the following material and information unless waived by the responsible public entity:</p> <p>1. A topographic map (1:2,000 or other appropriate scale) indicating the location of the qualifying project;</p> <p>2. A description of the qualifying project, including the conceptual design of such facility or facilities or a conceptual plan for the provision of services or technology infrastructure, and 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</p>	<p>Sec. 2267.053. APPROVAL OF QUALIFYING PROJECTS BY RESPONSIBLE GOVERNMENTAL ENTITY.</p> <p>(a) A private entity or other person may submit a proposal requesting approval of a qualifying project by the responsible governmental entity. The proposal must be accompanied by the following, unless waived by the responsible governmental entity:</p> <p>(1) a topographic map, with a 1:2,000 or other appropriate scale, indicating the location of the qualifying project;</p> <p>(2) a description of the qualifying project, including:</p> <p>(A) the conceptual design of any facility or a conceptual plan for the provision of services or technology infrastructure; and</p> <p>(B) a schedule for the initiation of and completion of the qualifying project that</p>

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	<p>(b) A description of the method by which the private entity proposes to secure the necessary property interests that are required for the qualifying project.</p> <p>(c) A description of the private entity's general plans for financing the qualifying project, including the sources of the private entity's funds and the identity of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity.</p> <p>(d) The name and address of a person who may be contacted for additional information concerning the proposal.</p> <p>(e) The proposed user fees, lease payments, or other service payments over the term of a comprehensive agreement, and the</p>	<p>both the public and private entity;</p> <p>3. A statement setting forth the method by which the private entity proposes to secure necessary property interests required for the qualifying project;</p> <p>4. Information relating to the current plans for development of facilities or technology infrastructure to be used by a public entity that are similar to the qualifying project being proposed by the private entity, if any, of each affected local jurisdiction;</p> <p>5. A 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;</p> <p>6. 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;</p> <p>7. A statement setting forth the private entity's general plans for financing the qualifying project including the sources of the private entity's funds and identification of any dedicated revenue source or proposed debt or equity investment on the behalf of the private entity;</p> <p>8. The names and addresses of the persons who may be contacted for further information concerning the request;</p> <p>9. User fees, lease payments, and other service payments over the term of the interim or comprehensive agreement pursuant to § 56-</p>	<p>includes the proposed major responsibilities and timeline for activities to be performed by the governmental entity and the person;</p> <p>(3) a statement of the method the person proposes for securing necessary property interests required for the qualifying project;</p> <p>(4) information relating to any current plans for the development of facilities or technology infrastructure to be used by a governmental entity that are similar to the qualifying project being proposed by the person for each affected jurisdiction;</p> <p>(5) a list of all permits and approvals required for the development and completion of the qualifying project from local, state, or federal agencies and a projected schedule for obtaining the permits and approvals;</p> <p>(6) a list of any facilities that will be affected by the qualifying project and a statement of the person's plans to accommodate the affected facilities;</p> <p>(7) a statement on the person's general plans for financing the qualifying project, including the sources of the person's funds and identification of any dedicated revenue source or proposed debt or equity investment for the person;</p> <p>(8) the name and address of each individual who may be contacted for further information concerning the request;</p> <p>(9) user fees, lease payments, and other service payments over the term of any</p>

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	<p>methodology for and circumstances that would allow changes to the user fees, lease payments, and other service payments over time.</p> <p>(f) Additional material or information that the responsible public entity reasonably requests.</p>	<p>575.9 or 56-575.9:1 and the methodology and circumstances for changes to such user fees, lease payments, and other service payments over time; and</p> <p>10. Such additional material and information as the responsible public entity may reasonably request.</p>	<p>applicable interim or comprehensive agreement and the methodology and circumstances for changes to the user fees, lease payments, and other service payments over time; and</p> <p>(10) any additional material and information the responsible governmental entity reasonably requests.</p>
<p>Project Qualification and Process/Approval of Qualifying Projects</p>	<p>287.05712(6), F.S., PROJECT QUALIFICATION AND PROCESS.—</p> <p>(a) The private entity must meet the minimum standards contained in the responsible public entity's guidelines for qualifying professional services and contracts for traditional procurement projects.</p> <p>(b) The responsible public entity must:</p> <ol style="list-style-type: none"> 1. Ensure that provision is made for the private entity's performance and payment of subcontractors, including, but not limited to, surety bonds, letters of credit, parent company guarantees, and lender and equity partner guarantees. For the components of the qualifying project which involve construction performance and payment, bonds are required and are subject to the recordation, notice, suit limitation, and other requirements of s. 255.05. 2. Ensure the most efficient pricing of the security package that provides for the performance and payment of subcontractors. 	<p>§ 56-575.4. Approval of qualifying projects by the responsible public entity.</p> <p>B. The responsible public entity may request proposals or invite bids from private entities for the development or operation of qualifying projects.</p> <p>C. The responsible public entity may grant approval of the development or operation of the education facility, technology infrastructure or other public infrastructure or government facility needed by a public entity as a qualifying project, or the design or equipping of a qualifying project so developed or operated, if the responsible public entity determines that the project serves the public purpose of this chapter. The responsible public entity may determine that the development or operation of the qualifying project as a qualifying project serves such public purpose if:</p> <ol style="list-style-type: none"> 1. There is a public need for or benefit derived from the qualifying project of the type the 	<p>Sec. 2267.053. APPROVAL OF QUALIFYING PROJECTS BY RESPONSIBLE GOVERNMENTAL ENTITY.</p> <p>(b) A responsible governmental entity may request proposals or invite bids from persons for the development or operation of a qualifying project. A responsible governmental entity shall consider the total project cost as one factor in evaluating the proposals received, but is not required to select the proposal that offers the lowest total project cost. The responsible governmental entity may consider the following factors:</p> <ol style="list-style-type: none"> (1) the proposed cost of the qualifying project; (2) the general reputation, industry experience, and financial capacity of the person submitting a proposal; (3) the proposed design of the qualifying project; (4) the eligibility of the project for accelerated selection, review, and documentation timelines under the responsible governmental entity's guidelines;

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	<p>3. Ensure that provision is made for the transfer of the private entity's obligations if the comprehensive agreement is terminated or a material default occurs.</p> <p>(c) After the public notification period has expired in the case of an unsolicited proposal, the responsible public entity shall rank the proposals received in order of preference. In ranking the proposals, the responsible public entity may consider factors that include, but are not limited to, professional qualifications, general business terms, innovative design techniques or cost-reduction terms, and finance plans. The responsible public entity may then begin negotiations for a comprehensive agreement with the highest-ranked firm. If the responsible public entity is not satisfied with the results of the negotiations, the responsible public entity may terminate negotiations with the proposer and negotiate with the second-ranked or subsequent-ranked firms, in the order consistent with this procedure. If only one proposal is received, the responsible public entity may negotiate in good faith, and if the public entity is not satisfied with the results of the negotiations, the public entity may terminate negotiations with the proposer. Notwithstanding this paragraph, the responsible public entity may reject all proposals at any point in the process until a contract with the proposer is executed.</p>	<p>private entity proposes as a qualifying project;</p> <p>2. The estimated cost of the qualifying project is reasonable in relation to similar facilities; and</p> <p>3. The private entity's plans will result in the timely development or operation of the qualifying project.</p> <p>In evaluating any request, the responsible public entity may rely upon internal staff reports prepared by personnel familiar with the operation of similar facilities or the advice of outside advisors or consultants having relevant experience.</p> <p>D. The responsible public entity may charge a reasonable fee to cover the costs of processing, reviewing and evaluating the request, including without limitation, reasonable attorney's fees and fees for financial, technical, and other necessary advisors or consultants.</p> <p>E. The approval of the responsible public entity shall be subject to the private entity's entering into an interim or comprehensive agreement pursuant to § 56-575.9 with the responsible public entity.</p> <p>F. In connection with its approval of the qualifying project, the responsible public entity shall establish a date for the commencement of activities related to the qualifying project. The responsible public entity may extend such date from time to time.</p>	<p>(5) comments from local citizens and affected jurisdictions;</p> <p>(6) benefits to the public;</p> <p>(7) the person's good faith effort to comply with the goals of a historically underutilized business plan;</p> <p>(8) the person's plans to employ local contractors and residents;</p> <p>(9) for a qualifying project that involves a continuing role beyond design and construction, the person's proposed rate of return and opportunities for revenue sharing; and</p> <p>(10) other criteria that the responsible governmental entity considers appropriate.</p> <p>(c) The responsible governmental entity may approve as a qualifying project the development or operation of a facility needed by the governmental entity, or the design or equipping of a qualifying project, if the responsible governmental entity determines that the project serves the public purpose of this chapter. The responsible governmental entity may determine that the development or operation of the project as a qualifying project serves the public purpose if:</p> <p>(1) there is a public need for or benefit derived from the project of the type the person proposes as a qualifying project;</p> <p>(2) the estimated cost of the project is reasonable in relation to similar facilities; and</p> <p>(3) the person's plans will result in the timely</p>

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	<p>(d) The responsible public entity shall perform an independent analysis of the proposed public-private partnership which demonstrates the cost-effectiveness and overall public benefit before the procurement process is initiated or before the contract is awarded.</p> <p>(e) The responsible public entity may approve the development or operation of an educational facility, a transportation facility, a water or wastewater management facility or related infrastructure, a technology infrastructure or other public infrastructure, or a government facility needed by the responsible public entity as a qualifying project, or the design or equipping of a qualifying project that is developed or operated, if:</p> <ol style="list-style-type: none"> 1. There is a public need for or benefit derived from a project of the type that the private entity proposes as the qualifying project. 2. The estimated cost of the qualifying project is reasonable in relation to similar facilities. 3. The private entity's plans will result in the timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project. <p>(f) The responsible public entity may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the</p>	<p>G. The responsible public entity shall take appropriate action to protect confidential and proprietary information provided by the private entity pursuant to an agreement under subdivision 11 of § 2.2-3705.6.</p> <p>H. Nothing in this chapter or in an interim or comprehensive agreement entered into pursuant to this chapter shall be deemed to enlarge, diminish or affect the authority, if any, otherwise possessed by the responsible public entity to take action that would impact the debt capacity of the Commonwealth.</p> <p>I. Prior to entering into the negotiation of an interim or comprehensive agreement, each responsible public entity that is an agency or institution of the Commonwealth shall submit copies of detailed proposals to the Public-Private Partnership Advisory Commission as provided by Chapter 42 (§ 30-278 et seq.) of Title 30.</p> <p>J. Any proposed comprehensive agreement for a qualifying project where the responsible public entity is an agency or institution of the Commonwealth that (i) creates state tax-supported debt, (ii) requires a level of appropriation significantly beyond the appropriation received by the responsible public entity in the most recent appropriation act, or (iii) significantly alters the Commonwealth's discretion to change the level of services or the funding for such services over time, shall be reviewed by the</p>	<p>development or operation of the qualifying project.</p> <p>(d) The responsible governmental entity may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the proposal, including reasonable legal fees and fees for financial, technical, and other necessary advisors or consultants.</p> <p>(e) The approval of a responsible governmental entity described by Section 2267.001(5)(A) is subject to the private entity or other person entering into an interim or comprehensive agreement with the responsible governmental entity.</p> <p>(f) On approval of the qualifying project, the responsible governmental entity shall establish a date by which activities related to the qualifying project must begin. The responsible governmental entity may extend the date.</p> <p>(g) The responsible governmental entity shall take action appropriate under Section 552.153 to protect confidential and proprietary information provided by the contracting person under an agreement.</p> <p>(h) Before entering into the negotiation of an interim or comprehensive agreement, each responsible governmental entity described by Section 2267.001(5)(A) must submit copies of detailed proposals to the Partnership Advisory Commission in accordance with Chapter 2268.</p> <p>(i) This chapter and an interim or comprehensive agreement entered into under</p>

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	request, including, but not limited to, reasonable attorney fees and fees for financial and technical advisors or consultants and for other necessary advisors or consultants. (g) Upon approval of a qualifying project, the responsible public entity shall establish a date for the commencement of activities related to the qualifying project. The responsible public entity may extend the commencement date. (h) Approval of a qualifying project by the responsible public entity is subject to entering into a comprehensive agreement with the private entity.	appropriating body prior to execution.	this chapter do not enlarge, diminish, or affect any authority a responsible governmental entity has to take action that would impact the debt capacity of this state.
Service Contracts		§ 56-575.5. Service contracts. In addition to any authority otherwise conferred by law, any public entity may contract with a private entity for the delivery of services to be provided as part of a qualifying project in exchange for such service payments and other consideration as such public entity may deem appropriate.	SERVICE CONTRACTS. A responsible governmental entity may contract with a contracting person for the delivery of services to be provided as part of a qualifying project in exchange for service payments and other consideration as the governmental entity considers appropriate.
Affected Local Jurisdictions	287.05712(7), F.S. NOTICE TO AFFECTED LOCAL JURISDICTIONS.— (a) The responsible public entity must notify each affected local jurisdiction by furnishing a copy of the proposal to each affected local jurisdiction when considering a proposal for a qualifying project.	§ 56-575.6. Affected local jurisdictions. A. Any private entity requesting approval from, or submitting a proposal to, a responsible public entity under § 56-575.4 shall notify each affected local jurisdiction by furnishing a copy of its request or proposal to each affected local jurisdiction.	AFFECTED JURISDICTIONS. (a) A person submitting a proposal to a responsible governmental entity under Section 2267.053 shall notify each affected jurisdiction by providing a copy of its proposal to the affected jurisdiction.

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	<p>(b) Each affected local jurisdiction that is not a responsible public entity for the respective qualifying project may, within 60 days after receiving the notice, submit in writing any comments to the responsible public entity and indicate whether the facility is incompatible with the local comprehensive plan, the local infrastructure development plan, the capital improvements budget, any development of regional impact processes or timelines, or other governmental spending plan. The responsible public entity shall consider the comments of the affected local jurisdiction before entering into a comprehensive agreement with a private entity. If an affected local jurisdiction fails to respond to the responsible public entity within the time provided in this paragraph, the nonresponse is deemed an acknowledgement by the affected local jurisdiction that the qualifying project is compatible with the local comprehensive plan, the local infrastructure development plan, the capital improvements budget, or other governmental spending plan.</p>	<p>B. Each affected local jurisdiction that is not a responsible public entity for the respective qualifying project shall, within sixty days after receiving such notice, submit any comments it may have in writing on the proposed qualifying project to the responsible public entity 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 shall be given consideration by the responsible public entity prior to entering a comprehensive agreement pursuant to § 56-575.9 with a private entity.</p>	<p>(b) Not later than the 60th day after the date an affected jurisdiction receives the notice required by Subsection (a), the affected jurisdiction that is not the responsible governmental entity for the respective qualifying project shall submit in writing to the responsible governmental entity any comments the affected jurisdiction has on the proposed qualifying project and indicate whether the facility or project is compatible with the local comprehensive plan, local infrastructure development plans, the capital improvements budget, or other government spending plan. The responsible governmental entity shall consider the submitted comments before entering into a comprehensive agreement with a contracting person.</p>
<p>Dedication of Public Property</p>		<p>§ 56-575.7. Dedication of public property. Any public entity may dedicate any property interest, including land, improvements, and tangible personal property, that it has for public use in a qualifying project if it finds that so doing will serve the public purpose of this chapter by minimizing the cost of a qualifying project to the public entity or reducing the</p>	<p>DEDICATION AND CONVEYANCE OF PUBLIC PROPERTY. (a) After obtaining any appraisal of the property interest that is required under other law in connection with the conveyance, a governmental entity may dedicate any property interest, including land, improvements, and tangible personal property,</p>

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		<p>delivery time of a qualifying project. In connection with such dedication, a public entity may convey any property interest that it has, subject to the conditions imposed by general law governing such conveyances, to the private entity subject to the provisions of this chapter, for such consideration as such public entity may determine. The aforementioned consideration may include, without limitation, the agreement of the private entity to develop or operate the qualifying project. The property interests that the public entity may convey to the private entity in connection with a dedication under this section may include licenses, franchises, easements, or any other right or interest the public entity deems appropriate.</p>	<p>for public use in a qualifying project if the governmental entity finds that the dedication will serve the public purpose of this chapter by minimizing the cost of a qualifying project to the governmental entity or reducing the delivery time of a qualifying project. (b) In connection with a dedication under Subsection (a), a governmental entity may convey any property interest, including a license, franchise, easement, or another right or interest the governmental entity considers appropriate, subject to the conditions imposed by general law governing such conveyance and subject to the rights of an existing utility under a license, franchise, easement, or other right under law, to the contracting person for the consideration determined by the governmental entity. The consideration may include the agreement of the contracting person to develop or operate the qualifying project.</p>
<p>Interim Agreement</p>	<p>287.05712(8), F.S., INTERIM AGREEMENT.— Before or in connection with the negotiation of a comprehensive agreement, the public entity may enter into an interim agreement with the private entity proposing the development or operation of the qualifying project. An interim agreement does not obligate the responsible public entity to enter into a comprehensive agreement. The interim agreement is discretionary with the parties and is not required on a qualifying project for which the parties may proceed directly to a</p>	<p>§ 56-575.9:1. Interim agreement. Prior to or in connection with the negotiation of the comprehensive agreement, the responsible public entity may enter into an interim agreement with the private entity proposing the development or operation of the qualifying project. Such interim agreement may (i) permit the private entity to commence activities for which it may be compensated relating to the proposed qualifying project, including, but not limited to, project planning and development, design and engineering,</p>	<p>INTERIM AGREEMENT. Before or in connection with the negotiation of the comprehensive agreement, the responsible governmental entity may enter into an interim agreement with the contracting person proposing the development or operation of the qualifying project. The interim agreement may: (1) authorize the contracting person to begin project phases or activities for which the contracting person may be compensated relating to the proposed qualifying project,</p>

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	<p>comprehensive agreement without the need for an interim agreement. An interim agreement must be limited to provisions that:</p> <p>(a) Authorize the private entity to commence activities for which it may be compensated related to the proposed qualifying project, including, but not limited to, project planning and development, design, environmental analysis and mitigation, survey, other activities concerning any part of the proposed qualifying project, and ascertaining the availability of financing for the proposed facility or facilities.</p> <p>(b) Establish the process and timing of the negotiation of the comprehensive agreement.</p> <p>(c) Contain such other provisions related to an aspect of the development or operation of a qualifying project that the responsible public entity and the private entity deem appropriate.</p>	<p>environmental analysis and mitigation, survey, and ascertaining the availability of financing for the proposed facility or facilities; (ii) establish the process and timing of the negotiation of the comprehensive agreement; and (iii) contain any other provisions related to any aspect of the development or operation of a qualifying project that the parties may deem appropriate.</p>	<p>including project planning and development, design, engineering, environmental analysis and mitigation, surveying, and financial and revenue analysis, including ascertaining the availability of financing for the proposed facility or facilities of the qualifying project; (2) establish the process and timing of the negotiation of the comprehensive agreement; and (3) contain any other provision related to any aspect of the development or operation of a qualifying project that the parties consider appropriate.</p>
Comprehensive Agreement	<p>287.05712(9), F.S., COMPREHENSIVE AGREEMENT.—</p> <p>(a) Before developing or operating the qualifying project, the private entity must enter into a comprehensive agreement with the responsible public entity. The comprehensive agreement must provide for:</p> <p>1. Delivery of performance and payment bonds, letters of credit, or other security acceptable to the responsible public</p>	<p>§ 56-575.9. Comprehensive agreement.</p> <p>A. Prior to developing or operating the qualifying project, the private entity shall enter into a comprehensive agreement with the responsible public entity. The comprehensive agreement shall provide for:</p> <p>1. Delivery of maintenance, performance and payment bonds, letters of credit in connection with the development or operation of the</p>	<p>COMPREHENSIVE AGREEMENT.</p> <p>(a) Before developing or operating the qualifying project, the contracting person must enter into a comprehensive agreement with a responsible governmental entity. The comprehensive agreement shall provide for:</p> <p>(1) delivery of letters of credit or other security in connection with the development or operation of the qualifying project, in the</p>

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	<p>entity in connection with the development or operation of the qualifying project in the form and amount satisfactory to the responsible public entity. For the components of the qualifying project which involve construction, the form and amount of the bonds must comply with s. 255.05.</p> <p>2. Review of the design for the qualifying project by the responsible public entity and, if the design conforms to standards acceptable to the responsible public entity, the approval of the responsible public entity. This subparagraph does not require the private entity to complete the design of the qualifying project before the execution of the comprehensive agreement.</p> <p>3. Inspection of the qualifying project by the responsible public entity to ensure that the private entity's activities are acceptable to the public entity in accordance with the comprehensive agreement.</p> <p>4. Maintenance of a policy of public liability insurance, a copy of which must be filed with the responsible public entity and accompanied by proofs of coverage, or self-insurance, each in the form and amount satisfactory to the responsible public entity and reasonably sufficient to ensure coverage of tort liability to the public and employees and to enable the continued operation of the qualifying project.</p> <p>5. Monitoring by the responsible</p>	<p>qualifying project, in the forms and amounts satisfactory to the responsible public entity and in compliance with § 2.2-4337 for those components of the qualifying project that involve construction;</p> <p>2. Review of plans and specifications for the qualifying project by the responsible public entity and approval by the responsible public entity if the plans and specifications conform to standards acceptable to the responsible public entity. This shall not be construed as requiring the private entity to complete design of a qualifying project prior to the execution of a comprehensive agreement;</p> <p>3. Inspection of the qualifying project by the responsible public entity to ensure that the private entity's activities are acceptable to the responsible public entity in accordance with the provisions of the comprehensive agreement;</p> <p>4. Maintenance of a policy or policies of public liability insurance (copies of which shall be filed with the responsible public entity accompanied by proofs of coverage) or self-insurance, each in form and amount satisfactory to the responsible public entity and reasonably sufficient to insure coverage of tort liability to the public and employees and to enable the continued operation of the qualifying project;</p> <p>5. Monitoring of the practices of the private entity by the responsible public entity to ensure that the qualifying project is properly</p>	<p>forms and amounts satisfactory to the responsible governmental entity, and delivery of performance and payment bonds in compliance with Chapter 2253 for all construction activities;</p> <p>(2) review of plans and specifications for the qualifying project by the responsible governmental entity and approval by the responsible governmental entity if the plans and specifications conform to standards acceptable to the responsible governmental entity, except that the contracting person may not be required to complete the design of a qualifying project before the execution of a comprehensive agreement;</p> <p>(3) inspection of the qualifying project by the responsible governmental entity to ensure that the contracting person's activities are acceptable to the responsible governmental entity in accordance with the comprehensive agreement;</p> <p>(4) maintenance of a public liability insurance policy, copies of which must be filed with the responsible governmental entity accompanied by proofs of coverage, or self-insurance, each in the form and amount satisfactory to the responsible governmental entity and reasonably sufficient to ensure coverage of tort liability to the public and project employees and to enable the continued operation of the qualifying project;</p> <p>(5) monitoring of the practices of the</p>

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	<p>public entity of the maintenance practices to be performed by the private entity to ensure that the qualifying project is properly maintained.</p> <p>6. Periodic filing by the private entity of the appropriate financial statements that pertain to the qualifying project.</p> <p>7. Procedures that govern the rights and responsibilities of the responsible public entity and the private entity in the course of the construction and operation of the qualifying project and in the event of the termination of the comprehensive agreement or a material default by the private entity. The procedures must include conditions that govern the assumption of the duties and responsibilities of the private entity by an entity that funded, in whole or part, the qualifying project or by the responsible public entity, and must provide for the transfer or purchase of property or other interests of the private entity by the responsible public entity.</p> <p>8. Fees, lease payments, or service payments. In negotiating user fees, the fees must be the same for persons using the facility under like conditions and must not materially discourage use of the qualifying project. The execution of the comprehensive agreement or a subsequent amendment is conclusive evidence that the fees, lease payments, or service payments provided for in the comprehensive agreement comply with this</p>	<p>maintained;</p> <p>6. Reimbursement to be paid to the responsible public entity for services provided by the responsible public entity;</p> <p>7. Filing of appropriate financial statements on a periodic basis; and</p> <p>8. Policies and procedures governing the rights and responsibilities of the responsible public entity and the private entity in the event 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 responsible public entity.</p> <p>B. The comprehensive agreement shall provide for such user fees, lease payments, or service payments as may be established from time to time by agreement of the parties. A copy of any service contract shall be filed with the responsible public entity. In negotiating user fees under this section, the parties shall establish payments or fees that are the same for persons using the facility under like conditions and that will not materially discourage use of the qualifying project. The execution of the comprehensive agreement or any amendment thereto shall constitute conclusive evidence that the user fees, lease payments, or service payments provided for</p>	<p>contracting person by the responsible governmental entity to ensure that the qualifying project is properly maintained;</p> <p>(6) reimbursement to be paid to the responsible governmental entity for services provided by the responsible governmental entity;</p> <p>(7) filing of appropriate financial statements on a periodic basis; and</p> <p>(8) policies and procedures governing the rights and responsibilities of the responsible governmental entity and the contracting person if the comprehensive agreement is terminated or there is a material default by the contracting person, including conditions governing:</p> <p>A. assumption of the duties and responsibilities of the contracting person by the responsible governmental entity; and</p> <p>B. the transfer or purchase of property or other interests of the contracting person to the responsible governmental entity.</p> <p>(b) The comprehensive agreement shall provide for any user fee, lease payment, or service payment established by agreement of the parties. In negotiating a user fee under this section, the parties shall establish a payment or fee that is the same for persons using a facility of the qualifying project under like conditions and that will not materially</p>

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	<p>section. Fees or lease payments established in the comprehensive agreement as a source of revenue may be in addition to, or in lieu of, service payments.</p> <p>9. Duties of the private entity, including the terms and conditions that the responsible public entity determines serve the public purpose of this section.</p> <p>(b) The comprehensive agreement may include:</p> <ol style="list-style-type: none"> 1. An agreement by the responsible public entity to make grants or loans to the private entity from amounts received from the federal, state, or local government or an agency or instrumentality thereof. 2. A provision under which each entity agrees to provide notice of default and cure rights for the benefit of the other entity, including, but not limited to, a provision regarding unavoidable delays. 3. A provision that terminates the authority and duties of the private entity under this section and dedicates the qualifying project to the responsible public entity or, if the qualifying project was initially dedicated by an affected local jurisdiction, to the affected local jurisdiction for public use. 	<p>comply with this chapter. User fees or lease payments established in the comprehensive agreement as a source of revenues may be in addition to, or in lieu of, service payments.</p> <p>C. In the comprehensive agreement, the responsible public entity may agree to make grants or loans to the private entity from time to time from amounts received from the federal, state, or local government or any agency or instrumentality thereof.</p> <p>D. The comprehensive agreement shall incorporate the duties of the private entity under this chapter and may contain such other terms and conditions that the responsible public entity determines serve the public purpose of this chapter. Without limitation, the comprehensive agreement may contain provisions under which the responsible public entity agrees to provide notice of default and cure rights for the benefit of the private entity and the persons specified therein as providing financing for the qualifying project. The comprehensive agreement may contain such other lawful terms and conditions to which the private entity and the responsible public entity mutually agree, including, without limitation, provisions regarding unavoidable delays or provisions providing for a loan of public funds to the private entity to develop or operate one or more qualifying projects. The comprehensive agreement may also contain provisions where the authority and duties of</p>	<p>discourage use of the qualifying project. The execution of the comprehensive agreement or an amendment to the agreement is conclusive evidence that the user fee, lease payment, or service payment complies with this chapter. A user fee or lease payment established in the comprehensive agreement as a source of revenue may be in addition to, or in lieu of, a service payment.</p> <p>(c) A comprehensive agreement may include a provision that authorizes the responsible governmental entity to make grants or loans to the contracting person from money received from the federal, state, or local government or any agency or instrumentality of the government.(d) The comprehensive agreement must incorporate the duties of the contracting person under this chapter and may contain terms the responsible governmental entity determines serve the public purpose of this chapter. The comprehensive agreement may contain:</p> <ol style="list-style-type: none"> (1) provisions that require the responsible governmental entity to provide notice of default and cure rights for the benefit of the contracting person and the persons specified in the agreement as providing financing for the qualifying project; (2) other lawful terms to which the contracting person and the responsible governmental entity mutually agree, including provisions regarding unavoidable delays or providing for a

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		<p>the private entity under this chapter shall cease, and the qualifying project is dedicated to the responsible public entity or, if the qualifying project was initially dedicated by an affected local jurisdiction, to such affected local jurisdiction for public use.</p> <p>E. Any changes in the terms of the comprehensive agreement, as may be agreed upon by the parties from time to time, shall be added to the comprehensive agreement by written amendment.</p> <p>F. When a responsible public entity that is not an agency or authority of the Commonwealth enters into a comprehensive agreement pursuant to this chapter, it shall within 30 days thereafter submit a copy of the comprehensive agreement to the Auditor of Public Accounts.</p> <p>G. The comprehensive agreement may provide for the development or operation of phases or segments of the qualifying project.</p>	<p>loan of public money to the contracting person to develop or operate one or more qualifying projects; and</p> <p>(3) provisions in which the authority and duties of the contracting person under this chapter cease and the qualifying project is dedicated for public use to the responsible governmental entity or, if the qualifying project was initially dedicated by an affected jurisdiction, to the affected jurisdiction.</p> <p>(e) Any change in the terms of the comprehensive agreement that the parties agree to must be added to the comprehensive agreement by written amendment.</p> <p>(f) The comprehensive agreement may provide for the development or operation of phases or segments of the qualifying project.</p>
Fees	<p>287.05712(10), F.S., FEES.—An agreement entered into pursuant to this section may authorize the private entity to impose fees to members of the public for the use of the facility. The following provisions apply to the agreement:</p> <p>(a) The responsible public entity may develop new facilities or increase capacity in existing facilities through agreements with public-private partnerships.</p> <p>(b) The public-private partnership</p>		

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	<p>agreement must ensure that the facility is properly operated, maintained, or improved in accordance with standards set forth in the comprehensive agreement.</p> <p>(c) The responsible public entity may lease existing fee-for-use facilities through a public-private partnership agreement.</p> <p>(d) Any revenues must be regulated by the responsible public entity pursuant to the comprehensive agreement.</p> <p>(e) A negotiated portion of revenues from fee-generating uses must be returned to the public entity over the life of the agreement.</p>		
Financing	<p>(11) FINANCING.—</p> <p>(a) A private entity may enter into a private-source financing agreement between financing sources and the private entity. A financing agreement and any liens on the property or facility must be paid in full at the applicable closing that transfers ownership or operation of the facility to the responsible public entity at the conclusion of the term of the comprehensive agreement.</p> <p>(b) The responsible public entity may lend funds to private entities that construct projects containing facilities that are approved under this section.</p> <p>(c) The responsible public entity may use innovative finance techniques associated with a public-private partnership under this section,</p>		

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	<p>including, but not limited to, federal loans as provided in Titles 23 and 49 C.F.R., commercial bank loans, and hedges against inflation from commercial banks or other private sources. In addition, the responsible public entity may provide its own capital or operating budget to support a qualifying project. The budget may be from any legally permissible funding sources of the responsible public entity, including the proceeds of debt issuances. A responsible public entity may use the model financing agreement provided in s. 489.145(6) for its financing of a facility owned by a responsible public entity. A financing agreement may not require the responsible public entity to indemnify the financing source, subject the responsible public entity's facility to liens in violation of s. 11.066(5), or secure financing by the responsible public entity with a pledge of security interest, and any such provision is void.</p> <p>(d) A responsible public entity shall appropriate on a priority basis as required by the comprehensive agreement a contractual payment obligation, annual or otherwise, from the enterprise or other government fund from which the qualifying projects will be funded. This required payment obligation must be appropriated before other noncontractual obligations payable from the same enterprise or other government fund.</p>		

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Federal, State and Local Assistance		<p>§ 56-575.10. Federal, state and local assistance.</p> <p>A. Any financing of a qualifying facility may be in such amounts and upon such terms and conditions as may be determined by the parties to the interim or comprehensive agreement. Without limiting the generality of the terms and conditions of the financing, the private entity and the responsible public entity may propose to utilize any and all funding resources that may be available to them and may, to the fullest extent permitted by applicable law, issue debt, equity, or other securities or obligations, enter into leases, access any designated trust funds, borrow or accept grants from any state infrastructure bank, and secure any financing with a pledge of, security interest in, or lien on, any or all of its property, including all of its property interests in the qualifying facility.</p> <p>B. The responsible public entity may take any action to obtain federal, state, or local assistance for a qualifying project that serves the public purpose of this chapter and may enter into any contracts required to receive such assistance. If the responsible public entity is a state agency, any funds received from the state or federal government or any agency or instrumentality thereof shall be subject to appropriation by the General Assembly. The responsible public entity may determine that it serves the public purpose of this chapter for all</p>	<p>Sec. 2267.060. FEDERAL, STATE, AND LOCAL ASSISTANCE. (a) The contracting person and the responsible governmental entity may use any funding resources that are available to the parties, including:</p> <p>(1) accessing any designated trust funds; and</p> <p>(2) borrowing or accepting grants from any state infrastructure bank.</p> <p>(b) The responsible governmental entity may take any action to obtain federal, state, or local assistance for a qualifying project that serves the public purpose of this chapter and may enter into any contracts required to receive the assistance.</p> <p>(c) If the responsible governmental entity is a state agency, any money received from the state or federal government or any agency or instrumentality of the state or federal government is subject to appropriation by the legislature.</p> <p>(d) The responsible governmental entity may determine that it serves the public purpose of this chapter for all or part of the costs of a qualifying project to be directly or indirectly paid from the proceeds of a grant or loan made by the local, state, or federal government or any agency or instrumentality of the government.</p>

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		or any portion of the costs of a qualifying project to be paid, directly or indirectly, from the proceeds of a grant or loan made by the local, state, or federal government or any agency or instrumentality thereof.	
Powers and Duties of the Private Entity	<p>287.05712(12), F.S., POWERS AND DUTIES OF THE PRIVATE ENTITY.—</p> <p>(a) The private entity shall:</p> <ol style="list-style-type: none"> 1. Develop or operate the qualifying project in a manner that is acceptable to the responsible public entity in accordance with the provisions of the comprehensive agreement. 2. Maintain, or provide by contract for the maintenance or improvement of, the qualifying project if required by the comprehensive agreement. 3. Cooperate with the responsible public entity in making best efforts to establish interconnection between the qualifying project and any other facility or infrastructure as requested by the responsible public entity in accordance with the provisions of the comprehensive agreement. 4. Comply with the comprehensive agreement and any lease or service contract. <p>(b) Each private facility that is constructed pursuant to this section must comply with the requirements of federal, state, and local laws; state, regional, and local comprehensive plans; the responsible public entity's rules,</p>	<p>§ 56-575.8. Powers and duties of the private entity.—</p> <p>A. The private entity shall have all power allowed by law generally to a private entity having the same form of organization as the private entity and shall have the power to develop or operate the qualifying project and collect lease payments, impose user fees or enter into service contracts in connection with the use thereof.</p> <p>B. The private entity may own, lease or acquire any other right to use or operate the qualifying project.</p> <p>C. Any financing of the qualifying project may be in such amounts and upon such terms and conditions as may be determined by the private entity. Without limiting the generality of the foregoing, the private entity may issue debt, equity or other securities or obligations, enter into sale and leaseback transactions and secure any financing with a pledge of, security interest in, or lien on, any or all of its property, including all of its property interests in the qualifying project.</p> <p>D. In operating the qualifying project, the private entity may:</p>	<p>POWERS AND DUTIES OF CONTRACTING PERSON.</p> <p>(a) The contracting person has:</p> <ol style="list-style-type: none"> (1) the power granted by: <ol style="list-style-type: none"> A. general law to a person that has the same form of organization as the contracting person; and B. a statute governing the business or activity of the contracting person; and (2) the power to: <ol style="list-style-type: none"> A. develop or operate the qualifying project; and B. collect lease payments, impose user fees subject to Subsection (b), or enter into service contracts in connection with the use of the project. <p>(b) The contracting person may not impose a user fee or increase the amount of a user fee until the fee or increase is approved by the responsible governmental entity.</p> <p>(c) The contracting person may own, lease, or acquire any other right to use or operate the qualifying project.</p> <p>(d) The contracting person may finance a qualifying project in the amounts and on the terms determined by the contracting person.</p>

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	<p>procedures, and standards for facilities; and such other conditions that the responsible public entity determines to be in the public's best interest and that are included in the comprehensive agreement.</p> <p>(c) The responsible public entity may provide services to the private entity. An agreement for maintenance and other services entered into pursuant to this section must provide for full reimbursement for services rendered for qualifying projects.</p> <p>(d) A private entity of a qualifying project may provide additional services for the qualifying project to the public or to other private entities if the provision of additional services does not impair the private entity's ability to meet its commitments to the responsible public entity pursuant to the comprehensive agreement.</p>	<ol style="list-style-type: none"> 1. Make classifications according to reasonable categories for assessment of user fees; and 2. With the consent of the responsible public entity, make and enforce reasonable rules to the same extent that the responsible public entity may make and enforce rules with respect to similar facilities. <p>E. The private entity shall:</p> <ol style="list-style-type: none"> 1. Develop or operate the qualifying project in a manner that is acceptable to the responsible public entity, all in accordance with the provisions of the interim or comprehensive agreement pursuant to § 56-575.9 or 56-575.9:1; 2. Keep the qualifying project open for use by the members of the public at all times, or as appropriate based upon the use of the facility, after its initial opening upon payment of the applicable user fees, lease payments, or service payments; provided that the qualifying project may be temporarily closed because of emergencies or, with the consent of the responsible public entity, to protect the safety of the public or for reasonable construction or maintenance activities. In the event that a qualifying project is technology infrastructure, access may be limited as determined by the conditions of the interim or comprehensive agreement; 3. Maintain, or provide by contract for the maintenance or upgrade of the qualifying project, if required by the interim or 	<p>The contracting person may issue debt, equity, or other securities or obligations, enter into sale and leaseback transactions, and secure any financing with a pledge of, security interest in, or lien on any or all of its property, including all of its property interests in the qualifying project.</p> <p>(e) In operating the qualifying project, the contracting person may:</p> <ol style="list-style-type: none"> (1) establish classifications according to reasonable categories for assessment of user fees; and (2) with the consent of the responsible governmental entity, adopt and enforce reasonable rules for the qualifying project to the same extent as the responsible governmental entity. <p>(f) The contracting person shall:</p> <ol style="list-style-type: none"> (1) develop or operate the qualifying project in a manner that is acceptable to the responsible governmental entity and in accordance with any applicable interim or comprehensive agreement; (2) subject to Subsection (g), keep the qualifying project open for use by the public at all times, or as appropriate based on the use of the project, after its initial opening on payment of the applicable user fees, lease payments, or service payments; (3) maintain, or provide by contract for the maintenance or upgrade of, the qualifying project, if required by any applicable interim or

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		<p>comprehensive agreement;</p> <p>4. Cooperate with the responsible public entity in making best efforts to establish any interconnection with the qualifying project requested by the responsible public entity; and</p> <p>5. Comply with the provisions of the interim or comprehensive agreement and any lease or service contract.</p> <p>F. Nothing shall prohibit an private entity of a qualifying project from providing additional services for the qualifying project to public or private entities other than the responsible public entity so long as the provision of additional service does not impair the private entity's ability to meet its commitments to the responsible public entity pursuant to the interim or comprehensive agreement as provided for in § 56-575.9 or 56-575.9:1.</p>	<p>comprehensive agreement;</p> <p>(4) cooperate with the responsible governmental entity to establish any interconnection with the qualifying project requested by the responsible governmental entity; and</p> <p>(5) comply with any applicable interim or comprehensive agreement and any lease or service contract.</p> <p>(g) The qualifying project may be temporarily closed because of emergencies or, with the consent of the responsible governmental entity, to protect public safety or for reasonable construction or maintenance activities.</p> <p>(h) This chapter does not prohibit a contracting person of a qualifying project from providing additional services for the qualifying project to the public or persons other than the responsible governmental entity, provided that the provision of additional service does not impair the contracting person's ability to meet the person's commitments to the responsible governmental entity under any applicable interim or comprehensive agreement.</p>
Material Default; Remedies	<p>287.05712(13), F.S., EXPIRATION OR TERMINATION OF AGREEMENTS.—</p> <p>Upon the expiration or termination of a comprehensive agreement, the responsible public entity may use revenues from the qualifying project to pay current operation and</p>	<p>§ 56-575.11. Material default; remedies.</p> <p>A. In the event of a material default by the private entity, the responsible public entity may elect to assume the responsibilities and duties of the private entity of the qualifying project, and in such case, it shall succeed to all</p>	<p>MATERIAL DEFAULT; REMEDIES.</p> <p>(a) If the contracting person commits a material default, the responsible governmental entity may assume the responsibilities and duties of the contracting person of the qualifying project. If the responsible</p>

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	<p>maintenance costs of the qualifying project. If the private entity materially defaults under the comprehensive agreement, the compensation that is otherwise due to the private entity is payable to satisfy all financial obligations to investors and lenders on the qualifying project in the same way that is provided in the comprehensive agreement or any other agreement involving the qualifying project, if the costs of operating and maintaining the qualifying project are paid in the normal course. Revenues in excess of the costs for operation and maintenance costs may be paid to the investors and lenders to satisfy payment obligations under their respective agreements. A responsible public entity may terminate with cause and without prejudice a comprehensive agreement and may exercise any other rights or remedies that may be available to it in accordance with the provisions of the comprehensive agreement. The full faith and credit of the responsible public entity may not be pledged to secure the financing of the private entity. The assumption of the development or operation of the qualifying project does not obligate the responsible public entity to pay any obligation of the private entity from sources other than revenues from the qualifying project unless stated otherwise in the comprehensive agreement.</p>	<p>of the right, title and interest in such qualifying project, subject to any liens on revenues previously granted by the private entity to any person providing financing thereof.</p> <p>B. Any responsible public entity having the power of condemnation under state law may exercise such power of condemnation to acquire the qualifying project in the event of a material default by the private entity. Any person who has provided financing for the qualifying project, and the private entity, to the extent of its capital investment, may participate in the condemnation proceedings with the standing of a property owner.</p> <p>C. The responsible public entity may terminate, with cause, the interim or comprehensive agreement and exercise any other rights and remedies that may be available to it at law or in equity.</p> <p>D. The responsible public entity may make or cause to be made any appropriate claims under the maintenance, performance, or payment bonds; or lines of credit required by subsection A 1 of § 56-575.9.</p> <p>E. In the event the responsible public entity elects to take over a qualifying project pursuant to subsection A, the responsible public entity may develop or operate the qualifying project, impose user fees, impose and collect lease payments for the use thereof and comply with any service contracts as if it were the private entity. Any revenues that are</p>	<p>governmental entity assumes the responsibilities and duties of the contracting person, the responsible governmental entity has all the rights, title, and interest in the qualifying project, subject to any liens on revenue previously granted by the contracting person to any person providing financing for the project.</p> <p>(b) A responsible governmental entity that has the power of eminent domain under state law may exercise that power to acquire the qualifying project in the event of a material default by the contracting person. Any person who has provided financing for the qualifying project, and the contracting person to the extent of its capital investment, may participate in the eminent domain proceedings with the standing of a property owner.</p> <p>(c) The responsible governmental entity may terminate, with cause, any applicable interim or comprehensive agreement and exercise any other rights and remedies available to the governmental entity at law or in equity.</p> <p>(d) The responsible governmental entity may make any appropriate claim under the letters of credit or other security or the performance and payment bonds required by Section 2267.058(a)(1).(e) If the responsible governmental entity elects to assume the responsibilities and duties for a qualifying project under Subsection (a), the responsible governmental entity may:</p>

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		<p>subject to a lien shall be collected for the benefit of and paid to secured parties, as their interests may appear, to the extent necessary to satisfy the private entity's obligations to secured parties, including the maintenance of reserves. Such liens shall be correspondingly reduced and, when paid off, released. Before any payments to, or for the benefit of, secured parties, the responsible public entity may use revenues to pay current operation and maintenance costs of the qualifying project, including compensation to the responsible public entity for its services in operating and maintaining the qualifying project. The right to receive such payment, if any, shall be considered just compensation for the qualifying project. The full faith and credit of the responsible public entity shall not be pledged to secure any financing of the private entity by the election to take over the qualifying project. Assumption of operation of the qualifying project shall not obligate the responsible public entity to pay any obligation of the private entity from sources other than revenues.</p>	<p>(1) develop or operate the qualifying project; (2) impose user fees; (3) impose and collect lease payments for the use of the project; and (4) comply with any applicable contract to provide services. (f) The responsible governmental entity shall collect and pay to secured parties any revenue subject to a lien to the extent necessary to satisfy the contracting person's obligations to secured parties, including the maintenance of reserves. The liens shall be correspondingly reduced and, when paid off, released. (g) Before any payment is made to or for the benefit of a secured party, the responsible governmental entity may use revenue to pay the current operation and maintenance costs of the qualifying project, including compensation to the responsible governmental entity for its services in operating and maintaining the qualifying project. The right to receive any payment is considered just compensation for the qualifying project. (h) The full faith and credit of the responsible governmental entity may not be pledged to secure any financing of the contracting person that was assumed by the governmental entity when the governmental entity assumed responsibility for the qualifying project.</p>

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Condemnation		<p>§ 56-575.12. Condemnation. At the request of the private entity, the responsible public entity may exercise any power of condemnation that it has under law for the purpose of acquiring any lands or estates or interests therein to the extent that the responsible public entity finds that such action serves the public purpose of this chapter. Any amounts to be paid in any such condemnation proceeding shall be paid by the private entity.</p>	
Utility Crossing		<p>§ 56-575.13. Utility crossing. The private entity and each public service company, public utility, railroad, and cable television provider, whose facilities are to be crossed or affected shall cooperate fully with the other entity in planning and arranging the manner of the crossing or relocation of the facilities. Any such entity possessing the power of condemnation is hereby expressly granted such powers in connection with the moving or relocation of facilities to be crossed by the qualifying project or that must be relocated to the extent that such moving or relocation is made necessary or desirable by construction of, renovation to, or improvements to the qualifying project, which shall be construed to include construction of, renovation to, or improvements to temporary facilities for the purpose of providing service during the period of construction or improvement. Any amount</p>	

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		<p>to be paid for such crossing, construction, moving or relocating of facilities shall be paid for by the private entity. Should the private entity and any such public service company, public utility, railroad, and cable television provider not be able to agree upon a plan for the crossing or relocation, the Commission may determine the manner in which the crossing or relocation is to be accomplished and any damages due arising out of the crossing or relocation. The Commission may employ expert engineers who shall examine the location and plans for such crossing or relocation, hear any objections and consider modifications, and make a recommendation to the Commission. In such a case, the cost of the experts is to be borne by the private entity. Such determination shall be made by the Commission within ninety days of notification by the private entity that the qualifying project will cross utilities subject to the Commission's jurisdiction.</p>	
<p>Police Powers; Violations of the Law</p>		<p>§ 56-575.14. Police powers; violations of law. All police officers of the Commonwealth and of each affected local jurisdiction shall have the same powers and jurisdiction within the limits of such qualifying project as they have in their respective areas of jurisdiction and such police officers shall have access to the qualifying project at any time for the purpose of exercising such powers and jurisdiction.</p>	<p>POLICE POWERS; VIOLATIONS OF LAW. A peace officer of this state or of any affected jurisdiction has the same powers and jurisdiction within the area of the qualifying project as the officer has in the officer's area of jurisdiction. The officer may access the qualifying project at any time to exercise the officer's powers and jurisdiction.</p>

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Sovereign Immunity	287.05712(14), F.S., SOVEREIGN IMMUNITY. — This section does not waive the sovereign immunity of a responsible public entity, an affected local jurisdiction, or an officer or employee thereof with respect to participation in, or approval of, any part of a qualifying project or its operation, including, but not limited to, interconnection of the qualifying project with any other infrastructure or project. A county or municipality in which a qualifying project is located possesses sovereign immunity with respect to the project, including, but not limited to, its design, construction, and operation.	§ 56-575.15. Sovereign immunity. Nothing in this chapter shall be construed as or deemed a waiver of the sovereign immunity of the Commonwealth, any responsible public entity or any affected local jurisdiction or any officer or employee thereof with respect to the participation in, or approval of all or any part of the qualifying project or its operation, including but not limited to interconnection of the qualifying project with any other infrastructure or project. Counties, cities and towns in which a qualifying project is located shall possess sovereign immunity with respect to its design, construction, and operation.	
Construction Procurement, Performance and Payment Bonds	287.05712(15), F.S., CONSTRUCTION. —This section shall be liberally construed to effectuate the purposes of this section. This section shall be construed as cumulative and supplemental to any other authority or power vested in or exercised by the governing board of a county, district, or municipal hospital or health care system including those contained in acts of the Legislature establishing such public hospital boards or s. 155.40. This section does not affect any agreement or existing relationship with a supporting organization involving such governing board or system in effect as of January 1, 2013. (a) This section does not limit a political subdivision of the state in the acquisition, design, or construction of a public project		PERFORMANCE AND PAYMENT BONDS REQUIRED. (a) The construction, remodel, or repair of a qualifying project may be performed only after performance and payment bonds for the construction, remodel, or repair have been executed in compliance with Chapter 2253 regardless of whether the qualifying project is on public or private property or is publicly or privately owned. (b) For purposes of this section, a qualifying project is considered a public work under Chapter 2253 and the responsible governmental entity shall assume the obligations and duties of a governmental entity under that chapter. The obligee under a performance bond under this section may be a

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	<p>pursuant to other statutory authority.</p> <p>(b) Except as otherwise provided in this section, this section does not amend existing laws by granting additional powers to, or further restricting, a local governmental entity from regulating and entering into cooperative arrangements with the private sector for the planning, construction, or operation of a facility.</p> <p>(c) This section does not waive any requirement of s. 287.055.</p>		<p>public entity, a private person, or an entity consisting of both a public entity and a private person.</p>
<p>Procurement</p>		<p>§ 56-575.16. (Effective until July 1, 2014) Procurement. The Virginia Public Procurement Act (§ 2.2-4300 et seq.) and any interpretations, regulations, or guidelines of the Division of Engineering and Buildings of the Department of General Services or the Virginia Information Technologies Agency, including the Capital Outlay Manual and those interpretations, regulations or guidelines developed pursuant to §§ 2.2-1131, 2.2-1132, 2.2-1133, 2.2-1149, and 2.2-1502, except those developed by the Division or the Virginia Information Technologies Agency in accordance with this chapter when the Commonwealth is the responsible public entity, shall not apply to this chapter. However, a responsible public entity may enter into a comprehensive agreement only in accordance with guidelines adopted by it as follows:</p> <ol style="list-style-type: none"> 1. A responsible public entity may enter into a 	<p>PROCUREMENT GUIDELINES.</p> <p>(a) Chapters 2155, 2156, and 2166, any interpretations, rules, or guidelines of the comptroller and the Texas Facilities Commission, and interpretations, rules, or guidelines developed under Chapter 2262 do not apply to a qualifying project under this chapter.</p> <p>(b) A responsible governmental entity may enter into a comprehensive agreement only in accordance with guidelines that require the contracting person to design and construct the qualifying project in accordance with procedures that do not materially conflict with those specified in:</p> <ol style="list-style-type: none"> (1) Section 2166.2531; (2) Section 44.036, Education Code; (3) Section 51.780, Education Code; (4) Section 271.119, Local Government Code; <p>or</p> <ol style="list-style-type: none"> (5) Subchapter J, Chapter 271, Local

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		<p>comprehensive agreement in accordance with guidelines adopted by it that are consistent with procurement through competitive sealed bidding as defined in § 2.2-4301 and subsection B of § 2.2-4310.</p> <p>2. A responsible public entity may enter into a comprehensive agreement in accordance with guidelines adopted by it that are consistent with the procurement of "other than professional services" through competitive negotiation as defined in § 2.2-4301 and subsection B of § 2.2-4310. Such responsible public entity shall not be required to select the proposal with the lowest price offer, but may consider price as one factor in evaluating the proposals received. Other factors that may be considered include (i) the proposed cost of the qualifying facility; (ii) the general reputation, industry experience, and financial capacity of the private entity; (iii) the proposed design of the qualifying project; (iv) the eligibility of the facility for accelerated selection, review, and documentation timelines under the responsible public entity's guidelines; (v) local citizen and government comments; (vi) benefits to the public; (vii) the private entity's compliance with a minority business enterprise participation plan or good faith effort to comply with the goals of such plan; (viii) the private entity's plans to employ local contractors and residents; and (ix) other criteria that the responsible public entity</p>	<p>Government Code, for civil works projects as defined by Section 271.181(2), Local Government Code.</p> <p>(c) This chapter does not authorize a responsible governmental entity or a contracting person to obtain professional services through any process except in accordance with Subchapter A, Chapter 2254.</p> <p>(d) Identified team members, including the architect, engineer, or builder, may not be substituted or replaced once a project is approved and an interim or comprehensive agreement is executed without the written approval of the responsible governmental entity.</p>

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		<p>deems appropriate.</p> <p>A responsible public entity shall proceed in accordance with the guidelines adopted by it pursuant to subdivision 1 unless it determines that proceeding in accordance with the guidelines adopted by it pursuant to this subdivision is likely to be advantageous to the responsible public entity and the public, based on (i) the probable scope, complexity, or priority of the project; (ii) risk sharing including guaranteed cost or completion guarantees, added value or debt or equity investments proposed by the private entity; or (iii) an increase in funding, dedicated revenue source or other economic benefit that would not otherwise be available. When the responsible public entity determines to proceed according to the guidelines adopted by it pursuant to this subdivision, it shall state the reasons for its determination in writing. If a state agency is the responsible public entity, the approval of the responsible Governor's Secretary, or the Governor, shall be required before the responsible public entity may enter into a comprehensive agreement pursuant to this subdivision.</p> <p>3. Nothing in this chapter shall authorize or require that a responsible public entity obtain professional services through any process except in accordance with guidelines adopted by it that are consistent with the procurement</p>	

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		<p>of "professional services" through competitive negotiation as defined in § 2.2-4301 and subsection B of § 2.2-4310.</p> <p>4. A responsible public entity shall not proceed to consider any request by a private entity for approval of a qualifying project until the responsible public entity has adopted and made publicly available guidelines pursuant to § 56-575.3:1 that are sufficient to enable the responsible public entity to comply with this chapter.</p> <p>5. A responsible public entity that is a school board or a county, city, or town may enter into an interim or comprehensive agreement under this chapter only with the approval of the local governing body.</p>	
Procurement		<p>§ 56-575.16. (Effective July 1, 2014) Procurement.</p> <p>The Virginia Public Procurement Act (§ 2.2-4300 et seq.) and any interpretations, regulations, or guidelines of the Division of Engineering and Buildings of the Department of General Services or the Virginia Information Technologies Agency, including the Capital Outlay Manual and those interpretations, regulations or guidelines developed pursuant to §§ 2.2-1131, 2.2-1132, 2.2-1133, 2.2-1149, and 2.2-1502, except those developed by the Division or the Virginia Information Technologies Agency in accordance with this chapter when the Commonwealth is the responsible public entity, shall not apply to this</p>	

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		<p>chapter. However, a responsible public entity may enter into a comprehensive agreement only in accordance with guidelines adopted by it as follows:</p> <ol style="list-style-type: none"> 1. A responsible public entity may enter into a comprehensive agreement in accordance with guidelines adopted by it that are consistent with procurement through competitive sealed bidding as set forth in § 2.2-4302.1 and subsection B of § 2.2-4310. 2. A responsible public entity may enter into a comprehensive agreement in accordance with guidelines adopted by it that are consistent with the procurement of "other than professional services" through competitive negotiation as set forth in § 2.2-4302.2 and subsection B of § 2.2-4310. Such responsible public entity shall not be required to select the proposal with the lowest price offer, but may consider price as one factor in evaluating the proposals received. Other factors that may be considered include (i) the proposed cost of the qualifying facility; (ii) the general reputation, industry experience, and financial capacity of the private entity; (iii) the proposed design of the qualifying project; (iv) the eligibility of the facility for accelerated selection, review, and documentation timelines under the responsible public entity's guidelines; (v) local citizen and government comments; (vi) benefits to the public; (vii) the private entity's compliance with a minority business enterprise 	

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		<p>participation plan or good faith effort to comply with the goals of such plan; (viii) the private entity's plans to employ local contractors and residents; and (ix) other criteria that the responsible public entity deems appropriate.</p> <p>A responsible public entity shall proceed in accordance with the guidelines adopted by it pursuant to subdivision 1 unless it determines that proceeding in accordance with the guidelines adopted by it pursuant to this subdivision is likely to be advantageous to the responsible public entity and the public, based on (i) the probable scope, complexity, or priority of the project; (ii) risk sharing including guaranteed cost or completion guarantees, added value or debt or equity investments proposed by the private entity; or (iii) an increase in funding, dedicated revenue source or other economic benefit that would not otherwise be available. When the responsible public entity determines to proceed according to the guidelines adopted by it pursuant to this subdivision, it shall state the reasons for its determination in writing. If a state agency is the responsible public entity, the approval of the responsible Governor's Secretary, or the Governor, shall be required before the responsible public entity may enter into a comprehensive agreement pursuant to this subdivision.</p>	

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		<p>3. Nothing in this chapter shall authorize or require that a responsible public entity obtain professional services through any process except in accordance with guidelines adopted by it that are consistent with the procurement of "professional services" through competitive negotiation as set forth in § 2.2-4302.2 and subsection B of § 2.2-4310.</p> <p>4. A responsible public entity shall not proceed to consider any request by a private entity for approval of a qualifying project until the responsible public entity has adopted and made publicly available guidelines pursuant to § 56-575.3:1 that are sufficient to enable the responsible public entity to comply with this chapter.</p> <p>5. A responsible public entity that is a school board or a county, city, or town may enter into an interim or comprehensive agreement under this chapter only with the approval of the local governing body.</p>	
<p>Posting of Proposals; Public Comment; Public Access to Procurement Records</p>		<p>§ 56-575.17. Posting of conceptual proposals; public comment; public access to procurement records.</p> <p>A. Conceptual proposals submitted in accordance with subsection A or B of § 56-575.4 to a responsible public entity shall be posted by the responsible public entity within 10 working days after acceptance of such proposals as follows:</p> <p>1. For responsible public entities that are state</p>	<p>Sec. 2267.066. POSTING OF PROPOSALS; PUBLIC COMMENT; PUBLIC ACCESS TO PROCUREMENT RECORDS.</p> <p>(a) Not later than the 10th day after the date a responsible governmental entity accepts a proposal submitted in accordance with Section 2267.053(a) or (b), the responsible governmental entity shall provide notice of the proposal as follows:</p> <p>(1) for a responsible governmental entity</p>

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		<p>agencies, authorities, departments, institutions, and other units of state government, posting shall be on the Department of General Services' centralized electronic procurement website; and</p> <p>2. For responsible public entities that are local bodies, posting shall be on the responsible public entity's website or on the Department of General Services' central electronic procurement website. In addition, such public bodies may publish in a newspaper of general circulation in the area in which the contract is to be performed a summary of the proposals and the location where copies of the proposals are available for public inspection. Such local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.</p> <p>In addition to the posting requirements, at least one copy of the proposals shall be made available for public inspection. Nothing in this section shall be construed to prohibit the posting of the conceptual proposals by additional means deemed appropriate by the responsible public entity so as to provide maximum notice to the public of the opportunity to inspect the proposals. Trade secrets, financial records, or other records of</p>	<p>described by Section 2267.001(5)(A), by posting the proposal on the entity's Internet website; and</p> <p>(2) for a responsible governmental entity described by Section 2267.001(5)(B), by:</p> <p>(A) posting a copy of the proposal on the entity's Internet website; or</p> <p>(B) publishing in a newspaper of general circulation in the area in which the qualifying project is to be performed a summary of the proposal and the location where copies of the proposal are available for public inspection.</p> <p>(b) The responsible governmental entity shall make available for public inspection at least one copy of the proposal. This section does not prohibit the responsible governmental entity from posting the proposal in another manner considered appropriate by the responsible governmental entity to provide maximum notice to the public of the opportunity to inspect the proposal.</p> <p>(c) Trade secrets, financial records, or other</p>

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		<p>the private entity excluded from disclosure under the provisions of subdivision 11 of § 2.2-3705.6 shall not be required to be posted, except as otherwise agreed to by the responsible public entity and the private entity.</p> <p>B. The responsible public entity shall hold a public hearing on the proposals during the proposal review process, but not later than 30 days prior to entering into an interim or comprehensive agreement.</p> <p>C. Once the negotiation phase for the development of an interim or a comprehensive agreement is complete, but before an interim agreement or a comprehensive agreement is entered into, a responsible public entity shall make available the proposed agreement in a manner provided in subsection A.</p> <p>D. Once an interim agreement or a comprehensive agreement has been entered into, a responsible public entity shall make procurement records available for public inspection, upon request. For the purposes of this subsection, procurement records shall not be interpreted to include (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or (ii) financial records, including balance sheets or financial statements of the private entity that are not generally available to the public through regulatory disclosure or otherwise.</p> <p>E. Cost estimates relating to a proposed</p>	<p>records of the contracting person excluded from disclosure under Section 552.101 may not be posted or made available for public inspection except as otherwise agreed to by the responsible governmental entity and the contracting person.</p> <p>(d) The responsible governmental entity shall hold a public hearing on the proposal during the proposal review process not later than the 30th day before the date the entity enters into an interim or comprehensive agreement.</p> <p>(e) On completion of the negotiation phase for the development of an interim or comprehensive agreement and before an interim agreement or comprehensive agreement is entered into, a responsible governmental entity must make available the proposed agreement in a manner provided by Subsection (a) or (b).</p> <p>(f) A responsible governmental entity that has entered into an interim agreement or comprehensive agreement shall make procurement records available for public inspection on request. For purposes of this subsection, procurement records do not include the trade secrets of the contracting person or financial records, including balance sheets or financial statements of the contracting person, that are not generally available to the public through regulatory disclosure or other means.</p> <p>(g) Cost estimates relating to a proposed</p>

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		<p>procurement transaction prepared by or for a responsible public entity shall not be open to public inspection.</p> <p>F. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.</p> <p>G. The provisions of this section shall apply to accepted proposals regardless of whether the process of bargaining will result in an interim or a comprehensive agreement.</p>	<p>procurement transaction prepared by or for a responsible governmental entity are not open to public inspection.</p> <p>(h) Any inspection of procurement transaction records under this section is subject to reasonable restrictions to ensure the security and integrity of the records.</p> <p>(i) This section applies to any accepted proposal regardless of whether the process of bargaining results in an interim or comprehensive agreement.</p>
<p>Contributions and Gifts; Prohibition During Approval Process</p>		<p>§ 56-575.17:1. Contributions and gifts; prohibition during approval process.</p> <p>A. No private entity that has submitted a bid or proposal to a public entity that is an executive branch agency directly responsible to the Governor and is seeking to develop or operate a qualifying project pursuant to this chapter, and no individual who is an officer or director of such a private entity, shall knowingly provide a contribution, gift, or other item with a value greater than \$50 or make an express or implied promise to make such a contribution or gift to the Governor, his political action committee, or the Governor's Secretaries, if the Secretary is responsible to the Governor for an executive branch agency with jurisdiction over the matters at issue, following the submission of a proposal under this chapter until the execution of a comprehensive agreement thereunder. The</p>	

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		<p>provisions of this section shall apply only for any proposal or an interim or comprehensive agreement where the stated or expected value of the contract is \$5 million or more.</p> <p>B. Any person who knowingly violates this section shall be subject to a civil penalty of \$500 or up to two times the amount of the contribution or gift, whichever is greater. The attorney for the Commonwealth shall initiate civil proceedings to enforce the civil penalties. Any civil penalties collected shall be payable to the State Treasurer for deposit to the general fund.</p>	
Auditor of Public Accounts		<p>§ 56-575.18. Auditor of Public Accounts. The Auditor of Public Accounts shall periodically review interim and comprehensive agreements entered into pursuant to this chapter to ensure compliance with the provisions of this chapter. Copies of the agreements and supporting documents must be electronically filed with the Auditor of Public Accounts. Electronic agreements shall be made available in the online database maintained pursuant to § 30-133.</p>	
Eminent Domain			<p>EMINENT DOMAIN. (a) At the request of the contracting person, the responsible governmental entity may exercise any power of eminent domain that it has under law to acquire any land or property interest to the extent that the responsible</p>

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			<p>governmental entity dedicates the land or property interest to public use and finds that the action serves the public purpose of this chapter.</p> <p>(b) Any amounts to be paid in any eminent domain proceeding shall be paid by the contracting person.</p> <p>Sec. 2267.004. APPLICABILITY OF EMINENT DOMAIN LAW. This chapter does not alter the eminent domain laws of this state or grant the power of eminent domain to any person who is not expressly granted that power under other state law.</p>
Affected Facility Owner			<p>AFFECTED FACILITY OWNER.</p> <p>(a) The contracting person and each facility owner, including a public utility, a public service company, or a cable television provider, whose facilities will be affected by a qualifying project shall cooperate fully in planning and arranging the manner in which the facilities will be affected.</p> <p>(b) The contracting person and responsible governmental entity shall ensure that a facility owner whose facility will be affected by a qualifying project does not suffer a disruption of service as a result of the construction or improvement of the qualifying project.</p> <p>(c) A governmental entity possessing the power of eminent domain may exercise that power in connection with the relocation of</p>

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			<p>facilities affected by the qualifying project or facilities that must be relocated to the extent that the relocation is necessary or desirable by construction of, renovation to, or improvements to the qualifying project, which includes construction of, renovation to, or improvements to temporary facilities to provide service during the period of construction or improvement. The governmental entity shall exercise its power of eminent domain to the extent required to ensure an affected facility owner does not suffer a disruption of service as a result of the construction or improvement of the qualifying project during the construction or improvement or after the qualifying project is completed or improved.</p> <p>(d) The contracting person shall pay any amount owed for the crossing, constructing, or relocating of facilities.</p>

Topic	Questions and Comments to Consider
<p>1. Opportunities for competition through public notice and the availability of representatives of the responsible public entity (RPE) to meet with private entities considering a proposal. (Solicited and Unsolicited Proposals)</p>	<ul style="list-style-type: none"> • Should a responsible public entity be required to respond to an unsolicited proposal? • Should the entire unsolicited proposal be used in soliciting additional proposals? Should this be shaded (temporarily exempt) from public record? Should this be exempt from public record? If so, which portions? • What is appropriate regarding vendor meetings? Can voting members (board or elected) meet with vendors? Can staff? At what points during procurement/selection/approval?
<p>2. Reasonable criteria for choosing among competing proposals. (Selection criteria)</p>	<ul style="list-style-type: none"> • The responsible public entity may consider factors that include, but are not limited to: <ul style="list-style-type: none"> ○ professional qualifications ○ general business terms ○ innovative design techniques or cost-reduction terms ○ finance plans. • What, if any, additional criteria should be met? • The P3 law states that this section of law does not amend existing laws (i.e., preferences in chapter 255, F.S.) Should there be a local preference as is currently present in Chapter 255? Florida preference? Can a RPE determine whether a locally-adopted preference still applies?
<p>3. Suggested timelines for selecting proposals and negotiating an interim or comprehensive agreement. (Process timelines)</p>	<ul style="list-style-type: none"> • Are the timelines established in the law for selection and negotiation of interim and comprehensive agreements appropriate? • The responsible public entity can decide, on a project-by-project basis, the timeframe within which they accept other proposals. Is this appropriate? • What factors should a responsible public entity consider in deciding a timeframe? • Is the minimum of 21 days for review enough time to fully assess a proposal? Is the maximum of 120 days enough time?

Topic	Questions and Comments to Consider
<p>4. If an accelerated selection and review and documentation timelines should be considered for proposals involving a qualifying project that the responsible public entity deems a priority. (Priority exceptions)</p>	<ul style="list-style-type: none"> • What criteria must a qualifying project meet to be deemed a priority? • Would accelerated selection and review and documentation timelines limit competition? • What would be an appropriate accelerated timeline? • May a qualifying project from an unsolicited proposal be deemed a priority? • What factors should be considered in deciding to accelerate a timeline?
<p>5. Procedures for financial review and analysis which, at a minimum, include a cost-benefit analysis, an assessment of opportunity cost, and consideration of the results of all studies and analyses related to the proposed qualifying project. (Financial review)</p>	<ul style="list-style-type: none"> • With project funding coming from many sources, these financing agreements are often more complicated than the project financing arrangements cities, counties and school boards typically deal. What guidelines can ensure the public's interests can be adequately protected in these transactions? • Are there any financing techniques that should be avoided? • Independent review by the RPE is required – are RPEs staffed for this workload? • What other types of resources should be available to assist/support responsible public entities? • For unsolicited proposals, law allows for the RPE to charge a reasonable fee to cover costs of evaluating a proposal, which includes attorney fees and fees for financial and technical advisors or consultants. What should the standards be for solicited proposals?
<p>6. The adequacy of the information released when seeking competing proposals and providing for the enhancement of that information, if deemed necessary, to encourage competition. (Specifications for Proposals)</p>	<ul style="list-style-type: none"> • How to provide sufficient detail about the RPE's needs and objectives when seeking competition from an unsolicited proposal? • What parts of an unsolicited proposal must be in the notice to competing bidders? What parts can the responsible public entity shade from disclosure? • Proposals must already meet minimum standards of regular project plan submission. Can all of this information be released

Topic	Questions and Comments to Consider
	<p>when seeking competitive proposals?</p> <ul style="list-style-type: none"> • Can and should a RPE augment information about an unsolicited proposal when seeking competing proposals? • Differentiating between a general solicitation and a conceptual solicitation. Procurement best practices indicate that providing specific versus general requirements maintains the best price competition in a procurement. If a conceptual proposal has less detail, and some of that detail is proprietary, how do you encourage competition?
<p>7. Current exemptions from public records and public meetings requirements, if any changes to those exemptions are necessary, or if any new exemptions should be created in order to maintain the confidentiality of financial and proprietary information received as part of an unsolicited proposal. (Public Record and Public Meeting Exemptions)</p>	<ul style="list-style-type: none"> • Chapter 287.05712, F.S., provides limited exceptions to the sunshine law for solicited proposals but not unsolicited. Should additional exemptions be provided for unsolicited proposals? • Is a new public records exemption necessary to protect proprietary information from entities that submit unsolicited proposals? • Should existing public records exemptions be amended?
<p>8. Recommendations regarding the authority of the responsible public entity to engage the services of qualified professionals, which may include a Florida-registered professional or a certified public accountant, not otherwise employed by the responsible public entity, to provide an independent analysis regarding the specifics, advantages, disadvantages, and long-term and short-term costs of a request by a private entity for approval of a qualifying project, unless the governing body of the public entity determines that such analysis should be performed by employees of the public entity. (Third-party Review)</p>	<ul style="list-style-type: none"> • For unsolicited proposals, law allows for the RPE to charge a reasonable fee to cover costs of evaluating a proposal, which includes attorney fees and fees for financial and technical advisors or consultants. What should the standards be for solicited proposals? • Is language required to ensure these professionals are competitively solicited to ensure appropriate qualifications and a good price (ensuring an unsolicited fee is not too high)? • Independent review by the RPE is required – are RPEs staffed for this workload? Should a support entity be named to assist smaller RPEs in identifying specific professionals skilled in this type of review?
<p>9. Other items as determined by task force (Parking Lot)</p>	<ul style="list-style-type: none"> • Is clarification necessary for inclusion of State University System in definition of “responsible public entity?” Is clarification necessary for inclusion of State College System in definition of “responsible public entity?” • How will P3s interface with CCNA? Requirements of s. 287.055,

Topic	Questions and Comments to Consider
	<p>F.S., are not waived for architecture, professional engineering, landscape architecture, or registered surveying and mapping. The selection process outlined in 287.05712(6)(c), F.S., involves a similar negotiation process to CCNA. How will these provisions interact?</p> <ul style="list-style-type: none"> • S. 287.05712(15)(b), F.S., states that the P3 law does not amend existing laws relating to construction and construction services procurements. Should there be additional language to state that s. 287.05712, F.S., is fully supplemental to current authority? • Should the state have an advisory board for all responsible public entities? Canada and other states are using this model. Would such an entity be self-funded?

Florida League of Cities
Partnership for Public Facilities and Infrastructure Act Guidelines Task Force
8 Items Matrix Comments
December 6, 2013

1. Opportunities for competition through public notice and the availability of representatives of the responsible public entity (RPE) to meet with private entities considering a proposal. (*Solicited and Unsolicited Proposals*)
 - Public entities should not be required to respond to unsolicited proposals if they do not wish to consider the project. The concern from cities is that they will receive multiple unsolicited proposals exhausting city staff, resources and taxpayer funds reviewing proposals that ultimately will not be undertaken.
 - As stewards of public resources, city officials must ensure that they receive the best price possible to complete a proposed project. Unsolicited proposals should be vetted through a competitive bidding process that protects the private entities work product but safeguards taxpayer dollars.
 - Vendor meetings with city officials should be regulated by current law; including Chapter 286 of the Florida Statutes (Government-in-the-Sunshine Law), Chapter 119 of the Florida Statutes (Public Records Law) and any applicable city procurement ordinances/rules.

2. Reasonable criteria for choosing among competing proposals. (*Selection criteria*)
 - It is imperative that cities have the necessary flexibility to negotiate terms and conditions at the local level when considering a P3 project. P3 selection criteria should not reduce an RPE's (Responsible Public Entity) local control or ability to negotiate. For an RPE, any P3 selection criterion that imposes additional requirements or reduces flexibility when compared traditional financing mechanism, is an incentive not to choose the P3 route.
 - Local preference ordinances should be preserved. Several cities have enacted local preference ordinances as a mechanism to generate local economic development and ensure that public dollars stay in their community.

3. Suggested timelines for selecting proposals and negotiating an interim or comprehensive agreement. (*Process timelines*)
 - Flexibility is key. Not all cities or P3 projects are the same. As such, the amount of time necessary to review a project may hinge on the complexity of the project and the staff/resources available to the RPE. It is not uncommon for complex city P3 projects negotiations to last over a year. There is currently not enough time to adequately review P3 proposals, especially if the RPE must hire private consultants or experts to review the proposal. By limiting the time to receive

competing bids to a maximum of 120 days, the ability to receive competing bids on P3 projects is limited. This is especially true given the expense and time necessary for private entities to develop a competing proposal. Competition is important to ensure there is no abuse of public tax dollars.

4. If an accelerated selection and review and documentation timelines should be considered for proposals involving a qualifying project that the responsible public entity deems a priority. (*Priority exceptions*)
 - Timelines are exceedingly short. Longer timelines will foster competing bids and allow cities to get the best price possible on P3 projects.
5. Procedures for financial review and analysis which, at a minimum, include a cost-benefit analysis, an assessment of opportunity cost, and consideration of the results of all studies and analyses related to the proposed qualifying project. (*Financial review*)
 - Cities typically deal in complex funding of public projects. At times, city projects may draw on bonding authority, federal, state loans/grants and local funds. Ensuring that a public project is in the public's interest is not a new concept to cities. Any guidelines on ensuring a public's interest in P3 projects should be in the form of a model ordinance or best management practice (BMP) and not as additional requirements.
6. The adequacy of the information released when seeking competing proposals and providing for the enhancement of that information, if deemed necessary, to encourage competition. (*Specifications for Proposals*)
 - Every effort should be taken to promote competition on P3 proposals when public resources are on the line. It would be almost impossible for cities to receive competing bids if the competing private entity does not know the cities needs or objectives. Therefore, RPE's need to release adequate information in order to receive a competing bid.
7. Current exemptions from public records and public meetings requirements, if any changes to those exemptions are necessary, or if any new exemptions should be created in order to maintain the confidentiality of financial and proprietary information received as part of an unsolicited proposal. (*Public Record and Public Meeting Exemptions*)
 - 286.0113, Fla. Stat. (2013) provides some exemptions to public record requirements during the competitive solicitation process. However, additional public records exemptions for the pricing of an unsolicited P3 proposal may foster additional competition allowing cities to get the best price on a public project.

8. Recommendations regarding the authority of the responsible public entity to engage the services of qualified professionals, which may include a Florida-registered professional or a certified public accountant, not otherwise employed by the responsible public entity, to provide an independent analysis regarding the specifics, advantages, disadvantages, and long-term and short-term costs of a request by a private entity for approval of a qualifying project, unless the governing body of the public entity determines that such analysis should be performed by employees of the public entity. (*Third-party Review*)
 - RPE's should be allowed to set the appropriate fees to review proposed P3 projects whether the proposal is solicited or unsolicited. The cost to adequately review proposals may differ dramatically based on the project. The flexibility to levy the appropriate fee is necessary as cost and resources vary from city to city.
 - Additional language should **not** be required on how to solicit private consultants or professionals to review unsolicited P3 proposals. Cities already have procurement processes in place to hire the necessary professionals. There is no need to have yet another procurement process created. To impose another requirement would only give cities another reason to reject an unsolicited P3 proposal after receiving it.

9. Other items as determined by task force
 - Cities are extremely supportive of the P3 concept and feel these creative partnerships are crucial to addressing Florida's vast infrastructure needs. Under the broad constitutional grant of home rule powers, cities had the ability to enter into public-private partnerships (P3s) for decades. P3's are not a new concept in Florida.
 - Flexibility is key for a public-private PARTNERSHIP to work. The scale and complexity of many of these P3 projects dictates that a one-size-fits-all solution will not work in most circumstances.
 - In the alternative, cities may seek traditional financing mechanisms that give them the flexibility to negotiate and contract while giving the maximum protection to Florida's taxpayers.
 - Allowing limited relief from Section 287.055, F.S. (CCNA) could significantly expand the use of P3 projects.