



MARKET SOUNDING REPORT

ADDENDUM

DECEMBER 2023

1 INTRODUCTION

This document (“**Addendum**”) is an addendum to the NASED Market Sounding Report, dated August 2023, approved by the Project Oversight Group on August 21, 2023. The Market Sounding Report detailed several outstanding issues and recommendations regarding the proposed Project and the corresponding proposed procurement process. This Addendum describes the actions the State undertook to resolve those issues and conclude the Market Sounding process in preparation for the publication of the RFP for the Project and is to be read as an extension of the Market Sounding Report.

This Addendum has been prepared by the NASED Program Management Office (“**PMO**”), with the assistance of the Department of Accounting and General Services (“**DAGS**”) and the Stadium Authority (“**Stadium Authority**”). In accordance with the NASED Governance Framework, it has been approved by the NASED Project Oversight Group.

Capitalized terms not defined herein have the meanings given to those terms in the Market Sounding Report.

2 PREVIOUS OUTSTANDING ISSUES

A summary of the previous outstanding issues and key recommendations current at and identified in the Market Sounding Report were as follows (extracted from the executive summary):

- There is, in general, market interest in the Project; however, this is strongly qualified or abated by significant concerns regarding the Project’s financial feasibility. The State should, as a priority, finalize an updated financial analysis and determine how best to share this analysis with prospective (or actual) offerors.
- The approach to dealing with default and termination risk was a key focal point of Market Sounding. This is a relatively complex issue given the nature of the Project. While the Market Sounding did not yield a specific solution to this issue, various prospective bidders demonstrated a willingness to explore creative solutions with the State through continued and more detailed discussions, something the State should undertake with prospective offerors as a priority.
- There appears to be a limited number of service providers in the market that are capable and willing to perform the role of the stadium operator for the Project. This may lead to a lack of competition or other undesirable consequences for the State in the procurement process. The State has several options to consider addressing this risk, and it should develop its preferred approach and test this with prospective offerors.
- The approach to procuring and delivering the Project, along with need to solve several outstanding issues with the offeror / developer team (as opposed to the State resolving these issues in isolation) weighs in favor of using a progressive procurement process to procure the Project. This was generally confirmed by the Market Sounding. The State should further define this approach and retest it with prospective offerors.
- A range of other issues and areas of focus or concern were identified, covering matters such as site diligence, contractual structure, subsidies, city and legislative risk, State roles, and stadium siting. These will require resolution (or at least a clear pathway to resolution) and definition prior to commencing any procurement process for the Project.

3 FURTHER MARKET SOUNDING

3.1 KEY ACTIONS

The following are the primary actions undertaken for Market Sounding after the approval of the Market Sounding Report:

1. The publication of a second Request for Information (“**RFI-2**”).
2. Communication with prospective operators regarding the specific issue of operator teaming.
3. One-on-one discussions with RFI-2 respondents.
4. The development, approval, and publication of this Addendum capturing the outcomes of the aforementioned steps and documenting the conclusion of Market Sounding.

3.2 REQUEST FOR INFORMATION – 2

RFI-2 was published on the NASED website’s “Market Sounding” page on November 1, 2023. A “conceptual” RFP was attached to the RFI-2. This allowed the State to test several matters with prospective offerors in a manner reflective of the intended RFP provisions.

RFI-2 requested feedback from prospective offerors and interested parties on the concept of the proposed RFP for the Project, which described the intended procurement process and timeline as well as some of the key commercial elements of the Project.

RFI-2 itself included the following qualifications:

- The State may consider responses to the RFI in connection with the evaluation of procurement and delivery options for the Project.
- The RFI does not constitute a Request for Qualifications (“**RFQ**”), a Request for Proposals (“**RFP**”), or any other solicitation, nor does it represent a commitment to issue a RFQ or RFP or any other type of procurement process in the future.
- The RFI is an inquiry only. No contract or agreement will be made based on the responses to the RFI. Therefore, those choosing to respond to the RFI (a “**Respondent**”) are not, merely by virtue of providing any manner of response, be deemed to be “offerors” or “proposers” to a procurement for the Project in any sense. Respondents will not have any preference, special designation, advantage or disadvantage in any subsequent related procurement process. Being a Respondent to the RFI-2 is not a prerequisite to any subsequent procurement that may be issued. Any and all information obtained as a result of the RFI may ultimately be used all or in part for the formation of an RFQ or RFP.

3.3 RFI QUESTIONS

RFI-2 detailed updated information or State positions regarding a progressive procurement process, operator teaming, and cross-default. RFI-2 invited feedback and other input on the conceptual RFP and the proposed approach for the procurement process for the Project.

RFI-2 also sought responses to the following questions:

1. Do you have any comments on the Project’s proposed procurement process as outlined in the conceptual RFP?
2. Do you have any comments on the proposed timetable for the procurement process? Specifically, the timeframes to prepare Responses and Proposals and the duration of the Diligence and Discussion Phase?

3. Do you have any comments regarding processes the State may deploy, including in respect to the concept Form L (Statements of Commitment) through the procurement process to best ensure a quick selection process while minimizing the potential for “re-trading” by the Preferred Offeror?
4. Do you have any comments on the proposed approach regarding teaming and competition with respect to prospective operators for the Project?
5. With respect to the details in Section **Error! Reference source not found.**, if cross-defaulting the stadium and real estate components of the Project is unacceptable to Respondents, please detail the reasons for such. Respondents are encouraged to propose any alternative remedies that the State may consider to address the types of situations described above (perhaps drawing from other projects the Respondents have worked on). Please provide as many details as possible.
6. Please provide any other comments on the conceptual RFP, including potential changes that would better deliver the State’s goals and objectives.
7. As it stands now, would your organization be interested in participating in a procurement process for the Project? If not, please provide reasons.

3.4 RFI-2 RESPONSES

The State requested responses to RFI-2 (“**RFI-2 Responses**”) by 2:00PM HST on November 15, 2023. Three (3) detailed RFI-2 Responses were received by the deadline.

3.5 ONE-ON-ONE MEETINGS

RFI-2 invited prospective offerors to meet with the State prior to the submission deadline. One prospective offeror requested a meeting with the State prior to the submission deadline. The two other RFI-2 Respondents requested to meet after the submission deadline. In all cases, the State agreed to the requested meeting timeframes.

Three (3) one-on-one meetings were conducted. The intent of the one-one-one meetings was to discuss any issues or challenges a prospective offeror may have with the proposed approach to cross-default. However, prospective offerors were also invited to discuss any element of the RFI-2 or its RFI-2 Response.

4 FINDINGS

4.1 MARKET APPETITE

The Market Feedback indicated that there is continued appetite for the Project and interest in participating in any procurement process therein. However, where such appetite and interest was expressed, in most cases, it would be best characterized as cautious or qualified appetite and interest. The primary elements¹ driving cautiousness were:

- concerns regarding the Project’s financial feasibility;
- the expected costs of participating in the proposed procurement process; and
- potential cross-default provisions.

¹ These concerns are a summary and were not expressed by all RFI-2 Respondents.

4.2 FINANCIAL ANALYSIS

There remain significant concerns from some of the RFI-2 Respondents regarding the Project's financial feasibility and a strong desire to understand the State's financial analysis for the Project. The conceptual RFP included placeholders for a narrative of the State's financial analysis; however, this information was not available at the time of publishing RFI-2. Notwithstanding, discussion during the RFI-2 one-on-one meetings on this matter clarified:

- how such information should be presented in the RFP;
- the types of supporting information (e.g., reports) that should be shared at specific stages of the procurement process; and
- areas where the State could be flexible with the Project as defined, with the intent of still achieving the NASED Vision.

4.3 CROSS-DEFAULT

The proposed default and termination provisions (including cross-default) were discussed with RFI-2 Respondents. An alternate approach was developed which, at a high level, was supported by most of the Respondents. However, this alternate approach will need more definition and discussion. Notwithstanding, there is a much clearer pathway to resolution of this matter than at the publication date of the RFI-2.

4.4 STADIUM OPERATOR TEAMING

The proposed approach to operator teaming was generally supported.

4.5 PROGRESSIVE PROCUREMENT PROCESS

The proposed progressive procurement process is generally supported. The State received beneficial feedback on key elements of the proposed process which will improve the RFP for the State (and Offerors alike). Importantly, beneficial feedback was received regarding the approach to the "Statement of Commitment" requirements, with no strong objections to using this approach to promote competition during the Proposals Phase.

4.6 OFFEROR COSTS

Feedback on the proposed approach (or lack thereof in cases) to payments to the Preferred Offeror and unsuccessful Priority-Listed Offerors were received. Along the same vein, some RFI-2 Respondents stated reservations with the approach to required security (via a letter of credit) from the Preferred Offeror. These matters were raised with the State and consequential amendments were made to the RFP. The objective of which is to optimize market interest and participation in the procurement process in a balanced and fair manner.

4.7 STATE ROLES AND RESPONSIBILITIES

Further feedback was provided from RFI-2 Respondents on the lack of clarity regarding State roles and responsibilities in relation to the procurement process and in Project delivery. This led to amendments to the RFP to clarify this matter.

4.8 CONTRACT STRUCTURE

An overview of the intended contract structure was provided in the conceptual RFP. No direct feedback or objections to this structure was received from RFI-2 Respondents.

4.9 UNRESOLVED OR NOT DISCUSSED ISSUES

The Market Sounding Report identified a range of secondary issues for the State to consider, and ideally resolve, prior to commencing the procurement process for the Project. These are as follows:

- **Subsidy regime:** This has been discussed internally but was not raised with or by RFI-2 Respondents. This is not critical to resolve prior to publishing the RFP. However, it should remain a focal point for the State to consider.
- **City risk:** This has been discussed internally but was not raised with or by RFI-2 Respondents. This is not critical to resolve prior to publishing the RFP. However, it should remain a focal point for the State to consider.
- **Sewer capacity:** This has been discussed internally and **was** raised by some RFI-2 Respondents. This is on a pathway to resolution and more information will be provided with the RFP.
- **Clarification on stadium siting:** This has been discussed internally but was not raised with or by RFI-2 Respondents. The State will need to resolve this issue as part of issuing the Technical Requirements to Priority-Listed Offerors.
- **Site risk:** This was loosely discussed with some of the RFI-2 Respondents but does not appear to be a pressing issue given the progressive procurement process and the State's approach to Offeror payments.

5 CONCLUSION

This Addendum concludes that:

1. There remains general interest from the market in the Project and appetite for a corresponding procurement process; however, such interest is abated by significant concerns about the Project's financial feasibility.
2. The RFP should describe the State's financial analysis for the Project, include supporting reports and details, and highlight areas of flexibility to the Project as defined with the intent of still achieving the NASED Vision.
3. The provisions in the conceptual RFP for cross-default, Offeror costs (including Preferred Offeror security), State roles and responsibilities, and the approach to the "Statement of Commitment" requirements, should be amended.
4. There are several minor issues from the Market Sounding Report that remain outstanding, but the resolution of such would not impede a procurement process for the Project.
5. Subject to the amendments referred to in paragraphs 2 and 3 above being made, the RFP, when published, should be a marketable document that stimulates private sector participation and competition, although potential bidders remain cautious regarding the ultimate financial feasibility of the project.
6. The objectives referred to in Section 4.1 of the Market Sounding Report have generally been achieved.