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Title: Review of Public Private Partnership Terms and Authorization for Pre-Development Agreement for a Sports Events Center at Celebration Pointe

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Attachments: 1. SportsEventsTerms01-26-21Final.pdf, 2. Term Sheet - FINAL.pdf

Date	Ver.	Action By	Action	Result
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Agenda Item Name:

Review of Public Private Partnership Terms and Authorization for Pre-Development Agreement for a Sports Events Center at Celebration Pointe

Presenter:

James K. Harriott, Jr., P.E., Deputy County Manager

Description:

This presentation brings back the negotiated terms of a public private partnership for a Sports Events Center at Celebration Pointe. The terms identify the risk of operation and management on the Operator and provides an option for the Operator to purchase the facility at the end of its useful life.

Recommended Action:

- 1) Hear presentation of terms and authorize the Chair to sign a pre-development agreement consistent with the term sheet not to exceed \$1 Million and
- 2) Authorize staff to work with the Operator to finalize the project development and operations agreements for future Board consideration.

Prior Board Motions:

At the November 10, 2020 Board Meeting Commissioner Cornell moved to direct staff to negotiate a term sheet for the financing, construction and operation of a Sports Events Center with the most responsive proposer. And 2) bring back the results of negotiations for the Board's consideration. (5:0)

At the October 15, 2019 Board Meeting Commissioner Byerly moved direct staff to further explore the creation of a Sports Events Center via a partnership with Celebration Pointe Community Development District with the following ordered steps:

- 1) Determine public funding sources/amounts for the project.

- 2) Develop architectural designs and construction cost estimates.
- 3) Conduct a Celebration Pointe parking demand study and determine cost and Funding sources for additional parking stalls.
- 4) Establish legal parameters for venue funding and ownership.
- 5) Authorize a Chair letter to the City of Gainesville that provides the economic impacts of the Event Center to the community and request that the City get back to the Board of County Commissioners as soon as they have the necessary information to move forward with the eastern part of the City to move in a parallel path if possible. (5-0.)

At the May 7, 2019 Special Meeting Commissioner Byerly moved the following:

1. That we direct staff to expand Victus Study to include an analysis of the Celebration Pointe Site and include as needed an analysis of the range of Public and/or Private Ownership models and to work with the Celebration Community Development District to come up with those numbers.
2. Direct staff to prepare a business model / operational analysis for all three of the sites we have been considering for public investment; Celebration Pointe, Cabot Koppers and the MLK Site.
3. Direct Staff to draft an Interlocal Agreement for consideration by the Commission for investments of Community Redevelopment Agency (CRA) funds and Wild Spaces Public Places funds for the Citizens Field and Cabot Koppers sites. This should include a timeline for the development.
4. Authorize a Chair Letter to request that the Event Center be a topic of discussion at our Joint Meeting in June with the City of Gainesville.

The motion carried 5-0.

Fiscal Consideration:

If the County's signs a Pre-Development Agreement, the plans, specifications, and GMP will be generated. If the County does not proceed after their presentation, then Viking may be entitled to reimbursement of costs not to exceed \$1 Million for the preparation of design and construction documents.

The County's total obligation in the terms sheet for the project is \$30 Million from TDT funds via a 30 year bond issuance.

The land and the building when constructed will be the County's property.

Background:

The County's Negotiation Team has concluded its discussions and recommends the Board approve the Terms Sheet, authorize staff to prepare a Predevelopment Agreement, and authorize the Chair to execute the Predevelopment Agreement once it has been finalized by County staff.

The purpose of the Terms Sheet is to set the negotiated conditions of the major deal points that will inform the development of the other Project Agreements that still need to be negotiated between the parties regarding the design, construction, management and operation of a Sports Events Center (Center) at Celebration Pointe.

If the terms of the Term Sheet are agreeable to the Board, staff recommends the Chair be authorized to sign a Predevelopment Agreement. The Predevelopment Agreement will establish the terms and

conditions by which Viking will develop the design, budget and Guaranteed Maximum Price of Construction for consideration by the Board at a future meeting. During the Pre-Development phase, County staff will perform all of the analyses required by the P3 statute (*i.e.*, Section 255.056, Florida Statutes), and will present them to the Board for consideration when the Board subsequently considers whether to enter into the Operating Agreement. The total County obligation to Viking under the Term Sheet is no more than \$1M during the Pre-Development phase, and no more than \$30 Million if the Board subsequently approves the Operating Agreement (*i.e.*, if the Board agrees to move forward with construction and an operation of the facility).

If the Board decides to not pursue the project after the Pre-Development Agreement is executed but before the Board approves the Operating Agreement, the County will be required to reimbursement Viking up to \$1 Million for its costs to develop the design, budget and GMP.

Construction documents and the project design will developed in consultation with a County Team.

If the Board proceeds today, the 90% Plans and Specification, Budget, GMP and Operating Agreement may be ready for Board consideration by June-July 2021. This will be the next major decision point for the Board and will include request to approve a 30 year bond issuance for \$30M.

Current estimates place project completion in late October 2022. The following is a general description of the project.

Project Description:

The Project will be designed to a Class A institutional quality and commensurate with National Collegiate Athletic Association qualifying sports facilities. It will have no less than 110,000 square feet focusing on indoor track, volleyball, basketball, dance, and cheerleading. The Center shall contain an indoor track, 13 basketball courts, 26 volleyball courts, concession areas, restroom facilities, offices and other related facilities.

The Center will be operated a newly created affiliate of Viking (the "Operator") which will be named in an operating agreement. The Center will be Managed by RADDSports (the "Manager") via a separate agreement between the Operator and Manager.

Responsibilities of Operator: The Operator will be responsible for the operation and management of the Project, including but not limited to:

1. managing the construction and development of the Project by the Contractor. Contractor to be selected by Viking.
2. setting rates fees and charges for use of the Center;
3. develop and fund pre-opening start up budget;
4. leasing, marketing and advertising activities;
5. maintenance and custodial services;
6. equipment maintenance;
7. asset management and life cycle repairs and replacement;
8. preparation of annual operating budget and an annual capital budget including establishment of necessary reserves;
9. procuring and maintaining property and liability insurance; and
10. payment of all operating expenses.

All funds generated by the Operator shall first be applied to operate and maintain the facility for the

duration of the 30 year term of the Operating Agreement.

Project Improvements:

During the term of the Operating Agreement, The Operator will have responsibility for the Project improvements and facilities relating to use, management, life cycle maintenance, replacement, repairs, rehabilitation, renovations and refitting of the Center.

Major Maintenance and Repair: The Operator will be responsible for the performance of all maintenance, repair, rehabilitation and replacement of all structural elements, systems, components, major equipment, fixtures and furniture of the Project. The Operator will develop a capital repair and replacement plan, budget and schedule for consideration by the County.

Repair and Replacement Fund. In order to assure funding to perform all capital assets repair and replacement work, the Operator shall on an annual basis deposit funds into repair and replacement cost reserves to be utilized solely to fund such work. Funding of the reserves shall be maintained at adequate levels to assure the availability of funds to maintain all portions of the Project in a safe, secure, sustainable and first-class manner. The Operator will deposit a minimum annual amount of not less than 1% in year one, 2% in year two, 3% in year three, and 4% in the remaining years of the gross revenues (less any parking fee income) into the repair and replacement cost reserve fund for the facilities.

Budgetary Responsibility:

The Operator shall be responsible for all short falls to the operating budget and the capital budget for the term of the Operating Agreement. Amounts advanced by Operator to fund a deficit in the capital budget shall bear interest at an annual rate of interest equal to 5.0 percent. As an inducement to the Operator for assuming the risk of backstopping the operating budget and capital budget during the term of the Operating Agreement upon expiration of the Operating Agreement the County shall have the option to:

- (i) decide to keep ownership of the Center and thereafter and assume the obligation to fund deficits in the operating budget and the capital budget or,
- (ii) provide the Operator the option to purchase the Project. If the County opts to provide the Operator the option to purchase and the Operator fails to notify the County within ninety (90) days it will exercise the purchase option, the County shall have the right to sell the Project to a third party.

In the event the Operator exercises the right to purchase the Project upon the expiration of the Operating Agreement, the purchase price shall be determined and based on the fair market value of the Project establish by appraisal of the lands highest and best use of the property. The County and the Operator shall each obtain an appraisal, at the Operator's expense, and use the average value as the purchase price so long as the difference in the appraised values is less than ten (10) percent. In the event that the difference in the appraised value is more than 10%, the Operator and County will agree to use a third appraiser that they have mutually agreed upon, and the final valuation will be an average of the three appraisals. However, the purchase price shall be adjusted downward in value by one half of the cumulative deficit in the capital budget funded by the Operator during the term of the Operating Agreement. The Operator shall receive all amounts on deposit in the operating reserve fund at the time of purchase. All other amounts on deposit in the capital reserve fund and Surplus Fund shall remain with the County.

Routine Maintenance. The Operator will be responsible for the performance of routine maintenance

of the Project facilities. The Operator has the right to self-perform routine maintenance or contract with third parties for the performance of routine maintenance under the supervision of the Operator. Performance of routine maintenance will be subject to standards, requirements and criteria set forth in the Operating Agreement.

Facilities Condition Report. No less than once each year the County and Operator shall conduct a walk through inspection to review facility conditions in developing annual capital budget. No less frequently than every five (5) years [commencing in the tenth fiscal year following commencement of operations of the Project], the Operator will at its cost cause a comprehensive facilities condition assessment report to be performed by an independent engineer agreed upon by the Operator and the County. The parties will determine the nature and scope of services and deliverables to be provided by the independent engineer and the schedule for the Operator's implementation of remedial action to address any deficiencies identified by the independent engineer to be mutually agreed upon based on the operational needs at that time.

Financial Reporting. The Operator shall provide to the County quarterly and annual financial and operating information, including annual financial statements and quarterly financial statements and a copy of the annual operating and capital budget as set forth in the Operating Agreement. If the County require audited financial statements, the Operator agrees to provide such statements at the request of the County at the County's expense.

Performance Indicators. The Operating Agreement and the Management Agreement will set forth the standards of performance for the conduct of management, maintenance and repair and customer service activities at the Project. Key indicators and measures of the quality of performance of the required services will include levels of Project occupancy, level of marketing or advertising designed to increase tourist related business activities, within the meaning of Section 125.0104, Florida statutes, tourist room night generation, Project financial performance, Project condition and budget compliance. The failure of Operator to achieve certain minimum threshold levels of compliance with the performance indicators, after having been provided notice and an opportunity to cure (as further defined in the Operating Agreement) will be a basis for the appointment of a replacement Operator. The failure of Manager to achieve certain minimum threshold levels of compliance with the applicable performance indicators (such as bookings and number of activity days) will be a basis for the appointment of a replacement Manager. If Operator is replaced, operator, Viking and CP Holdings shall be released from all other obligations under all agreements with County.

Parking and Transportation Viking or the Operator shall provide five hundred (500) non-exclusive parking spots, whether onsite or offsite, for an initial annual fee of \$564,000.00, [to be increased by three percent (3.00%) per annum] (the "Parking Fee"), pursuant to a license agreement, as well as other methods of transportation to bring participants and visitors to the Project and in order to perform under the obligations as stated in the Operating Agreement and Management Agreement. The Parking Fee shall be included in the operating budget and is based on equitable prorata share of the operating cost and debt service of structured parking facilities made available to the Project. Viking shall not charge a parking fee for general access to surface parking availability for the Project. Operator or Manager shall be permitted to charge attendees an event parking fee. All parking fee revenues collected by the Operator or Manager shall be considered operating revenues of the Project and be available to the Operator or Manager for the payment of operating expenses. In the event Operator is terminated under any of the agreements, County will continue to be granted parking rights pursuant to the Master Declaration for Celebration Pointe as any other tenant.

Annual Bonus Structure for Operator and Manager

As long as Operator and Manager meet or exceed the performance requirements in the Operating

Agreement and the Management Agreement each year, the operating reserve and capital reserves are fully funded in accordance with the annual budget, the Operator and Manager can distribute a performance bonus to the Operator and Manager in the following amounts:

1. 25% of available yearly net operating income between \$0.00 and \$150,000.00, and
2. 50% of available yearly net operating income above \$150,000.00.

Net operating income remaining following payment of all obligations, including annual operating bonuses to the Operator and the Manager shall be deposited in the Surplus Fund. At the end of any fiscal year any amount in excess of \$1,000,000 shall be shared equally between the County and the Operator.

Flow of Funds. All operating and non-operating revenues, fees and charges collected with respect to use of the Center shall be deposited into an Operating Account established and held by the Operator and applied in the following order:

1. Payment of commissions, refunds, sales taxes, cost of goods sold and other customary exclusions from revenues;
2. Monthly operating expenses of the Project;
3. Payment of master property association and CDD fees;
4. Payment of monthly management fees to Manager;
5. Payment of monthly asset management fees to Operator;
6. Repayment of Construction Capital Repayment per pro forma and funded operating or capital shortfalls
7. Deposit to Capital Repair and Replacement Reserve Fund;
8. Deposit to Operating Reserve Fund;
9. Pay Performance Bonus to Operator and Manager; and
10. All remaining funds to be transferred to the Surplus Fund.

All amounts in the Surplus Fund are available to the Operator to fund deficiencies that may exist from time to time in the funds described above.

Assignment and Transfer:

Neither Viking nor the Operator will have the right to assign or transfer their respective interest in a Project Agreements, the Project or any element or component thereof or permit the use of the Project by any person or entity other than Viking, the Operator, the Manager whether by agreement, change of control in such entities or operation of law, without the prior written approval of the County in its sole discretion.

No Guarantees:

Viking acknowledges that it has conducted due diligence with respect to the costs, risks and uncertainties of developing, constructing, operating and maintaining the Project and evaluated the demand for, and the financial prospects of the Project utilizing its personnel, advisors, contractors, resources, experience and expertise and without reliance on any statement description or analysis made or information, document or data furnished by the County or its consultants and advisors. Except as expressly set forth otherwise in this Term Sheet, Viking acknowledges and agrees that the County does not and will not guarantee or otherwise support or backstop in any way any obligations incurred by Viking in the performance of its obligations, covenants and agreements under the Project Agreements or other contract or agreement relating to the Project. The County makes no covenant,

representation, warranty or other undertaking with respect to demand for the Project, the financial viability of the Project, the nature, extent and success of efforts to market the Project, the conduct of users or others of the Project, or the cost to design, construct, own, manage, operate and maintain the Project.

Prior History:

In June 2020, the Board received an unsolicited proposal from Celebration Pointe Holdings (CP Holdings) to develop a Sports Events Center to be located in Celebration Pointe. A request for competing proposals was issued in September 2020 with a due date of 5PM October 21. The request was posted to the Florida Administrative Register, advertised in the Gainesville Sun, on the County's Website, and County Procurement's Demandstar. In addition, all Alachua County City Managers were contacted and a press release issued to generate greater awareness of the opportunity.

No competing proposals were received by the County.

The original proposal proposed the County finance the construction of the Sports Event Center using tourist development tax revenues. CP Holdings would assume operational control of the Sports Event Center and assume responsibility to fund operations from revenues of the project. Tourist development tax revenues are dedicated to supporting the tourism and associated hospitality industries. The community will benefit overall if Celebration Pointe is selected as the Sports Events Center location.

Victus Advisors has estimated that this project at Celebration Pointe would:

- 1) Generate net impacts over a period of 30 years with a net present value (NPV) of approximately \$1.2 billion in total economic output,
- 2) \$392 million in wages, and
- 3) nearly \$24 million in County sales tax revenues,
- 4) and County tourist development taxes.
- 5) In addition, it is estimated that up to 1,150 incremental annual jobs could be supported by this new economic activity.
- 6) Brings \$12 million/year in hotel spending and 116,760 room nights.
- 7) Land does not need to be bought and is shovel ready.

This enhanced economic activity addresses the peaks and valleys of hotel stays and hospitality industry by stabilizing the revenue stream over the course of a year. The programming from a sports events facility fills gaps in the tourism sporting calendar and grows a critical market opportunity along a high visitation corridor.

Location to a highly-used transportation corridor, with adjacent supporting retail and hotel facilities is critical to meeting these financial objectives.

There will be no property acquisition costs as the land is being offered as part of the agreement; provided the Board pays the existing special assessment liens against the property.

Prior to receiving the proposal, Victus Advisors reviewed four potential locations for a sports events center tracking sequentially westward from Waldo Road to Celebration Pointe. The Celebration Pointe location was ranked number 1 at score of 92% and was highly recommended due to the significant supporting development, retail amenities, I-75 access and lodging opportunities. All other

sites scored too low to be recommended (Waldo Road and 39th Ave: 50% score and Waldo Road and 8th Ave: 46% score) or scored marginally and are no longer available for consideration (Koppers: 67% score)

Prior Market Study & Site Analysis - In January 2019, Victus Advisors completed a Market Demand Study identifying demand for a new sports events center in Alachua County with:

- At least eight (8) indoor hardwood basketball/volleyball courts,
- An indoor banked track (hydraulic or removable),
- Retractable/portable seating with upwards of 3,000 seats for championship track events, and
- Parking for up to 1,150 vehicles.

In addition, in June 2019, Victus Advisors also completed a Site Options Analysis which identified Celebration Pointe as the recommended location for a new sports events center in Alachua County. Celebration Pointe is located on the northwest quadrant of the Interstate 75 and Archer Road (SR 24) interchange in Alachua County. The Celebration Pointe site was scored as “highly recommended” due to its easy access to hotels, retail, and dining, as well as convenient highway access, all of which could maximize tourism benefits, drive visitor satisfaction and return usage, and provide the greatest opportunity for the long-term success of the proposed sports events center.

Additional Victus Advisors Analysis for the County - In June 2019, Victus Advisors was engaged again by Alachua County to conduct a business planning, operations analysis, and economic impact analysis for a new sports events center at Celebration Pointe.

This study is intended to be a first step in analyzing the partnership opportunity at Celebration Pointe, confirming the operational validity of the site, and analyzing the net benefits of the project; and thus, facilitating additional conversations between the potential project partners (i.e. Alachua County, CPCDD, and Viking Companies).

In this additional study, Victus Advisors conducted the following services and analysis, specific to the proposed Celebration Pointe site and partnership opportunity:

- Meetings in Alachua County with Viking Companies and CPCDD to discuss potential parameters and information needs for a partnership to develop a new sports events center,
 - SWOT Analysis for a new sports events center at Celebration Pointe,
 - Management Options Analysis for a public-private sports events center,
 - Usage Projections and Operating Pro Forma under the recommended management model,
- and
- Economic and Fiscal Impact Analysis, incorporating Celebration Pointe development plans both with and without a new sports events center.