**EXHIBIT C (rev.)**

**State Procurement Office (SPO)**

**Request for Proposal (RFP) Evaluation Committee**

**Report by Chris Kinimaka**

We have been working very closely with Foley & Lardner LLP, who was hired through the Attorney General’s Office to be a special deputy to assist us with legal matters, specifically for the RFP process for the redevelopment of the whole site.

The contract included phases that started with researching what exists on the site and the criteria and parameters that would affect the future development -- all the way through the actual construction of any developments at the site. We are currently in Phase 5 in the process.

We have gone through data collection and reported on stakeholder interviews. We have also held workshops to obtain more information. We did go out with a Request for Information (RFI) to request information from any interested parties -- open to developers and the public to give us their ideas on what they thought could be produced at this site. We have a report from that RFI and we are now at the stage where we are ready to start creating the Request for Proposal (RFP) instrument for the proposed development of the site.

We had a lot of very constructive discussions with members from the SPO, the Department of Land and Resources (DLNR) to give us some background on the kinds of procurement processes are available to you and basically identified two directions (2 streams):

1. The 103D process, which is the Competitive Sealed Proposals (we call the RFP process).
2. The other was through Section 171, and that is through the DLNR process where you actually talk about a ground lease to the developer; then the developer carries through all the steps.

Because we started talking about the different types of possibilities on how we want to look at putting out the development and how we control the future management of the development, we identified that it makes more sense to try to tailor your efforts towards the 103D process. The reason for that is the Section 171 process looks like a wonderful miracle, or gives you a lot of latitude on moving forward with that instrument. The catch is, in those broad terms it says we shall ensure that you have an open and fair competition and we shall ensure that we shall have an open process to do the selection – that is a double-edge sword when you are not sure what the process is.

If we follow the 103D process for the construction phase, that meets the Section 171 processes. It covers you in all avenues, and provides a solid framework for you to follow as your recipe to make sure you are clear from any kind of alternatives that you want to look at, and that is why we are saying through the 103D process it is very important to establish an Evaluation Committee and **the role of your Evaluation Committee will be to:**

Assist with developing the RFP instrument. They come up with criteria as an evaluation methodology for proposer. That instrument will also be your communication tool to ensure that you have open and fair competition. It will help you describe the limitations you want to create for the site. If there is absolutely something you do not want on the site to happen, that comes from your instrument. On the other hand, if you want to describe avenues for other concepts or processes, that is opened up through your instrument as well.

The most important thing we do in public disclosure through instrument is of the criteria. Your committee is going to help you develop the criteria and the evaluation methodology for receiving proposals and evaluating them by scoring proposals. They will start outlining the **process routes** as well:

* How do we want to go forward with the public?
* Do you want to do prequalification steps (and that’s the recommendation we are receiving).
* When you prioritize prequalified participants, then only those prequalified participants can move to the next stage to actually develop a detailed proposal for you – that is the recommendation because this is a huge undertaking. It will be costly for the people who come forward for the proposals; and this gives you an alternative to narrow it down and get serious committed proposers and there is also a process to possibly provide stipends to these selected proposers. That will help them to develop their proposals to you to provide a better way of evaluating the proposals to select a viable alternative.
* The committee will conduct their reviews. It can be anything from just reviewing a paper proposal, all the way to having interviews with all of the proposers; and that is something that we recommend. We really want to understand who the proposers are.
* The recommendation comes from the evaluation of the committee members. They will evaluate the proposal individually, based on the criteria that were set in the instrument that you advertise….and that is why it is very important to work very closely on the RFP. That recommendation comes up for final award, and I’m assuming that would come to the Board.
* Ms. Kinimaka said it sounds like a lot – it is; but our role, from the DAGS perspective, is to just help walk you through that process. The Committee will come up with details:

The big picture

* What your target range of option is.
* A criteria (DAGS will be here to help you actually write up that instrument, put it down to paper, advertise it, collect the proposals and help walk through the evaluation process)

**The Chair asked Ms. Kinimaka to cover a little about the committee.**

Ms. Kinimaka explained the Evaluation Committee does have some mandated requirements and that includes the membership shall have:

* + - At least three (3) government employees.
		- Sufficient qualifications in areas of the goods, services, or construction to be procured.
		- Private consultants are allowed to serve on the committee (their resumes should show that they bring value to the committee).
		- Contract Administrator (CA) needs to be a member of the committee.
		- The chairperson is also a member of that committee.
		- Members of the committee are going to be required to sign an Attestation that says they have no personal business or other relationship that will influence their decisions in the evaluation process. They also agree not to disclose any information on the process to other than an employee of a government body. We actually say no discussions outside of the actual committee itself.
		- Finally, they agree, upon completion of the process, their names will become public information once the contract is awarded. Ms. Kinimaka said once we enter into the Evaluation Committee efforts, everything will be confidential.

Ms. Kinimaka confirmed with the Chair that three government employees must be on the committee; and that Irwin Raij can be on the committee.

The Chair requested that Ms. Kinimaka go over the Evaluation Committee list.

**The Evaluation Committee** List

The Evaluation Committee must be approved by the Procurement Officer and on that list is where you:

1. Identify their qualifications.
2. You identify the government employees.
3. You also justify what the qualifications are for being on that committee.

 Once that committee is approved, they are all voting members.

You can have advisory members in the committee, which does not necessarily have to be approved by the Procurement Officer. We look at them as advisors to provide information to the committee -- the background assistance. They do not vote; however they will also be held to the confidentiality requirements.

In answer to the Chair’s question, Ms. Kinimaka said they are not considered members according to the procurement definition. The approved official members will be the only voting members.

The Chair inquired, if we go with five (5) or seven (7) voting members, is that the extent of a member. Ms. Kinimaka said that is correct. In the procurement rules it states the approved members are only the voting members. She advised keeping track of who your advisory members are because you want to ensure their confidentiality and make sure you are aware of what the process is and who is involved. But officially, it is just the voting members.

The Chair reviewed with Ms. Kinimaka the procedures for the selection of committee members. She advised that it is the prerogative of the Stadium Authority Chairperson to appoint the members. The Chair will then ask the Comptroller (as the Procurement Office) for his approval of the appointed committee members. The approved copy is then filed in the contract folder, which is confidential information. It is not public information. It is not disclosed until after the contract is awarded.

Important: It is not recommended that you share this list with other Board members because of the possibility and even the perception of undue influence of the committee members prior to the process and even throughout the process. That is very important and it also protects the members.

The Chair inquired, if it is five (5) or seven (7) members, plus advisors, we should think ahead, select the advisors, and submit their names to the Procurement Officer for approval. Ms. Kinimaka concurred, and said that list will be confidential until the contract is awarded to a developer. She added, should you go through the process and you decide that you are going to stop the process and not make an award, that information remains confidential. The Chair said he understood the procedure.

The Chair inquired, and Ms. Kinimaka confirmed that once the committee is selected and approved by the Comptroller (Procurement Officer), they (DAGS) will explain the process and walk the members through what they are looking for as task and responsibility.

The Chair said this is very important because if there is a challenge, a lot of times, almost without exception, it is on process and procedures.

Ms. Kinimaka said that once you get the approval for the evaluation members, you do have to get their Attestation on file, and that is basically an affidavit certifying terms and conditions of confidentiality. The Comptroller stated if it turns out to be a long process, we may require them re-sign the Attestation later as key decision points come up and make sure they are still in a no-conflict position.

The Chair asked for discussion/questions by the Board.

Member Bukoski inquired if we went with the 103D process, are you suggesting that process for the entire site?

Ms. Kinimaka said we are just making sure that the evaluation committee has the flexibility to determine where it applies and where it may not. We may want to do part of it as a Section 171 process; and you may want to just do part of it in the 103D process. If you follow the 103D process for the Section 171, you can’t go wrong.

Member Bukoski, then if we do the 103D process for the entire site; and if we do procure the development of the entire site according to 103D, what process would we use for developing the site other than the stadium itself.

Ms. Kinimaka said that is what we talked about – that if you are going to divide the site, and do the non-stadium construction as a ground lease, that is a Section 171 process. She said she would have to work with the committee and talk about it if you are going out with two separate instruments.

Member Bukoski said his question is, can you use the 103D process to procure the construction of the remainder of the site, (other than the stadium), and if so, what process would you use?

Ms. Kinimaka replied, yes you can and you would verify that with procurement and DLNR. The reason is because the Section 171 process is so wide open – it just saysyou have to advertise fairly and ensure full competition, right? You have to have a process. It doesn’t tell you what that process is.

Member Bukoski inquired, if you use the 103D process to procure the remaining site, what method of procurement would you use?

Ms. Kinimaka said they would recommend the Competitive Sealed Proposal.

Member Bukoski said we are not subject to 103D, but we are utilizing the process. Chris replied, exactly, because it protects you just to have framework to work within.

Member Bukoski stated, we are not saying we can procure the entire site by 103D, (correct me if I’m wrong). It is not that we don’t have to -- we can’t. There is no process to do this, so we have to use Section 171.

The Chair inquired with Ms. Kinimaka if that is going to be taken up by the Committee. She replied, yes -- they will determine which methodology they want to use for which areas. That is going to depend on your policy on how you want to manage your property.

Member Bukoski said the reason he brings this up, Chair, is you know we’re talking about what the Board is subject to (by law and by rule), and we are not subject to 103D; but we are using the process because it gives us the guidelines and the guidance -- and the transparency that makes the process less subject to challenge and protest. But, that is an important distinction that we have to remember – we are not subject to 103D, but we are using the process.

The Chair responded by saying, he thinks that is the way he understand it, and he thinks the committee, in their deliberations, will look at which approach is going be used (and the stadium would be one way, and who knows?). Ms. Kinimaka said, exactly, -- the rest of the property may be another way.

Ms. Kinimaka said we want to make sure that coming out of the game, we don’t limit your alternatives by not doing 103D, because if you decide to do a portion 103D and you haven’t followed that process, then you have to step back to the beginning again; so we want to get you started on the most restrictive process and then you can move forward from there.

The Chair said, so we are not saying the entire project will be 103D; Ms. Kinimaka said no, not at all – we are giving you flexibility.

Member Bukoski said he just wants to make a clarification because he thinks it is important: “He spent the last one or two years on the procurement task force and the charge of the task force is to try to go through the procurement laws and rules to streamline it, but to find inconsistencies; so, I think it is important that we are clear on what is required by law. He understands and agrees completely that the rules (as stated), require three government employees; but are you saying that all the members of the committee have to have certain qualifications, or just the three government employees?

Ms. Kinimaka responded that all members have to show qualifications to be considered to be on the committee. You have to have a purpose for having someone on the committee.

Member Bukoski said, “If that is the pleasure of the Board, Chair, I completely support it; however I have to respectfully disagree if you look at Section 3-12245.01. It specifically says that the three government employees have to have qualifications at minimum. It doesn’t state anyone else in the rules, so unless there are other rules that are contrary, then just respectfully, I have to clarify that because I really would hate to allow inconsistencies and I just want to make sure that we are understanding that correctly and whatever the Board decides to do, I completely support it. But, I just want to make sure that the information that’s been given out is accurate; and if I’m wrong, then I’ll be the first to apologize.”

Ms. Kinimaka stated, under Section 3-12245.01(2), private consultants may also serve on the committee and shall have sufficient knowledge to serve on the committee. She also said that is the same as saying that you would have the types of qualifications that make you an effective member on the committee and have sufficient knowledge to serve on the committee – i.e. are you sure you have sufficient knowledge? That is where you start to look at the resumes and start to look at what added value do these specific members bring to your committee. Because, at the times of protest, that would be the question: “Why was this person on the committee? And, what did they bring to the committee? Again, that is to protect you, in your consideration on how you choose the committee.

The Chair said for the last two months we have been talking about it (i.e. suggesting/adding and deleting name) and working quite a while to select a well-rounded committee that brings different perspectives, different backgrounds to recommend to the Comptroller. Many of the Board Members have suggested different people so we will take everything into consideration, but definitely in the end, we are going to use our best judgement in selecting the people that can add to the committee. I regret that it is limited in terms of the number of people that can be on the committee, but we certainly will take all the suggestions into consideration. At this time, we are not sure of the number of members and Member Bukoski you mentioned expanding it to seven and we are considering that, but we are looking at individuals outside of the Board with different backgrounds, etc. We won’t be able to satisfy everyone, but definitely we are looking for the best qualified people with different backgrounds and we are going to try.

Member Bukoski said he would apologize, so after hearing what you just stated and just reviewing again what was written, he said he understands where that interpretation is coming from and apologizes for what he previously said. Chair thanked him.

Member Iosua, asked for clarification on the confidentiality of the committee members.

Mr. Nishiyama said if you are going to discuss it, it would definitely have to be in executive session; but the best practice is to keep it confidential within the committee.

The Comptroller said it is actually the Chair and the Comptroller that has to make sure the people are qualified. Member Iosua said, so it doesn’t come back to the Board if this is later challenged because we weren’t required to decide either. Comptroller said he would be the target on that one. Member Iosua said ultimately it is off the Board’s hands to make the decision on the committee.

 Comptroller questioned if Board members can be on the committee. Mr. Nishiyama said yes. but they are not considered governmental employees.

The Chair inquired, “What is the common practice of Board members being on a committee?”

Comptroller said, with HTA, it was not subject to 103D, but still Board members usually were the majority of the selection committee for anything more than $1.0 million. For big marketing contracts, convention center contracts and things like that, the majority of the committee was members of the Board.

The Chair noted to the Comptroller, since HTA was not subject to 103D, so you didn’t have to have the three (3) government workers. The Comptroller said correct. He said they often had community members, a couple of hotel companies represented, and an airline company and other visitor industry representatives.

Member Yamasaki inquired if they could start the process. The Chair responded that they will first have to seek approval of the committee from the Comptroller. Then there are some preliminary things that the committee members have to do before they can even start meeting.

Ms. Kinimaka said the main thing is signing the Attestation. First get the approval, and then get the Attestation on file and start to move.

Member Fujimori asked the Chair if he will be creating a letter to the Comptroller concerning the committee members. The Chair said the Comptroller will be making the final decision. When the award is made, the Chair said that is the time when the members will be disclosed.