



# MARKET SOUNDING REPORT

AUGUST 2023

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# 1 EXECUTIVE SUMMARY

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In May 2023, Governor Green announced a “new direction” for the NASED project. This proposed new model provides for both the new Aloha Stadium and the surrounding district to be delivered jointly as one, integrated public-private-partnership (P3) project (the “**Project**”). A key feature of the Project is that the developer will be responsible for designing, building, operating, and maintaining the new Aloha Stadium, with the expectation that the developer will design and build the new stadium using available and allocated State funds as well as additional private funds procured by the developer. The same developer will also have the right to develop a portion of the surrounding district into a mixed-use development in line with the State’s vision and to use revenue from the leasing and operation of this district to supplement funds provided by the State for the stadium construction, and to fund ongoing stadium operating and maintenance costs.

The proposed Project is a relatively novel and untested procurement and delivery model. It asks the private sector to form a multi-disciplinary consortium, to assume risks the State is not willing to accept (leading to the State cancelling the prior procurement, in which such risks would have been borne by the State), and to apportion the risk to and within the private consortium. Consequently, prior to commencing a new procurement process for the Project, the State sought to undertake a process to engage with prospective offerors and interested parties to discuss, confirm (or otherwise), and refine the Project (“**Market Sounding**”).

A summary of the outcomes of the Market Sounding are as follows:

- 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.

## 2 REPORT PURPOSE

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This Market Sounding Report (“**Report**”) describes the framework, controls, terms of reference, and governance structure within the State of Hawai‘i, its departments, other bodies and its consultant team to report on the culmination of efforts undertaken in Market Sounding.

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

## 3 PROJECT SUMMARY

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The Project seeks to deliver a stadium forming the centerpiece of a newly developed live-work-play-thrive district; however, under a substantially different commercial model than the previously contemplated (and separate) Stadium Project and Real Estate Project models. The State still desires long-term maintenance risk transfer to the developer and is hopeful that additional developer funds (over and above the available and allocated State funding) can supplement the stadium construction costs to provide a higher quality stadium.

Under the Project, the State would have no scheduled ongoing payment obligations to the developer after the initial payment covering most or all of the stadium construction costs (e.g., no availability payments). Instead, the developer would use some or all of the ground rents normally payable to the State from real estate developments (on a contractually fixed portion of the NASED site) to fund any stadium operating shortfalls and ongoing maintenance (and potentially any privately financed stadium capital costs).

The State’s goals and objectives for the Project are set forth in Exhibit A (Project Goals and Objectives).

Key features describing the State’s proposed approach to procure and deliver the Project are set forth in Exhibit B (Project Features).

## 4 MARKET SOUNDING OBJECTIVES AND PROCESS

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### 4.1 OBJECTIVES

The objectives of Market Sounding are:

- That Market Sounding is undertaken in a fair and transparent manner that does not unfairly advantage or disadvantage any prospective offeror or participant in any subsequent procurement process.
- That Market Sounding ensures private sector participation and competition in the procurement process for the Project.
- That Market Sounding yields clear, genuine, and reliable feedback on the Project, including:
  - the marketability of the proposed approach to delivery of the Project;
  - the industry’s interest and intent in submitting formal proposals; and

- the key risks and opportunities in successfully executing a transaction utilizing the proposed approach and ensuring appropriate mechanisms are in place to deal with these.

## 4.2 MARKET SOUNDING PROCESS

The following are the primary actions undertaken for Market Sounding:

1. Communication with prospective offerors and interested partners, informing them of Market Sounding and the processes and mechanisms by which they could participate.
2. A Market Sounding webinar, where the State presented key elements of the Project to prospective offerors and interested parties, responding to any questions and seeking feedback (either via the webinar or via the NASED website).
3. The publication of a Request for Information (**RFI**) (and other relevant materials) on the NASED website, that described key commercial and procurement elements of the Project. The RFI requested feedback from prospective participants to confirm or refine certain assumptions in connection with the potential procurement and delivery of the Project.
4. One-on-one interviews with RFI respondents and other prospective offerors.
5. This Report capturing the outcomes and recommendations arising from the Market Sounding process.

### 4.2.1 Communications

The following methods were deployed to ensure a broad range of prospective bidders and interested parties were informed of the Market Sounding.

Method	Details
News Release – New Approach	A news release was issued on May 25 <sup>th</sup> , 2023, which provided details for the “new approach” and highlighted the State’s intention to undertake Market Sounding. The news release included a link to the Market Sounding page on the NASED website and stated the date for the webinar.
News Release – Market Sounding	A news release was issued on June 6 <sup>th</sup> , 2023, which provided specific information on the webinar such as details on how the general public could register and attend along with additional project information.
Publication – Website	The NASED website was updated to include pages specific to Market Sounding. Refer Section (4.2.2 NASED Website)
Publication – Channels	<ul style="list-style-type: none"> <li>▪ Local media outlets (Star Advertisers, KHON, HNN, etc.)</li> <li>▪ Community group and neighborhood board chairs</li> <li>▪ Government stakeholders (legislators, relevant departments, City and County, etc.)</li> <li>▪ Industry publications and groups (e.g., P3 Bulletin, AIAI (Association for the Improvement of American Infrastructure), Commercial Real Estate Women, Inframation, NAIOP, and Other Local Development Associations)</li> </ul>

#### 4.2.2 NASED Website

Specific to Market Sounding, the NASED website was used as a conduit and communication tool for all interested parties to receive and submit information related to Market Sounding. From May 25<sup>th</sup> to June 14<sup>th</sup>, the NASED website included a page which described details of the Market Sounding webinar (“**Webinar**”) and included forms through which parties could register to attend. After the Webinar, this page was updated to include the Webinar presentation and recording, as well as the RFI. This page also included forms for parties to directly respond to the RFI questions and opt-in to a distribution list specific to Market Sounding. Participants were also encouraged to register for the Aloha Stadium Community Newsletters to receive important updates and stay up to date with project information.

#### 4.2.3 Market Sounding Webinar

The Webinar was held on June 14, 2023 at 11:00AM HST via Zoom. The Webinar was a free and online event, open to all interested parties to receive updated project information, hear from the NASED panel and submit comments and/or ask questions.

The NASED panel presented details on the Project, including highlighting specific areas where feedback was requested. Webinar attendees had the opportunity to ask questions via a Q&A function on the webinar platform. The NASED panel responded via the Q&A function, as part of the presentation, and in writing after the Webinar.

Participants interested in joining the Webinar were directed to the NASED website to register for the event. Prior to the Webinar, participants received a confirmation email with login details.

Webinar participants heard from the following NASED leadership panel:

- Ryan Andrews, Manager of Aloha Stadium
- Chris Kinimaka, Public Works Administrator, DAGS
- Stacey Jones, Owner and Senior Principal of Crawford Architects
- David Harris, Program Director

The Webinar hosted 165 attendees across a multitude of industries and included both national and international participants. Webinar attendees received a thank you email for their attendance and appreciation for their continued interest in the NASED project. A list of the Webinar attendants is detailed in Exhibit C (Webinar Attendants).

### 4.3 REQUEST FOR INFORMATION

The Request for Information or RFI described some of the key commercial and procurement elements of the Project and requested feedback from prospective offerors to confirm or refine certain assumptions in connection with the potential procurement and delivery of the Project.

The RFI 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 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.

#### 4.4 RFI QUESTIONS

The RFI detailed the State’s goals and objectives for the Project (refer Exhibit A) and some of the Project’s key features (refer Exhibit B). The RFI also sought responses to the following questions:

1. Do you believe the proposed Project presents a compelling opportunity for private parties? Why or why not?
2. Do you have any comments on the State’s objective to enhance the scope of the new Aloha Stadium by granting the developer the right to develop, operate, and retain revenues from the leasing and operation of the entirety of the adjacent NASED area, which revenues will be used to fund increased or enhanced stadium scope?
3. Do you have any comments on how to best structure the site diligence for the proposed Project?
4. Do you have any comments on how to best structure the procurement process for the proposed Project? How can the State best balance quick selection against incentive to “re-trade” scope or terms following preliminary award?
5. Do you have any comments on the proposed 20 to 30-year operating period for which the developer will be responsible for the operations and maintenance of the new Aloha Stadium?
6. Please provide your thoughts regarding the cross-default provisions between the stadium and real estate components of the Project.
  - (a) Please provide prior project examples to support your response or opinion.
  - (b) Please discuss your approach to raising real-estate financing with such a potential cross-default / termination provision.
7. Do you have any comments on leasehold condominiums proposed in the market study for the Project?
8. Do you have any comments on the State specifying the program of development for the initially developed parcel of the Project?
9. Please provide any other comments on the preliminary overview for the Project, including potential changes that would better deliver the State’s goals and objectives.
10. As it stands now, would your firm be interested in participating in a procurement process for the Project?

#### 4.5 RFI RESPONSES

The State requested responses to the RFI (“**RFI Responses**”) by 5:00PM HST on June 28, 2023. Sixteen (16) RFI Response were received, ranging in quality and level of detail. The RFI Responses are provided as Exhibit D (RFI Responses). They were grouped into three (3) categories, as follows:

- Seven (7) RFI Responses that thoughtfully and completely responded to all of the RFI questions. These were mostly developers, investors and general contractors.
- Three (3) RFI Responses that responded to some of the RFI questions. This group included stakeholders and potential suppliers and service providers.
- Six (6) RFI Responses that responded did not provide any detailed responses to the RFI but sought to be included on a distribution list for parties interested in the Project. This group included potential suppliers and service providers.

## 4.6 ONE-ON-ONE MEETINGS

After the receipt of RFI Responses, the State arranged a series of one-on-one meetings with prospective offerors and interested parties. Initially, invitations for these meetings were offered to the seven (7) respondents that provided complete RFI Responses. However, as these meeting were being arranged (and after the RFI Response deadline), several prospective offerors contacted the PMO, and after internal discussions, further one-on-one meetings were also scheduled with some of these prospective offerors.

Overall, nine (9) one-on-one meetings were conducted. The intent of the one-on-one meetings was to discuss any issues or challenges with the proposed Project that have been highlighted during the Webinar and/or RFI Responses and seek to work through some of the challenges or issues that have been identified; with the objective of finding suitable solutions to these with the actual organizations that are likely to bid on the Project's procurement process.

The State developed an agenda specific for each one-on-one meeting. Generally speaking, each agenda was derived from that party's RFI Response. Where a one-on-one participant did not provide an RFI Response, the State developed a more general agenda. With the expectation that the one-on-one meetings were intended to be exploratory, the conversations during the meetings often departed from a specific agenda item where an issue or topic warranted further discussion to improve the State's understanding of, or otherwise work to resolve, that issue or topic.

To the extent that there were unresolved issues at the end of each one-on-one meeting, the State sought to understand what the key areas of concern are for a prospective offeror, and if each concern was:

- unresolvable, that would prevent a prospective offeror from participating in the procurement process;
- resolvable, but would need to be resolved prior to the commencement of the procurement process; or
- resolvable, and could be resolved during the procurement process.

The agenda and minutes of each one-on-one meeting are provided in Exhibit E (One-on-One Meetings).

## 4.7 INDIVIDUAL ORGANIZATIONS OR FORMED TEAMS

The RFI stated that “[o]ne-on-one meetings will be held with individual organizations and not as part of already formed teams.” While this was the State's intent at the time of drafting the RFI, as the State was organizing the one-on-one meetings, it became apparent that many of the interested parties preferred to meet as a potential team. Given the relative complexity of the topics to be discussed at the one-on-one meetings, and the likely “team solution” to issues (i.e., risk shared amongst team members), the State decided to permit multiple organizations (as a potential team)

to attend a single one-on-one meeting. Where there was potential for parties to attend as a team or as an individual organization, the options of attending in either or both capacities were offered.

## 5 GENERAL COMMENTS ON MARKET FEEDBACK

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The feedback the State received from the RFI Responses and the one-on-one meetings (“**Market Feedback**”) came from a diverse range of industry firms and backgrounds. The Market Feedback came from a mix of reasonably well-formed teams to individual team members with more focused interests. The tone of the Market Feedback also varied, ranging from doubtful and cautious to eager and optimistic. The Market Feedback also indicated, in cases, that some of the parties had taken the time and effort to fully develop their thinking about certain issues, whereas others had not.

There was a strong correlation between the well or fully developed feedback and the doubtful or cautious tone of the feedback. This is not a surprising outcome. Indeed, given the relative complexities of the Project, this is the exact reason for undertaking Market Sounding – to identify issues and resolve them prior to commencing a procurement process. The State seeks to avoid selling a “rosy” picture of the Project and procurement process, and then having to deal with these issues when the time and cost impacts are far more consequential.

Notwithstanding the (understandably) doubtful and cautious positions of some, the Market Feedback indicated a strong interest in the Project, subject to some key issues. Importantly, the Market Feedback also indicated a strong interest in continuing conversations with the State to resolve these issues before commencing any procurement process.

Several key themes and areas of concern arose from the Market Feedback that were generally consistent from all parties. Most were anticipated from the State; however, the level of skepticism and caution was, in cases, revealing. Importantly, the Market Feedback drew to light some issues that the State had not previously considered as a material issue to the Project, which was one of the goals of the Market Sounding process.

The details of the RFI Responses and the one-on-one meetings can be found in Exhibit D (RFI Responses) and Exhibit E (One-on-One Meetings), respectively. The key findings are described in the next section of this Report.

## 6 KEY FINDINGS

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### 6.1 MARKET APPETITE

The Market Feedback indicated that there is 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.

Participating in a procurement process for projects like the Project draws significant resources from offerors, in time, effort, and money. Offerors must decide to pursue a procurement process, and considerations in this decision-making process include the use of resources and cost to participate versus the chance of success (both in terms of being the winning offeror, and in terms of the project being completed at all) compared to other procurement processes in the market. Essentially, given the costs (real and opportunity) of participating in a procurement process, prospective offerors will want to have confidence that there is a “real” project at the end of the process. Relevant factors for the Project that influence market confidence include political will and alignment, financial feasibility, and a range of technical matters.

The primary area of cautiousness or qualification highlighted as part of the Market Feedback is the financial feasibility of the Project. This is discussed in the next section (Section 6.2 (Financial Analysis)); however, in short, several of the prospective offerors expressed concerns about the whether the Project, as proposed to be structured, would deliver enough net revenues to the developer to generate a return at the level required to enable private sector involvement. Being able to view and understand the Project’s financial projections appears to be the major hurdle for some prospective offerors in deciding whether to participate in the procurement process or not.

## 6.2 FINANCIAL ANALYSIS

The key commercial features of the Project were determined in May 2023, and detailed supporting financial analysis has yet to be undertaken on this new approach. The State elected to conduct the Market Sounding in parallel with undertaking a new round of financial analysis for the Project. Such financial analysis is beneficial to the State as it demonstrates (or not) the financial feasibility of the Project and allows various optimizations to the Project’s structure to take place. It also provides a robust reference point or baseline to use in assessing proposals during procurement. However, this financial analysis is also beneficial to prospective offerors in demonstrating the Project’s feasibility, and therefore providing confidence to participate in the procurement process.

Several Market Sounding participants expressed doubt about the Project’s feasibility and asked to see its financial analysis. Both options, either sharing or withholding client-side financial analyses with prospective (or actual) offerors, are used in similar P3 procurements. The decision is made on a case-by-case basis. Given the relative novelty and complexity of the Project, and the feasibility-doubt raised so far, it would seem prudent that at least some elements of the State’s updated financial analysis is shared with prospective (or actual) offerors.

## 6.3 CROSS-DEFAULT

The Project is designed as one integrated project, with one master developer being responsible for all elements, including the new Aloha Stadium and the real estate developments. Notwithstanding the single-project nature, there are practicalities (e.g., financing arrangements) that necessitate viewing the Project as containing several sub-projects. For example, the financing arrangements supporting the stadium component may well be different from the financing arrangement for the real estate component. This is not particularly contentious; however, the nature of these two sub-projects may lead to undesirable drivers or behaviors of the master developer.

The stadium is not expected to be a significant source of net revenue to the master developer, if any source of ongoing net revenue at all. The stadium may be viewed as an “obligation” whereas the real estate will be viewed as the actual “opportunity.” Again, this is not particularly contentious, it is in fact a feature of the Project – the developer leverages future real estate revenue to finance an increased quality stadium and uses such revenue to fund ongoing stadium operations and maintenance. Adding to this landscape is the fact that the master developer may only have a (relatively) minor amount of capital in the stadium, with the State contributing the overwhelming majority of design and construction costs.

Naturally, as the “owner” of the Project, the State wants to ensure that all elements, including both stadium and real estate, are designed, constructed, operated, and maintained appropriately for the applicable term of the agreement with the developer. The above obligation/opportunity imbalance, along with the capital investment imbalance, or other general poor performance, *may* lead to a scenario where the developer’s focus is on the real estate development and not the stadium, resulting in the stadium no longer being appropriately operated or maintained and therefore failing to meet its performance requirements. Under the terms of the State’s contract with the developer, the developer would be responsible for rectifying the performance issues. Failure to rectify these issues may lead to default by the developer under the contract (after the expiration

of applicable notice and cure periods for the developer and, if applicable, any affected lenders) which, in turn, could lead to the exercise of remedies by the State, including, among other remedies, the State performing the developer’s obligations itself or with a third party at the developer’s cost, or ultimately the termination of the overall agreement (i.e., including the agreement with respect to the real estate development).

In the Webinar presentation and the RFI, the State described the above characteristics of the Project, including the potential for insufficient stadium performance to result in the developer’s loss of both the stadium and real estate components of the Project. For lack of other terminology, this characteristic of the Project, in which the real estate component of the Project could ultimately be terminated for poor stadium performance (and vice versa), is referred to as a “cross-default.”

The challenge for the Project arises from the expected financing arrangements, where separate provisions will likely be in place for different project components. Participants in the market sounding expressed concerns about their ability to obtain financing for the real estate components of the project if the real estate development could ultimately be terminated because of poor performance related to the stadium components of the project. Consequently, this was a key discussion point during Market Sounding, including the RFI and the one-on-one meetings.

The Market Feedback on this point was varied. Some participants appeared not to fully understand (or perhaps downplayed) the risk that the State was seeking to mitigate. Others seemed to understand and appreciate the position. The RFI Responses were somewhat underwhelming on this point, which is not surprising given the complexity and black-and-white nature of the question. The information gained through the one-on-one meetings was more illuminating.

The one-on-one meetings did not confirm that the “cross-default” position put forward by the State in the RFI was an acceptable solution. They also did not provide a clear solution. They did, however, demonstrate a willingness from some of the prospective offerors to fully understand the issue and the State’s objectives and to find a solution.

This remains a significant unresolved issue, and further work is required. There may, however, be a mutually acceptable solution. To find this, the State will need to further define its objectives and expectations regarding this issue, and then further discussions are required with prospective offerors.

## 6.4 STADIUM OPERATOR TEAMING

Delivering the Project will require a multifaceted team, including developers, financiers, designers, general contractors, operators and maintenance firms (to name a few). In the Market Sounding materials, the State has foreshadowed that it intends on conducting a (at least) two-stage procurement process. The first stage (qualifications) of this would be to seek qualifications from offerors with the intent to develop a priority-list of offerors to proceed to the next stage (proposals).

Teams have begun forming for the Project and, naturally, they will want to ensure that they are competitive with the best chance of progressing through the qualifications stage to the proposals stage. The arising issue during Market Sounding is that there appears to be a limited number of stadium operators capable and willing to participate in the procurement process and deliver (the stadium operator’s part of) the Project. This relative scarcity of stadium operators (compared to developers, designers, general contractors, etc.) has caused concerns amongst some of the prospective offerors and *may* lead to undesirable outcomes for the State (e.g., less competition).

The State should take the time to fully understand the issues and potential solutions. Preliminarily, there appear to be several options available to the State to address the issue, and the State should identify its preferred approach prior to discussing with prospective offerors.

## 6.5 PROGRESSIVE PROCUREMENT PROCESS

The Market Feedback regarding the procurement process for the Project was relatively clear and consistent. That is, that a “progressive” procurement process should be undertaken by the State. This is as opposed to a more traditional “hard bid” approach, which down-selects to one offeror after a fixed price has been offered. A progressive procurement process down-selects to one offeror much earlier than a hard-bid approach, and usually without a fixed price being offered.

The usual concern with a progressive procurement process is ensuring that the client achieves sufficient competition from the market on matters such as pricing. However, many outstanding project issues need to be resolved prior to an offeror being able to offer fixed pricing. Given the complexities of the Project, many of these issues are best solved by the actual developer, not the State (or at least by the State and the actual developer in close consultation with one another). Consequently, the progressive procurement process is likely the most effective process to mutually solve the outstanding issues and get to an agreed Project agreement. Of course, the State will have to ensure that it obtains maximum competition from the market in doing so.

The Market Sounding materials provided only a summary of what a progressive procurement process could look like for the Project. The State should further develop this approach for the Project and, when it has a clear preferred approach, workshop and, if relevant, refine this approach with prospective offerors.

## 6.6 SITE DILIGENCE

The Market Sounding materials provided some insight into the State’s proposed approach for additional site diligence; however, the RFI responses and one-on-one meetings did not yield a substantive outcome on this matter. Based on discussions with the Market Sounding participants, it is clear that the procurement process needs further definition before prospective offerors can talk to this point with certainty. Resolution of this matter should not be contentious; however, it is something that needs to be resolved: (i) promptly (if the State were to undertake any further site diligence studies); and (ii) in conjunction with prospective offerors.

## 6.7 CONTRACTUAL STRUCTURE

Within the Market Feedback were several questions regarding the State’s intent for the contractual structure of the Project. The Market Sounding materials provide a summary of the State’s expectations, but the State should further develop the contract structure for the Project and, when it has a clear preferred approach, workshop and, if relevant, refine this approach with prospective offerors.

## 6.8 SECONDARY ISSUES

The Market Feedback 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:** The Market Feedback delved into discussion around any “subsidies” the State could offer to improve the financial feasibility of the Project. Often the types of subsidies being requested were under the control of the City and County of Honolulu. Notwithstanding, the State is mutually invested in improving the feasibility of the Project and opportunities should be investigated and, where relevant, pursued. Ideally, arrangements can be agreed to prior to the procurement process commencing.
- **City risk:** The Market Feedback yielded concerns regarding working with the City and County of Honolulu as it relates to timely and consistent approvals and permits.

- **Legislative risk:** The Market Feedback yielded concerns regarding any legislative change occurring during the procurement process.
- **Definition of State roles:** The Market Feedback yielded several questions seeking clarity regarding the roles of the State agencies involved in the Project (e.g., the Stadium Authority, the Hawaii Community Development Authority, the Department of Accounting and General Services, and the Department of Business, Economic Development & Tourism). This is likely not a contentious point, but clarity will be required for the procurement process.
- **Sewer capacity:** The Market Feedback yielded several questions regarding utilities. The sewer capacity issue remains a significant risk and it should remain a priority issue to be resolved.
- **Clarification on stadium siting:** The Market Feedback yielded a question about the extent of flexibility offerors would have in siting the new Aloha Stadium within the overall NASED site. The answer to this question needs to be workshopped within the State team and detailed within the procurement documents.

## 7 RECOMMENDATIONS

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This Report recommends that:

1. The State notes that there is 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 State notes that the issues described in Section 6.2 (Financial Analysis) and Section 6.3 (Cross-Default (Stadium Performance Risk)) are significant issues, to be resolved as a matter of priority, and prior to the commencement of any procurement process for the Project.
3. The State notes that the issues described in Sections 6.4 (Stadium Operator Teaming), 6.5 (Progressive Procurement Process), 6.6 (Site Diligence), and 6.7 (Contractual Structure) are key issues that the State should resolve, in collaboration with prospective offerors, prior to the commencement of any procurement process for the Project.
4. The State, as a matter of priority, completes an updated financial analysis to demonstrate the feasibility of the Project.
5. The State determine the optimal approach to sharing details of the updated financial analysis with prospective offerors (or actual offerors) for the Project and then share such details in accordance with that process).
6. The State further defines its objectives and requirements regarding stadium performance risk and then, in collaboration with a select number of Market Sounding participants, develop a mutually acceptable solution for inclusion as a "State requirement" in the procurement process.
7. The State develops a preferred position regarding stadium operator teaming and then, in collaboration with a select number of Market Sounding participants, workshop and refine this position for inclusion in the procurement process.
8. The State notes that, given the nature of procuring the Project, a progressive procurement process is seemingly the most appropriate method, and a method that the prospective offerors strongly prefer.

9. The State details its preferred position regarding a progressive procurement process and then, in collaboration with a select number of Market Sounding participants, workshop and refine this position for inclusion in the procurement process.
10. In conjunction with the collaborative discussions regarding a progressive procurement process, the State workshop and define the approach regarding site diligence studies for inclusion in the procurement process.
11. The State details its preferred position regarding the contractual structure for the Project and then, in collaboration with a select number of Market Sounding participants, workshop and refine this position for inclusion in the procurement process.
12. The State investigates the potential subsidies or the other beneficial financial arrangements for the Project and develops a priority matrix of opportunities (and strategies) to pursue these.
13. The State continues its engagement with the City and County of Honolulu as it relates to timely and consistent approvals and permits. The State should also factor time into the procurement process for the preferred offeror to engage with the City and County of Honolulu on this matter.
14. The State continues its engagement with legislators, with the objective of ensuring that any legislative change regarding the Project is beneficial to the Project.
15. The procurement documentation should clearly describe the various State agency roles as they relate to the Project.
16. The State continues to pursue resolution of the sewer capacity issue as a matter of priority.
17. The State determines its preferred approach and any limitations or conditions regarding stadium siting and detail these within the procurement documents.

## EXHIBIT A (PROJECT GOALS AND OBJECTIVES)

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The State's goals and objectives for the Project are:

- A. For the State to establish and maintain a productive, mutually beneficial, and long-term partnership with the developer, where both are diligently pursuing the achievement of the NASED vision.
- B. For the Project to deliver an integrated, mixed-use, live-work-play-thrive district.
- C. To ensure that the new Aloha Stadium is fit for its intended purpose, maintained to a suitable standard, and returned to the State to a prescribed condition after a specified period of time, with no State payment obligation related to the operation and maintenance of the Stadium.
- D. To ensure that the new Aloha Stadium continues to be a community asset.
- E. That the State expects to have little to no financial liability to the developer outside of contractually scheduled payments for the initial design and construction of the new Aloha Stadium.
- F. To maximize the scope of the new Aloha Stadium by granting the developer the right to develop, operate, and retain revenues from the leasing and operation of the entirety<sup>1</sup> of the adjacent NASED area, which revenues will be used to fund increased or enhanced stadium scope (initially) and/or stadium upgrades (in the future). In doing so, deliver, operate and maintain a new Aloha Stadium that is of greater scope and higher quality than the State would otherwise be able to fund using its currently available and allocated funding.

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<sup>1</sup> The State's preference is currently to provide the entirety of the site to ensure the maximum stadium scope; however, this is contingent on the offeror / developer providing demonstrable value (supported by a sound and viable plan) in this approach. If not, the State expects to provide a smaller, fixed portion of the site.

## EXHIBIT B (PROJECT FEATURES)

Some high-level features of the Project include:

<b>Term</b>	A 99-year (maximum) ground lease over the Project site, with the exception of the new Aloha Stadium site, which would be the subject of a 20 to 30 year ‘operating phase’ lease.
<b>Project Site</b>	<p>The State expects to handover the entirety of the NASED site to the developer for development of the new Aloha Stadium and real estate.</p> <p>The extent of the site to be handed over on a ‘day one’ basis is to be confirmed, and will be subject to the transition of the Aloha Stadium Swap Meet &amp; Marketplace (“<b>Swap Meet</b>”) – refer below.</p>
<b>Developer</b>	The State contracts via a master developer agreement and initial ground lease with one entity (presumably, a consortium) to perform the role of master developer of both the new Aloha Stadium and the Project site.
<b>Payment Mechanism</b>	<p>The State will have no ongoing scheduled payment obligations to the developer beyond the State’s initial contribution for the stadium design and construction (e.g., no availability payments).</p> <p>Instead, the developer would use some or all of the ground rents normally payable to the State from State-owned real estate developments on the Project site to fund any construction shortfalls, stadium operating shortfalls, ongoing maintenance, and potentially any privately financed stadium capital costs.</p> <p>From the revenue generated by the Project, the State expects payments from the developer to fund its ongoing Stadium Authority team. Additionally, the State expects:</p> <ul style="list-style-type: none"> <li>- ground rent revenue paid to the State shortly after the developer’s liabilities regarding the stadium (e.g., developer financing and maintenance) are no longer applicable; and</li> <li>- some form of revenue sharing arrangement for any material upside realized by the developer with respect to the Project.</li> </ul> <p>The State may consider whether additional State payments could be made to the developer upon the occurrence of certain identified compensation events with respect to the new Aloha Stadium (examples to be discussed).</p>
<b>State Contribution</b>	<p>A specified amount (e.g., \$340 million), to be used for the demolition of the existing Aloha Stadium and towards the initial design and construction of the new Aloha Stadium.</p> <p>The State contribution shall be paid as monthly progress payments for work performed, in accordance with a method similar to that used in privately financed investments (e.g., a % of private cash (for the stadium design and construction) in first and then prorated).</p>
<b>Developer Financing</b>	In addition to providing the baseline stadium scope requirements (to be specified by the State), the developer will be encouraged to supplement the baseline scope with additional stadium features to improve the quality, content, fan experience, and revenue generation; however, any such investments by the developer will require private financing and will not be reimbursed by the State. The developer will also be responsible for all new Aloha Stadium operation and maintenance costs during the ‘operating phase’ of the lease term, without additional State contributions. The operating portion of costs shall include payment on an ongoing annual basis of the Stadium Authority’s administrative staff and overheads.

	<p>The State is open to, and encourages, the developer to propose alternative innovative solutions that support efficient financing of the broader Project, including, for example, making use of the opportunity zone designation of the site, the establishment of a community facilities district, seeking federal financing (e.g., TIFIA), and any others.</p> <p>Subject to certain commercially reasonable limitations, the developer will be permitted to pledge its leasehold interest in the areas of the Project outside the stadium demarcated area, including the vertical improvements thereon, as collateral to obtain and support private financing. In the event of a default by the developer on any private financing or innovative financing, the lender's sole recourse is on the developer's pledged asset.</p>
<b>Ownership</b>	<p>The State will retain fee ownership of all land within the Project site and the improvements that comprise the new Aloha Stadium (within a demarcated area).</p> <p>During the term of the lease, the developer will own all vertical improvements outside of the stadium demarcated area, with ownership reverting to the State upon the expiration of the lease term.</p>
<b>Default and Termination</b>	<p>A critical component of the Project is that the State will require the stadium and real estate components of the Project to be cross-defaulted. For example, failure to maintain the new Aloha Stadium to the prescribed standards may lead to default (after the expiration of applicable notice and cure periods for the developer and, if applicable, any affected lenders) which, in turn, could lead to the exercise of remedies by the State, including, among other remedies, the State performing the developer's obligations itself or with a third party at the developer's cost, or ultimately the termination of the overall agreement, including the real estate development.</p>
<b>Construction Schedule</b>	<p>Stadium – based off State approved schedule (approved at contract close), with a committed completion date.</p> <p>Real Estate – based off State approved schedule for the initial parcel and overarching masterplan (initially approved at contract close). Overarching construction schedule in master plan may be amended in accordance with specified terms and conditions. The State expects that initial elements of the real estate developments will be operational in time for the opening of the new Aloha Stadium.</p>
<b>Scope</b>	<p>Stadium – based off State approved design (e.g., concept/ schematic, approved at contract close), in line with State-developed technical requirements. The new Aloha Stadium will have a minimum of 25,000 seats and must accommodate, at a minimum, football, soccer, rugby, and concerts.</p> <p>Real Estate – based off State approved master plan (initially approved at contract close), in line with State-developed technical requirements. Master plan may be amended in accordance with specified terms and conditions.</p>
<b>Site Diligence</b>	<p>The State is considering undertaking certain site diligence (e.g., Geotech, hazmat, subsurface utilities, etc.) for the stadium elements of the site and having the parties performing such diligence provide certain rights of reliance to the offerors and developers for these reports.</p> <p>For the remainder of the Project site, the State expects that the preferred offeror, once selected, will have the opportunity to conduct site diligence during any discussion/negotiation period (i.e., prior to contract close).</p>
<b>Real Estate Initial Program</b>	<p>The State is considering specifying the program of development for the initially developed parcel of the Project.</p> <p>Currently, the site provides ~600 vehicle parking stalls to service the Honolulu Rail Hālawa Station. This quantity must be maintained at all times.</p>

<b>Construction</b>	<p>Subject to reliance on previously performed site diligence as noted above, the Project site will otherwise be provided to the developer “as is.” The developer will be responsible for any demolition, including the demolition of the existing Aloha Stadium, and any required remediation.</p> <p>The developer will also be responsible for infrastructure and utility upgrades to service the Project.</p>
<b>Operations</b>	<p>The developer will be responsible for operating and maintaining the new Aloha Stadium and public areas of the Project site, including providing for a site and continued operations of the Swap Meet.</p> <p>This will include booking, scheduling, marketing, ticket sales, managing game day parking and traffic issues and providing regular operational and facility status reports for the Stadium Authority.</p> <p>The State expects that the Stadium Authority will continue to manage the Swap Meet until an agreed point in time, likely aligning with (or just prior or post) the opening of the new Aloha Stadium.</p> <p>The developer will have the right to retain revenues generated from the operation of the new Aloha Stadium and public areas of the Project site, including the Swap Meet (though the developer will only be entitled to Swap Meet revenues once it is actually managing the Swap Meet).</p>
<b>Specified Use</b>	<p>The State will require certain license terms and conditions for specified users of the new Aloha Stadium (e.g., University of Hawaii football, scholastic sports and possible other events) regarding scheduling, rent, required revenue sharing and allowable cost reimbursement.</p>
<b>Maintenance</b>	<p>The developer will be responsible for maintaining the Project in accordance with certain specified commercially reasonable output-based standards, and shall be required to return the stadium to the State in a prescribed condition upon the expiration of the operating period.</p>
<b>Performance Management</b>	<p>A prescribed performance management regime will be in place to ensure the day-to-day performance of the developer. This is expected to cover key focus areas for the State (e.g., reputational risk, safety, stakeholders and users, cleanliness, etc.) and is expected to require performance consistent with commercially reasonable standards.</p> <p>The developer’s performance will be measured against these standards, and failure to meet these would, after certain notice and cure periods, constitute a default under the agreement entitling the State to exercise its remedies (which may ultimately include termination).</p>
<b>Procurement</b>	<p>The State currently plans for a two-stage process, a Request for Qualifications (“RFQ”) stage, and a Request for Proposals (“RFP”) stage.</p> <p>The RFQ stage will aim to priority-list 2 or 3 offerors to proceed to RFP stage, based on skills, experience, capacity, capability, etc., as well as project understanding.</p> <p>The RFP stage will aim to select a preferred or successful offeror to proceed to negotiations or directly to contract.</p>

## EXHIBIT C (WEBINAR ATTENDANTS)

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*[Confidential exhibit]*

## EXHIBIT D (RFI RESPONSES)

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*[Confidential exhibit]*

## EXHIBIT E (ONE-ON-ONE MEETINGS)

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*[Confidential exhibit]*