

## Port KC

<b><u>Policy Name:</u></b>	<b>Procurement and Authorization Policy</b>
<b><u>Date Approved:</u></b>	2019
<b><u>Resolution Number:</u></b>	2019-02-06; 2019-07-07
<b><u>Reviewed/Revised:</u></b>	Revised August 18, 2014 (2014-08-06); Revised February 25, 2019 (2019-02-06); Revised July 22, 2019 (2019-07-07)
<b><u>Related Documents:</u></b>	<p>Port KC Affirmative Action Policy (found at <a href="https://portkc.com/wp-content/uploads/2017/04/Exhibit-A-Affirmative-Action-Policy-with-Statement-of-Intended-Utilization.pdf">https://portkc.com/wp-content/uploads/2017/04/Exhibit-A-Affirmative-Action-Policy-with-Statement-of-Intended-Utilization.pdf</a> as of August 15, 2016.</p> <p>Port KC Construction Workforce Policy (found at <a href="https://portkc.com/wp-content/uploads/2017/04/Exhibit-B-Construction-Workforce-Policy-with-Affidavit.pdf">https://portkc.com/wp-content/uploads/2017/04/Exhibit-B-Construction-Workforce-Policy-with-Affidavit.pdf</a> as of August 15, 2016.</p>
<b><u>Statutory Authority:</u></b>	<p>Revised Statutes of Missouri (“RSMO”) §68.010, et seq., as amended</p> <p>RSMO §8.285-8.291, as amended</p> <p>RSMO §107.170, as amended</p> <p>RSMO §227.600, as amended</p> <p>RSMO, Chapters 34, 67, 327, as amended, and as and when applicable, as specifically referenced in this Procurement Policy</p>

## **Revisions**

This Procurement and Authorization Policy (“Procurement Policy”) will be revised from time to time by the Board. In addition, the President is authorized to make minor modifications from time to time, without additional Board action, provided the President reasonably determines that such minor modifications are consistent with the Purpose of this Procurement Policy as set forth herein. Any revisions made by the Board or the President will be promptly posted on the official website of Port Authority of Kansas City, Missouri (“Port KC”) (found at <https://portkc.com/> as of June \_\_\_\_, 2019, the “Port KC Website”). Those performing work or otherwise relying on this Procurement Policy assume all risk related to any changes therein. Port KC shall not be liable for any damages sustained by anyone based on a modification or failure to modify this Procurement Policy. This Procurement Policy may be amended from time to time due to changes in applicable law.

## **Purpose**

The Port Authority of Kansas City, Missouri (“Port KC”) believes in procuring Goods and Services in a fair and open manner to the fullest extent practicable. It is the goal of Port KC to procure Goods and Services without arbitrary actions or organizational conflicts of interest and without

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placing unreasonable requirements on firms to qualify them to do business with Port KC. Toward that end, Port KC has adopted this Procurement Policy, which supersedes all previous procurement policies and takes effect on the date adopted by the Board.

This Procurement Policy is intended to implement the provisions of the Revised Statutes of Missouri as may be amended at any time, including but not limited to RSMO §68.025, §68.055 and §68.057, which sets out the general statutory authority for Port Authority procurement of Goods and Services, as well as Chapters 34 and 67.

With respect to Public-Private Partnerships, this Procurement Policy is also intended to document a clear, consistent, efficient, and transparent process for Port KC's interaction with the private sector and for Port KC's use in consistently managing project/facility development and procurement, including project/facility solicitation, evaluation, and award.

This Procurement Policy will be available to the public and to private and other governmental entities on Port KC's Website for reference.

This Procurement Policy applies to the procurement of all Goods and Services unless a funding, financing source, or the nature of any Goods or Services (including procurement of facilities/projects) mandates specific or additional procedures for letting contracts as a condition to receipt of funds which are inconsistent with the procedures of this Procurement Policy, in which case Port KC may use such specific or additional required procedures.

It is the policy of Port KC to procure Goods and Services by one of the following methods, as described in more detail in the sections below:

1. Micro-Purchase Procedure ("MPP") - \$3,000.00 or less; Credit Card Purchase Procedure
2. Small Purchase Procedure ("SPP") - between \$3,000.01 and \$100,000.00
3. Request for Proposals ("RFPs") and Invitation for Bids ("IFB")- \$100,000.01 and over
4. Qualifications-Based Selection Method ("QBS Method") - \$3,000.01 and over
5. Cooperative Procurement Purchases - Any amount
6. Procurement of Construction Contracts - Any amount
7. Indefinite Delivery/Indefinite Quantity (IDIQ) Task Order Contract - Any amount
8. Design-Build Procurement (RSMO §67.5060)
9. Construction Manager At-Risk Procurement (RSMO § 67.5050)
10. P3 Public-Private Partnerships Procurement Method ("P3 Method") - Any Amount

## **Definitions**

The following definitions apply to this Procurement and Authorization Policy:

**Agreement:** A binding Contract, or series of agreements, between Port KC and a Concessionaire.

**Architectural Services:** Any service as defined in RSMO §327.091, which includes any person who practices as an architect who renders or offers to render or represents himself or herself as willing or able to render service or creative work which requires architectural education, training

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and experience, including services and work such as consultation, evaluation, planning, aesthetic and structural design, the preparation of drawings, specifications and related documents, and the coordination of services furnished by structural, civil, mechanical and electrical engineers and other consultants as they relate to architectural work in connection with the construction or erection of any private or public building, building structure, building project or facility or integral part or parts of buildings or of any additions or alterations thereto; or who uses the title "architect" or the terms "architect" or "architecture" or "architectural" alone or together with any words other than "landscape" that indicate or imply that such person is or holds himself or herself out to be an architect.

Board: The Board of Commissioners for Port KC.

Civil Works Project: projects including, but not limited to: roads, streets bridges, utilities, airport runways and taxiways, storm drainage and flood control projects or transit projects. *May also be referred to as Public Works Project.*

Concession: any lease, ground lease, franchise, operating agreement, easement, permit or other binding agreement transferring rights for the use or control, in whole or in part, of a project/facility or service by Port KC to a Concessionaire.

Concessionaire: A Contractor that is counterparty to Port KC in a Public-Private Partnership.

Construction Manager: The legal entity that proposes to enter into a Construction Management or Construction Management-At-Risk contract.

Construction Manager-At-Risk (or "CM At-Risk"): A sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for the construction, rehabilitation, alteration, or repair of a project at the contracted price as a general contractor and provides consultation to a political subdivision regarding construction during and after the design of the project.

Construction Services: Activities undertaken to complete the construction, reconstruction, improvement, enlargement, or alteration of any fixed work that relates to the implementation of a Contract, including environmental remediation and demolition, but excluding Professional Services.

Contract: Any contract or agreement for Goods and Services to which Port KC is a party.

Contractor: Any Person who enters into a Contract.

Cooperative Procurement Program: RSMO Chapters 34 and 67 authorize political subdivisions to participate in a joint purchasing program with the State of Missouri.

Design-Build: A project delivery method subject to a three-stage qualifications based selection for which the design and construction services are furnished under one contract.

Design-Builder: Any individual, partnership, joint venture, or corporation subject to a qualifications-based selection that offers to provide or provides design services and general contracting services through a Design-Build contract in which services within the scope of the practice of professional architecture or engineering are performed respectively by a licensed

architect or licensed engineer and in which services within the scope of general contracting are performed by a general contractor or other legal entity that furnishes architecture or engineering services and construction services either directly or through subcontractors or joint ventures.

Design-Build Agreement (DB): an Agreement that provides for design and construction of a project/facility by a Concessionaire. DB Agreements are not eligible for procurement as Public-Private Partnerships.

Design-Build Contract: A contract which is subject to a three-stage qualifications-based selection process (consistent with that described in RSMO §8.285-8.291 for Architectural Services, Engineering Services, and Land Surveying Services) between a political subdivision and a Design-Builder to furnish the architectural, engineering, and related design services and the labor, materials, supplies, equipment, and other construction services required for a Design-Build Project.

Design Criteria Consultant: Employed or retained by Port KC to assist in preparation of the design criteria package and RFP, perform periodic site visits to observe adherence to the design criteria, prepare progress reports, review and approve progress and final pay applications of the Design-Builder, review shop drawings and submissions, provide input in disputes, help interpret the construction documents, perform inspections upon substantial and final completion, assist in warranty inspections, and provide any other professional service assisting the project administration.

Design Criteria Package: Performance-oriented program, scope, and specifications for the Design-Build project sufficient to permit a Design-Builder to prepare a response to Port KC's RFP for a Design-Build Project, which may include capacity, durability, standards, ingress and egress requirements, performance requirements, description of the site, surveys, soil and environmental information concerning the site, interior space requirements, material quality standards, design and construction schedules, site development requirements, provisions for utilities, storm water retention and disposal, parking requirements, applicable governmental code requirements, preliminary design for the project or portions thereof, and other criteria for the intended use of the project.

Design-Build Agreement (DB): Any agreement that provides for a Design-Build Project.

Design-Build-Finance Agreement (DBF): An Agreement that provides for the finance, design, and construction of a project/facility by a Concessionaire.

Design-Build-Maintain Agreement (DBM): An Agreement that provides for design and construction of a project/facility by a Concessionaire and the maintenance of all or a portion of the project/facility for a specified period of time.

Design-Build Project: The design, construction, alteration, addition, remodeling, or improvement of any building or facilities under contract with Port KC including, but not limited to, Civil Works Projects and Non-Civil Works Projects.

Design-Build-Finance-Operate Agreement (DBFO): An Agreement that provides for financing, design, and construction of a project/facility by a Concessionaire and the operation of all or a portion of the project/facility by the Concessionaire for a specified period of time.

Design-Build-Operate-Maintain Agreement (DBOM): An Agreement that provides for design and construction of a project/facility by a Concessionaire and the operation and maintenance of all or a portion of the project/facility for a specified period of time.

Design-Build-Finance-Operate-Maintain Agreement (DBFOM): An Agreement that provides for financing, design, and construction of a project/facility by a Concessionaire and the operation and maintenance of all or a portion of the project/facility for a specified period of time.

Design Professional Services: Services that are:

- a) Within the practice of architecture as defined in RSMO §327.091, or within the practice of professional engineering as defined in RSMO §327.181; or
- b) Performed by a licensed or authorized architect or professional engineer in connection with the architect's or professional engineer's employment or practice.

Emergency: An "Emergency" exists when there is a threat to human life or substantial threat to property, public health or public safety or when immediate expenditure is necessary in order to protect against severe loss of or damage to property, or to prevent or minimize a serious disruption in services.

Engineering Services: Any service as defined in RSMO §327.181 which includes any person who practices as a professional engineer who renders or offers to render or holds himself or herself out as willing or able to render any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering teaching of advanced engineering subjects or courses related thereto, engineering surveys, the coordination of services furnished by structural, civil, mechanical and electrical engineers and other consultants as they relate to engineering work and the inspection of construction for the purpose of compliance with drawings and specifications, any of which embrace such service or work either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems or projects and including such Architectural Services as is incidental to the practice of engineering; or who uses the title "professional engineer" or "consulting engineer" or the word "engineer" alone or preceded by any word indicating or implying that such person is or holds himself or herself out to be a professional engineer, or who shall use any word or words, letters, figures, degrees, titles or other description indicating or implying that such person is a professional engineer or is willing or able to practice engineering;

Evaluation Team: Port KC staff and/or outside consultants selected to evaluate the qualifications of all the (a) Design-Builders who submit Statements of Qualifications or Proposals in accordance with the instructions of any RFQs or RFPs or (b) Construction Managers who submit qualifications submissions or Proposals in accordance with the instructions of any RFQs or RFPs.

Goods and Services: "Goods" means all equipment, supplies or materials to be purchased by Port KC. "Services" means all work to be done for Port KC, including Construction Services and Professional Services. In the context of Design-Build or Public-Private Partnerships, "Services" includes, as may be required under a particular solicitation, provision of finance (i.e., "financing

services” with respect to a given project/facility) or operations and/or maintenance services, also with respect to a given project/facility. Use of the phrase “Goods and Services” is to be interpreted as meaning either “Goods” or “Services” as appropriate.

Handback Provisions: The terms, conditions, requirements and procedures governing the condition in which a Concessionaire is to deliver a project/facility to the Port KC upon expiration or earlier termination of the Agreement, as set forth in the Agreement.

Industry Day: A meeting between Port KC and industry participants held before issuance of any P3 RFQ or P3 RFP.

Industry Review Meeting: A meeting held jointly or individually to share Port KC information regarding RFPs with short-listed candidate Concessionaires and to obtain feedback, comments and suggestions from such Persons.

Innovative Project Delivery: DBM, DBFO, DBOM, or DBFOM. “Innovative Project Delivery” may also include a “full” concession arrangement, whereby the Concessionaire will design, build, operate, maintain, manage or lease a project/facility, taking User Fee risk for a project/facility. Furthermore, “Innovative Project Delivery” may consist in a combination of the foregoing structures that Port KC determines will serve the public interest or otherwise is in the best interest of the Port District.

Invitation for Bid: A request or invitation for submission of an offer to enter into a Contract pursuant to a competitive bidding process.

Land surveyor: Any service as defined in RSMO §327.272 which includes any person who practices in Missouri as a professional land surveyor who uses the title of “surveyor” alone or in combination with any other word or words including, but not limited to “registered”, “professional” or “land” indicating or implying that the person is or holds himself or herself out to be a professional land surveyor who by word or words, letters, figures, degrees, titles or other descriptions indicates or implies that the person is a professional land surveyor or is willing or able to practice professional land surveying or who renders or offers to render, or holds himself or herself out as willing or able to render, or perform any service or work, the adequate performance of which involves the special knowledge and application of the principles of land surveying, mathematics, the related physical and applied sciences, and the relevant requirements of law, all of which are acquired by education, training, experience and examination, that affect real property rights on, under or above the land and which service or work involves;

- (1) The determination, location, relocation, establishment, reestablishment, layout, or retracing of land boundaries and positions of the United States Public Land Survey System;
- (2) Monumentation of land boundaries, land boundary corners and corners of the United States Public Land Survey System;
- (3) The subdivision of land into smaller tracts;
- (4) Creating, preparing, or modifying electronic or computerized data relative to the performance of the activities in subdivisions (1) to (3) of this subsection;
- (5) Consultation, investigation, evaluation, planning, design and execution of surveys;

- (6) The preparation of any drawings showing the shape, location, dimensions or area of tracts of land;
- (7) Monumentation of geodetic control and the determination of their horizontal and vertical positions;
- (8) Establishment of state plane coordinates;
- (9) Topographic surveys and the determination of the horizontal and vertical location of any physical features on, under or above the land;
- (10) The preparation of plats, maps or other drawings showing elevations and the locations of improvements and the measurement and preparation of drawings showing existing improvements after construction;
- (11) Layout of proposed improvements;
- (12) The determination of azimuths by astronomic observations.

Land Surveying Services: means the services of a Land Surveyor, as defined in RSMO §327.272.

Lowest Most Qualified Bidder: means the Bidder whose Bid amount, when factored alongside factors such as ability to perform, timeliness, character and reputation, quality of past performance, compliance with applicable laws, quality and availability, ability to provide future maintenance and services where applicable, and compliance with bid specifications is ranked best. The Person submitting the lowest bid by dollar value may not be the lowest most qualified bidder.

Micro-Purchase Procedure (MPP): A procurement of Goods and Services that is governed by RSMO §34.040 and is for procurement of Goods and Services that do not cost more than \$3,000.00 and do not require the use of competitive solicitation.

Non-Civil Works Project: Buildings, site improvements, and other structures, habitable or not, commonly designed by architects in excess of seven million dollars.

Non-Competitive Proposal: A procurement through solicitation of a Proposal from only one source. The \$25,000 upper limit it is set by RSMO §68.057.

One-Step: A P3 Method procurement consisting in issuance of a P3 RFP, to which any Person may respond.

Person: One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, limited liability companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries and other entities or organizations; except "Person" does not include any local, state or federal governmental entity.

Pre-qualified Contractor List: A list comprised of entities authorized to bid on Construction Services under Section 3 or 6 of this Procurement Policy.

President: The President of Port KC.

Professional Services: Advisory or consulting activities including, but not limited to, architectural, engineering, surveying, legal, accounting, marketing, environmental studies and financial services, but excluding Construction Services. Architectural Services, Engineering Services, and Land Surveying Services are each “Professional Services.”

Proposal: Any offer or list of qualifications submitted to Port KC in response to a Request for Proposals or otherwise.

Proposer: Any person who submits a Proposal in response to a Request for Proposals or other solicitation made under this Procurement Policy.

Proposer Review Meetings: A meeting held jointly or individually to share Port KC information regarding RFPs with short-listed candidate Concessionaires and to obtain feedback, comments and suggestions from such Persons after issuance of the final P3 RFP.

Public Exigency: An unforeseen occurrence or condition; a perplexing contingency or complication of circumstances; or a sudden or unexpected occasion for action. The twenty-five thousand dollar (\$25,000) upper limit it is set by RSMO §68.057.

Public Private Partnership: a Contract, pursuant to which a Concessionaire is obligated to plan, design, build/construct, finance, operate, and maintain, or any combination of the foregoing, with respect to a Port KC facility or service. Public-Private Partnerships are delivered under an Innovative Project Delivery method. Public-Private Partnerships are procured under the P3 Method.

P3 RFP: A solicitation by Port KC under a procurement using the P3 Method for a Proposal to enter into a Public-Private Partnership with respect to a project/facility.

P3 RFP Documents: The “Instruction to Proposers,” draft Technical Provisions, and draft Agreement.

P3 RFQ: A solicitation by Port KC for a Statement of Qualifications that demonstrates a proposed Concessionaire’s ability to develop, design, build, finance, operate and/or maintain a project/facility.

Qualifications-Based Selection Method: A method for procurement of Architectural Services, Engineering Services, or Land Surveying Services pursuant to RSMO §8.285-8.291.

Request for Information (RFI): A document issued by Port KC to solicit input or information related to any aspect of development of Public-Private Partnership.

Request for Proposals (RFP): An invitation for suppliers, through a bidding process, to submit a Proposal on specific Goods or Services in excess of the amount required on the SPP of \$100,000.00 (sum set by 24 C.F.R §85.36). RFPs include Design-Build RFPs, as discussed more fully in Section 8, and P3 RFPs, subject to the additional or different policies set forth in Section 10 of this Procurement Policy.

Request for Qualifications (RFQ): An invitation for submission of a statement of qualifications. RFQs include Construction Manager-At-Risk RFQs, as discussed more fully in Section 9, and P3

RFQs, subject to the additional or different policies set forth in Section 10 of this Procurement Policy.

Small Purchase Procedure (SPP): A procurement of Goods and Services to be paid for with funds other than federal funds that is not expected to cost more than \$100,000.00, which is the simplified acquisition threshold fixed by 24 CFR §85.36).

Statement of Qualifications (SOQ): A response to a P3 RFQ by a prospective Concessionaire that demonstrates its capabilities and capacity to develop, design, build, finance, operate and/or maintain the candidate project/facility described in the P3 RFQ.

Stipend: The amount paid to the unsuccessful but responsive, short-listed candidate Design-Builder Proposers to defray the cost of participating in Phase II of the selection process.

Solicitation Documents: P3 RFQs, P3 RFPs, RFIs and other documents initiated by Port KC to request information, qualifications, and/or Proposals to develop a project/facility under a Public-Private Partnership.

Technical Provisions: The documents describing the scope of work and related standards, criteria requirements, conditions, procedures, specifications and other provisions with respect to a project/facility to be delivered under a Public-Private Partnership.

Two-Step: A P3 Method procurement consisting in (a) issuance of a P3 RFQ, where submitted SOQs are evaluated and then used as a basis for “short-listing” Proposers eligible to receive P3 RFPs.

User Fee. A fee charged for use of a project/facility (e.g., a toll or fare). User Fee risk is commonly known as revenue risk or demand risk.

## **Section 1 - Micro-Purchase Procedure (“MPP”); Credit Card Purchase Procedure.**

### **A - Required Solicitation:**

MPP may be used to procure any Goods and Services that are not expected to cost more than \$3,000.00 without soliciting competitive quotations if the costs of such Goods and Services are reasonable. Action to verify price reasonableness need only be taken if information indicates that the price is unreasonable, or no comparable pricing information is readily available.

### **B - Required Authorization:**

Use of MPP Procurement shall be authorized by the President, the Chairman, or the Chairman’s Designee if the President and the Chairman are unavailable. It is Port KC’s intent not to approve the use of multiple MPP contracts per party/per year. When multiple contracts with a single vendor total more than twenty-five thousand dollars (\$25,000.00) in any fiscal year, Staff will report the expenditures and purchases at the next regularly scheduled Board meeting.

## **Section 2 - Small Purchase Procedure (“SPP”); Public Emergency/Exigency.**

SPP may be used to procure any Goods and Services other than Architectural Services, Engineering Services, Land Surveying Services, and Construction Services, where the cost is expected to exceed the MPP amount of three thousand dollars and 01/100 cents \$3,000.01 but not the SPP maximum amount of one hundred thousand dollars \$100,000.00.

When using SPP, the following requirements apply:

**A - Required Solicitation\*:**

1. Quotations will be obtained from an adequate number of sources to promote competition to the maximum extent practicable. Solicitation from at least three sources shall be considered standard regular practice;
2. Solicitations may be made to any or all potential Contractors on a pre-existing list of Persons capable of providing the desired Goods and Services, including any such list maintained by Port KC, or may be made to any or all Persons deemed appropriate by Port KC based on any reasonable criteria; provided, however:
  - a. Quotations must not be solicited based on personal preference; or
  - b. Solicitation must not be restricted to suppliers of well-known and widely distributed makes or brands;
3. Any purchase where the estimated expenditure shall be twenty-five thousand dollars (\$25,000) or over, shall be advertised for bid in at least two (2) daily newspapers of general circulation in such places as are most likely to reach prospective bidders at least twenty-one (21) days before bids for such purchases are to be opened per RSMO §68.055. Solicitations made to any or all potential Contractors on a pre-existing list of persons capable of providing the desired goods and services have already met the twenty-one (21) days' notice requirement;
4. Solicitations of quotations or offers will notify potential quoters or offerors of the basis on which the award will be made (price alone or price and other factors, e.g., past performance and quality);
5. Before making an award, the contracting officer must determine that the proposed price is fair and reasonable;
6. Solicitations for offers and responses to the solicitation must be made in writing either electronically or by paper.

\*In the event of an Emergency or Public Exigency (where a delay from competitive solicitation cannot be permitted), the use of a non-competitive solicitation may be used to procure Goods and Services, except for Architectural Services, Engineering Services, and Land Surveying Services, the cost of which is from zero dollars (\$0), up to twenty-five thousand dollars (\$25,000.00).

**B - Required Authorization:**

Written approval of the President for goods and services up to twenty-five thousand dollars (\$25,000.00). Written approval from the Board's chair is required in order to enter into any Contract for Goods and Services in which the cost exceeds twenty-five thousand dollars (\$25,000.00) amount but is less than fifty thousand dollars (\$50,000.00).

The Board's authorization by Board resolution is required prior to contract execution when the cost is equal or greater than fifty thousand dollars (\$50,000).

Any such Contract in excess of five thousand dollars (\$5,000) must be reported to the Board or the Board's Finance & Administration Committee, for informational purposes only, at the next regularly scheduled Board or Committee meeting.

\*Use of the non-competitive solicitation procedure and contract execution in the event of an Emergency or Public Exigency requires authorization from the President, or Chair of the Finance and Administration Committee.

**Section 3 - Requests for Proposals ("RFP") and Invitation for Bids ("IFB") - For Contracts Other Than Those For Architectural Services, Engineering Services, Land Surveying Services, and Non-Construction Services That Exceed \$100,000.00.**

This Section 3 excludes specifically solicitations made under Sections 8, 9 and 10 of this Procurement Policy.

**A - Required Solicitation:**

RFPs or IFBs must be used when the anticipated cost of the Goods and Services to be procured is expected to exceed the SPP amount of one hundred thousand dollars (\$100,000.00).

RFPs of IFBs must be publicized at least twenty-one (21) days before Proposals or Bids for such purchases are to be opened per RSMO §68.055, and notice shall be posted publicly in the Port KC offices and on the Port KC Website. Solicitations made to any or all potential Contractors on a pre-existing list of persons capable of providing the desired Goods and Services have already met the twenty-one (21) days' notice requirement and may either be:

1. Delivered to firms selected based on any reasonable criteria deemed appropriate by Port KC for the Goods and Services sought;
2. Delivered to any or all potential Contractors on a pre-existing list of Persons capable of providing the desired Goods and Services, including any such list maintained by Port KC, or may be made to any or all Persons deemed appropriate by Port KC based on any reasonable criteria; and
3. Delivered to any Persons deemed qualified after evaluating responses to a RFQ previously delivered by Port KC to select Persons.

Except in the case of Architectural Services, Engineering Services, and Land Surveying Services (which are subject to the QBS Method described in Section 4 below), RFQs are only an *optional* preliminary step used to identify Persons qualified for a particular procurement;

submitted qualifications may be used as a basis for requesting Proposals from specific Proposers.

When RFPs or IFBs are used, the following requirements apply:

1. The RFP or IFB must be in writing (electronic or paper);
2. Proposals or Bids must be solicited from an adequate number of qualified sources (minimum 3);
3. RFPs or IFBs must identify all expected evaluation factors;
4. If the estimated amount of the contract is expected to be one hundred sixty thousand dollars (\$160,000.00) or greater, the RFP or IFB must include Port KC's Affirmative Action requirements;
5. Any purchase where the estimated expenditure is twenty-five thousand dollars (\$25,000) or greater shall be advertised for Proposals or Bids in at least two (2) daily newspapers of general circulation in such places as are most likely to reach prospective Proposers or Bidders at least twenty-one (21) days before Proposals or Bids for such purchases are to be opened per RSMO §68.055 and notice shall be posted publicly in the Port KC offices and on the Port KC Website. Solicitations made to any or all potential Contractors on a pre-existing list of persons capable of providing the desired goods and services have already met the twenty-one (21) days' notice requirement, but best efforts to provide twenty-one (21) days' notice shall be made.
6. Port KC will have a method for conducting technical evaluations of any Proposals or Bids received and for selecting awardees; Port KC will create an ad-hoc committee of people with knowledge of the subject matter of the Proposal for evaluation.
7. Awards will be made to the responsive Proposer whose Proposal is most advantageous to Port KC, with price and other factors considered, or to the Bidder who is the lowest most qualified; and
8. Notwithstanding the foregoing, Port KC may reject any or all Proposals or Bids in its discretion.

**B - Required Authorization:**

The Board's authorization by Board resolution is required prior to contract execution.

**C - -Additional Information:**

Additional, or different, requirements pertaining to P3 RFQs and P3 RFPs and other related procurement matters are contained in Section 10 of this Procurement Policy with respect to use of the P3 Method for procurement of a Public-Private Partnership.

**Section 4 - Qualifications-Based Selection Method ("QBS Method") For Architectural Services, Engineering Services, and Land Surveying Services.**

**A - Required Solicitation:**

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The QBS Method applies to Architectural Services, Engineering Services, and Land Surveying Services procured pursuant to RSMO §8.285-8.291. Under the QBS Method, Port KC is required to negotiate Contracts for Architectural Services, Engineering Services, and Land Surveying Services only on the basis of demonstrated competence and qualifications for the type of services required. Only after a firm is selected on the basis of qualifications are a scope of work and fee negotiated. There is no monetary limit for QBS as cost is negotiated after selection based on qualifications.

The following procedures apply to solicitations for Architectural Services, Engineering Services, and Land Surveying Services.

Port KC will:

1. Publicize or deliver Requests for Qualifications to select firms and evaluate the responses to the Requests for Qualifications together with those statements of qualifications and performance data of firms, if any, already on file with Port KC;
2. When soliciting RFQs for services similar to those for which a RFQ has already been issued by Port KC, Port KC may utilize the firms that are current (qualifications updated within the past two (2) years) and on file with Port KC in the evaluation and ranking process.
3. After evaluating the firms, Port KC should list three (3) firms that are highly qualified;
4. Select the firm considered best qualified and capable of providing the desired Services;
5. Port KC shall prepare a written description of the scope of the proposed Services, as a basis for negotiation;
6. Negotiate a Contract for the Services with the firm selected;
7. If Port KC is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated. The agency shall then undertake negotiations with another of the qualified firms selected. If there is a failing of accord with the second firm, negotiations with such firm shall be terminated. The agency shall then undertake negotiations with the third qualified firm.

Additional, or different, requirements pertaining to P3 RFQs for Public-Private Partnerships are listed in Section 10.

If Port KC is unable to negotiate a contract with any of the selected firms, the agency shall reevaluate the necessary Architectural Services, Engineering Services, and Land Surveying Services, including the scope and reasonable fee requirements, again compile a list of qualified firms (either firms on file or that respond to another Request for Qualifications), and proceed with the process of evaluation and negotiation again.

Except, and only to the extent, preempted by applicable federal law, Port KC shall use the following evaluation criteria:

1. The specialized experience and technical competence of the firm with respect to the type of services required;
2. The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;
3. The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules;
4. The firm's proximity to and familiarity with the area in which the project/facility is located.

Regardless of the initial dollar amount of any Contract entered into under this Section, Port KC may elect to use the same firm on a subsequent phase or for additional work without a new qualification based selection process. If Port KC and the firm cannot agree on reasonable compensation for a subsequent phase or additional work, Port KC will utilize the process set out in this Section to select a firm.

If the estimated cost of the contract will exceed one hundred sixty thousand dollars (\$160,000.00) or the President has established affirmative action goals for the contract, the RFQ shall describe the Port KC Affirmative Action requirements imposed thereby.

**B - Required Authorization:**

Written approval from the Board's chair is required in order to enter into any Contract for Goods and Services in which the cost is greater than twenty-five thousand dollars (\$25,000.00) amount but is less than fifty thousand dollars (\$50,000.00).

Written approval from both the President and either Committee Chair or presiding Committee Chair is required in order to enter into any Contract for Goods and Services in which the cost is equal to or greater than fifty thousand dollars (\$50,000.00).

Any such Contract in excess of five thousand dollars (\$5,000) must be reported to the Board or the Board's Finance & Administration Committee, for informational purposes only, at the next regularly scheduled Board or Committee meeting.

**C - -Additional Information:**

Additional, or different, requirements pertaining to P3 RFQs and P3 RFPs and other related procurement matters are contained in Section 10 of this Procurement Policy with respect to use of the P3 Method for procurement of a Public-Private Partnership.

Notwithstanding the requirements of this Section 4, (a) Architectural Services, Engineering Services, or Land Surveying Services, delivered pursuant to a Public-Private Partnerships may be procured via the P3 Method so long as Construction Services are performed by or for the Concessionaire, and (b) Construction Services delivered pursuant to a Design-Build Contract may be procured via the solicitation method described under Section 8 of this Procurement Policy.

**Section 5 - Cooperative Procurement Purchases.**

RSMO Chapters 34 and 67, authorize political subdivisions and quasi-public governmental bodies to work cooperatively to solicit for a variety of equipment or materials. These cooperatives are designed to get a better price for members by purchasing in larger quantities than any of the members could alone. Consequently, procurement through the Missouri Cooperative Procurement Program organized by the State of Missouri and administered by the Office of Administration, Division of Purchasing and Materials Management shall be authorized on any Port KC project/facility. However, when expending funds derived from any state or federal grants, this procurement method should be verified by the granting authority prior to items being purchased.

**A - Required Solicitation:**

Solicitation is performed by the State of Missouri as administrator of the program. As such, none is needed by Port KC, however any local vendors who are on the City of Kansas City, Missouri certified MBE/WBE list and capable of providing the goods or services should be notified of the opportunity to bid.

**B - Required Authorization:**

1. Purchases below \$25,000 require approval of the President.
2. Purchases between \$25,001 and \$49,999 require written approval from the Chair.
3. Purchases over \$50,000 require Board approval.

Any such Contract in excess of five thousand dollars (\$5,000) must be reported to the Board or the Board's Finance & Administration Committee, for informational purposes only, at the next regularly scheduled Board or Committee meeting.

**Section 6 - Procurement of Construction Contracts.**

Missouri Prevailing Wage Law requires Port KC to obtain the applicable County Prevailing Wage forms and incorporate the appropriate wage rates into all construction contracts for Public Works projects.

The applicable County Prevailing Wage form can be located at: <http://labor.mo.gov/DLS/PrevailingWage> (current as of February 25, 2019).

The RFP or IFB should state the Missouri's prevailing wage rate will be paid, if applicable.

The notice and solicitation requirements of this Section 6 shall be utilized for the notice and solicitation of all Port KC conduit issuance/incentive projects for which Chapter 68 bonds are issued. However, Port KC will not be involved in the final selection of the contractor selected, and Port KC will not be party to any contract issued under said solicitation.

**A - Required Solicitation:**

Construction contracts estimated to cost equal to or less than twenty four thousand nine hundred ninety nine dollars and 99/100 cents (\$24,999.99) shall be procured through the solicitation of Proposals or Bids from an adequate number of sources to promote competition to the maximum

extent practicable. Solicitation from at least five (5) sources should be considered to promote competition to the maximum extent practicable, with at least two (2) of the five (5) sources contacted coming from the City of Kansas City, Missouri certified MBE/WBE list.

Construction contracts equal to or greater than twenty five thousand dollars (\$25,000.00) shall be procured by sealed Proposals or Bids (through formal advertising). Proposals or Bids shall be publicly solicited and a firm-fixed price contract awarded to the best Proposer or lowest most qualified Bidder.. In order for sealed Proposals or Bids to be feasible, the following conditions should be present:

1. A complete, adequate, and realistic specification or purchase description is available;
2. Two or more responsible Proposers or Bidders are willing and able to compete effectively and for the business;
3. The procurement lends itself to a firm fixed price contract.

The following requirements apply to the use of sealed Proposals or Bids:

1. The RFP or IFB will be publicly advertised in a newspaper of general circulation, and at Port KC's discretion, a newspaper of general circulation among contractors for a minimum of twenty-one (21) days.
2. Proposals or Bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the Proposals or Bids;
3. The RFP or IFB, which will include any specifications and pertinent attachments, shall define the items or services in order for the Proposer or Bidder to properly respond;
4. All Proposals or Bids will be publicly opened at the time and place prescribed in the RFP or IFB;
5. A firm fixed-price contract award will be made in writing to the best Proposer or the lowest most qualified Bidder. Where specified in RFP or IFB documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining the best Proposer or the lowest most qualified Bidder.. Payment discounts will only be used when prior experience indicates that such discounts are usually taken advantage of; and
6. Any or all Proposals or Bids may be rejected if there is a sound documented reason.

**B - Required Authorization:**

Written approval from the Board's chair is required in order to enter into any Contract for Goods and Services in which the cost is equal to or greater than twenty-five thousand dollars (\$25,000.00) and less than fifty thousand dollars (\$50,000.00).

Any such Contract in excess of five thousand dollars (\$5,000) must be reported to the Board or the Board's Finance & Administration Committee, for informational purposes only, at the next regularly scheduled Board or Committee meeting.

Board authorization by Board resolution is required prior to contract execution when the cost is equal to or greater than fifty thousand dollars (\$50,000.00)

If the estimated cost of the Construction contract will exceed three hundred thousand dollars (\$300,000.00), the RFP or IFB shall incorporate the Port KC's Affirmative Action requirements.

If the estimated cost of the Construction contract will exceed 800+ hours of work or cost more than three hundred twenty-four dollars (\$324,000.00), the RFP or IFB shall incorporate Port KC's Construction Workforce Policy requirements.

### **C - Additional Information**

Notwithstanding the requirements of this Section 6, (a) Construction Services delivered pursuant to a Public-Private Partnerships may be procured via the P3 Method so long as such Construction Services are performed by or for the Concessionaire, (b) Construction Services delivered pursuant to a Design-Build Contract may be procured via the solicitation method described under Section 8 so long as such Construction Services are performed by or for the firm procured, and (c) Construction Services delivered pursuant to a contract with a firm procured via the solicitation method described under Section 9 need not comply with the requirements of this Section 6 so long as such firm is procured via such solicitation method.

### **Section 7- Indefinite Delivery/Indefinite Quantity (IDIQ) Task Order Contract.**

IDIQ Task Order Contracts may be used to procure Goods and Services other than Architectural Services, Engineering Services, and Land Surveying Services, of an indefinite quantity of Goods or Services during a fixed period of time. This contract should only be used when it is not possible or practical to predetermine, above a specified minimum, the precise quantities of supplies or services required during the contract period. IDIQs help streamline the contract process and speed service delivery.

#### **A - Required Solicitation:**

IDIQ contracts must be bid out as if they were greater than twenty five thousand dollars (\$25,000).

#### **B - Required Authorization:**

IDIQ Contracts will require Board approval in order to enter into any Contract for Goods and Services. Once an IDIQ contract has been approved by the Board, any subsequent renewal will not require a new RFP process, but will require Board approval. All Task Orders shall be reported to the Board or the Board's Finance & Administration Committee, for informational purposes only, at the next regularly scheduled Board or Committee meeting.

Once the Board approves an IDIQ contract, Task Orders must be reported to Board or the Board's Finance & Administration Committee, for informational purposes only, at next regularly scheduled Board or Committee meeting with:

- Task Orders less than \$25,000, attached written approval from President or either Committee Chair or presiding Commissioner;
- For Task Order over \$25,000 but less than \$50,000, attached written approval from the Board chair; or
- For Task Order over \$50,000, attached Board resolution authorizing the expenditure.

**Section 8 - Design-Build Procurement (ref. RSMO §67.5060).**

**Selection of Design Criteria Consultant**

A Design Criteria Consultant shall be employed or retained by Port KC to assist in preparation of the Design Criteria Package and RFP, perform periodic site visits to observe adherence to the design criteria, prepare progress reports, review and approve progress and final pay applications of the Design-Builder, review shop drawings and submissions, provide input in disputes, help interpret the construction documents, perform inspections upon substantial and final completion, assist in warranty inspections, and provide any other professional service assisting with the project administration. The Design Criteria Consultant may also evaluate construction as to the adherence of the design criteria.

**Evaluation of Consultants**

If not directly employed by Port KC, the Design Criteria Consultant shall be selected as set forth in the Qualifications-Based Selection Method under Section 4 of this Procurement Policy on the basis of demonstrated competence and qualifications for the type of services required and at a fair and reasonable price as set forth below.

Port KC's Evaluation Team shall evaluate not less than three (3) qualified firms.

**Contract Negotiation with Selected Design Criteria Consultant**

After Port KC has selected the firm considered best qualified and capable of performing the desired work, Port KC shall enter into contract negotiations with the selected firm under the following conditions:

- 1) For a basis for negotiations Port KC shall prepare a written description of the scope of the proposed services.
- 2) If Port KC is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated. Port KC shall then undertake negotiations with another of the qualified firms selected. If there is a failing of accord with the second firm, negotiations with such firm shall be terminated. Port KC shall then undertake negotiations with the third qualified firm.
- 3) If Port KC is unable to negotiate a contract with any of the selected firms, Port KC shall reevaluate the necessary services, including the scope and reasonable fee requirements, again compile a list of qualified firms and proceed in accordance with these evaluation and contract negotiation requirements.

**Design-Build Contract- Use**

Design-Build (RSMO §67.5060) may be used on Non-Civil Works Projects in excess of \$7,000,000.00 and any Civil Works Project regardless of anticipated cost.

#### **A - Design-Build Contract - Required Solicitation**

Port KC shall determine the scope and level of detail required to permit qualified Persons to submit Proposals in accordance with the RFP given the nature of the project with the assistance of the Design Criteria Consultant. The following timeline sets forth the solicitation procedure for a Design-Build Contract:

- 1) At least one week prior to solicitation of RFP - Port KC shall publically disclose at a regular Board meeting its intent to utilize the Design-Build method and its project criteria via an “inducement resolution” approved by the Board.
- 2) Once a week for two consecutive weeks prior to opening submitted RFPs - (a) Notice of RFP shall be advertised by publication in a newspaper of general circulation published in the county where the Port KC office is located and the county where the project is to be constructed; or (b) a virtual notice procedure that notifies interested parties for at least twenty various purchases, design contracts, construction contracts, or other contracts each year for Port KC.
- 3) Port KC’s Evaluation Team shall review submitted RFPs within the time allotted within the RFP.
- 4) Port KC’s Evaluation Team shall award the Design-Build Contract subject to a three-stage qualifications-based selection process set forth in detail below.
- 5) The Board shall approve issuance of the RFP and draft Design-Build Contract terms and conditions.

#### **RFP Requirements**

The RFP process for the Design-Build Contract shall, at a minimum, include:

- 1) Time, place, procedure, and other specific instructions for submission of Proposals under each phase of the three-stage qualifications-based selection process - statement that Proposals not submitted in strict accordance with the instructions under each phase shall be subject to rejection;
- 2) The criteria for evaluating Proposals and their relative weight and the procedures for making awards under each Phase of the three-staged qualifications-based selection process.
  - a) Architectural Services and Engineering Services shall specifically be evaluated under the following criteria in accordance with RSMO §§8.285 and 8.291:
    - The specialized experience and technical competence of the firm with respect to the type of services required;
    - The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;

- The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules;
  - The firm's proximity to and familiarity with the area in which the project is located.
- 3) The proposed terms and conditions for the Design-Build Contract;
  - 4) The Design Criteria Package;
  - 5) The description of the drawings, specifications, or other information to be submitted with the Proposal, with guidance as to the form and level of completeness of the drawings, specifications, or other information that will be acceptable;
  - 6) A schedule for planned commencement and completion of the Design-Build Contract;
  - 7) Budget limits for the Design-Build Contract, if any;
  - 8) Requirements with respect to performance bonds, payment bonds, and insurance:

The RSMO §107.170 payment bond requirement shall apply to Design-Build Projects and all persons furnishing design services shall be deemed to be covered by the payment bond the same as any person furnishing labor and material. The performance bond for the Design-Builder shall not cover any damages of the type specified to be covered by the professional liability insurance established by Port KC in the RFP.

- 9) Amount of stipend (set at required below);
- 10) Any Person performing Architectural Services, Engineering Services, or Land Surveying Services for the Design-Builder on the Design-Build Project shall be duly licensed or authorized in the State of Missouri to provide such services as required by RSMO, Chapter 327;
- 11) Port KC shall have discretion to disqualify any candidate Design-Builder that, in Port KC's opinion, lacks the minimum qualifications required to perform the work; and
- 12) Any additional information deemed relevant by Port KC including, but not limited to, surveys, soil reports, drawings of existing structures, environmental studies, photographs, references to public records, or affirmative action and minority business enterprise requirements consistent with state law (Port KC Construction Workforce Policy and Port KC Affirmative Action Policy).

**Design-Build Contract - Three-Stage Qualifications-Based Selection Process Overview of Process** (See Chart 1: General Overview)

- 1) RFP prepared.
- 2) Phase I - Port KC shall evaluate the qualifications of all candidate Design-Builders who submitted Proposals in accordance with the instruction provided with the RFP (with special consideration paid to the requirement for Architectural Services, Engineering Services, and Land Surveying Services, as set forth above). Price or fees shall not, under any circumstances, be considered in the prequalification criteria.

- 3) Interviews of Design-Builders may be conducted in Phase I. The process of short-listing shall narrow the number of qualified candidate Design-Builders to not more than five (5) or fewer than two (2).
- 4) Phase II and Phase III - Qualified Design-Builders selected by the Evaluation Team may proceed to of the selection process. Design-Builders lacking the necessary qualification to perform the work shall be disqualified and shall not proceed to Phase II and Phase III of the process.

Selected Design-Builders shall have a specified amount of time in which to assemble Phase II and III Proposals as set forth in the RFP.

### **Phase I - the solicitation of qualifications of the Design-Builder team**

**Phase I Points** - the solicitation of qualifications of the Design-Builder team

- All points assigned in Phase I shall not carry over to Phases II or III, as the evaluation process under Phase I consists solely for determination of a short-list of qualified candidate Design-Builders.
- All qualified, short-listed Design-Builders that submit responsive Proposals shall be ranked on points given in Phases II and III only.

### **Phase I Requirements**

For phase I, the RFP shall request a Statement of Qualification to be submitted with the Design-Builder's bid that shall include, but not be limited to:

- a) Demonstrated ability to perform projects comparable in design, scope and complexity;
- b) References to owners for whom Design-Build Projects, construction projects, or design projects have been performed;
- c) Qualifications of personnel who will manage the design and construction aspects of the project; and
- d) The names and qualifications of the primary design consultants and the primary trade contractors with whom the Design-Builder proposed to subcontract or joint venture. The Design-Builder may not replace an identified contractor, subcontractor, design consultant, or sub-consultant without the written approval of Port KC.

Port KC and Design Criteria Consultant shall review Phase I submissions in accordance with the instructions of the RFP within the time specified in the RFP.

### **Phase II - the solicitation of a technical proposal including conceptual design for the project**

- Proposals for Phase II and Phase III shall be submitted at the same time and place specified in the RFP, but in separate envelopes or other means of submission as specified within the RFP.

- The Phase III cost proposals shall be opened only after Phase II design proposals have been evaluated and assigned points, ranked in order and posted on the Port KC Website. **Phase II Points** - the solicitation of a technical proposal including conceptual design for the project (detailed below)
- Points awarded in Phase II shall account for not less than 40% of the total point score as specified in the RFP.
- Up to 20% of points awarded in Phase II may be based on each Design-Builder's qualifications and ability to design, construct, and deliver the project on time and within the budget.

### **Phase II Requirements**

Port KC shall invite the short-listed candidate Design-Builders from Phase I to participate in Phase II. Phase II shall consist of the following:

- a) The design proposal may not contain any reference to the cost of the Proposal;
- b) The submitted designs shall be evaluated and assigned point in accordance with the requirements of the RFP;
- c) A Design-Builder shall submit its design for the project to the level of detail required in the RFP;
- d) The design proposal shall demonstrate compliance with the requirements set out in the RFP;
- e) The ability of the Design-Builder to meet the schedule for completing a project as specified by Port KC may be considered as an element of evaluation in Phase II.

### **Phase III - Proposal of Construction Cost**

#### **Phase III Points**

- Points awarded in Phase III shall account for not less than 40% of the total point score as specified in the RFP.
- Cost proposals shall be evaluated in accordance with the requirements of the RFP
- The lowest responsive bidder shall be awarded the total number of points to be assigned in Phase III. For all other bidders, points shall be calculated by reducing the maximum points available in Phase III by at least 1% for each percentage point by which bidder exceeds the lowest bid.
- The points assigned shall be added to the points assigned for Phase II for each Design-Builder Phase III Proposals shall be opened and read aloud at the time and place specified in the RFP. At the same time and place that Phase III is opened and read aloud, the Evaluation Team shall make the scoring of Phase II public.

### **Phase III Requirements**

- Phase III Proposals shall be submitted in accordance with the instructions of the RFP.
- The Phase III Proposal shall provide a firm, fixed cost of design and construction.
- The Proposal shall be accompanied by bid security and any other items, such as statements of minority participation as required in the RFP.

### **Award of the Project**

If Port KC opts to award the project, the responsive Design-Builder with the highest number of points shall be awarded the contract.

Upon selecting the firm considered best qualified and capable of performing the desired work, and provided that Port KC determines it is in its best interest to proceed with the project, Port KC shall enter into contract negotiations with the selected firm under the following conditions:

- 1) For a basis of negotiations Port KC shall prepare a written description of the scope of the proposed services.
- 2) If Port KC is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated. Port KC shall then undertake negotiations with the firm that received the next highest amount of points. If there is a failing of accord with the second firm, negotiations with such firm shall be terminated. Port KC shall then undertake negotiations with subsequent qualified firm.
- 3) If Port KC is unable to negotiate a contract with any of the selected firms, Port KC shall reevaluate the necessary services, including the scope and reasonable fee requirements, again compile a list of qualified firms and proceed in accordance with these evaluation and contract negotiation requirements.

If Port KC determines it is not in its best interest to proceed with the project pursuant to the Proposal offered by the Design-Builder with the highest total number of points, Port KC shall reject all Proposals. If all Proposals are rejected, Port KC shall pay the stipend (set as required below) to all qualified and responsive Design-Builders with lower point totals. The qualified and responsive Design-Builder with the highest total number of point shall receive two times (2x) the stipend.

If all Proposals are rejected, the political subdivision may solicit new Proposals using different design criteria, budget constraints, or qualifications.

### **Stipend**

As an inducement to qualified Design-Builders, Port KC shall pay a reasonable stipend, the amount of which shall be established in the RFP (not less than one-half of one percent (0.5%) of the total project budget), to each short-listed candidate Design-Builder whose Proposal is responsive but not accepted.

This stipend payment shall allow Port KC to acquire a nonexclusive right to use the design submitted by the unsuccessful Design-Builder and the Design-Builder shall have no further liability for the use of the design by the political subdivision in any manner. The Design-Builder shall have the option to forfeit the stipend if the Design-Builder desires to retain all rights and interest in the proposed design.

## **Design-Build Contract - Railroad**

If Port KC engages in a project which impacts a railroad regulated by the Federal Railroad Administration, Port KC shall consult with the affected railroad on required specifications related to clearance, safety, insurance, and indemnification to be included in the construction documents for such project.

Under RSMO §327.465, any Design-Builder that enters into a Design-Build Contract is exempt from the requirement that such person or entity hold a license or that such corporation hold a certificate of authority if the Architectural Services, Engineering Services, or Land Surveying Services to be performed under the Design-Build Contract are performed through subcontracts or joint ventures with properly licensed or authorized persons or entities, and not performed by the Design-Builder or its own employees.

## **Design-Build Contract - Required Authorization**

The following is required to authorize a Design-Build Contract: (a) a Board “inducement resolution” for the intent to enter into a Design-Build Contract which may be done prior to or after RFP has been drafted and (b) Board approval of awarding the Design-Build Contract.

## **Section 9- Construction Manager At-Risk Procurement (CM or CM-At-Risk) (RSMO-67.5050).**

### **CM At-Risk - Use**

A CM At-Risk is a delivery method in which the CM At-Risk is responsible for delivering a project on-time and on-budget by not exceeding a guaranteed maximum budget. A CM At-Risk enters into subcontracts with trade contractors and is thus “at risk” to Port KC for the project schedule and cost and also “at risk” to the subcontractors for timely payments down the chain.

Any political subdivision may use the construction manager-at-risk method for:

*Civil Works Projects* - in excess of two million dollars (\$2,000,000.00) - such as roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water distribution and wastewater conveyance facilities, airport runways and taxiways, storm drainage and flood control projects, or transit projects commonly designed by professional engineers; and

*Non-Civil Works Projects* - in excess of three million dollars (\$3,000,000.00) - such as buildings, site improvements, and other structures, habitable or not, commonly designed by architects.

In using this method and in entering into a contract for the services of a construction manager-at-risk, the political subdivision shall follow the procedures prescribed by this section.

### **A - Required Solicitation:**

Port KC shall determine the scope and level of detail required to permit qualified persons to submit Proposals in accordance with the RFP given the nature of the project. The following timeline sets forth the solicitation procedure for a CM At-Risk Contract:

- 1) At least one week prior to solicitation -- Port KC shall publically disclose at a regular meeting its intent to utilize the CM At-Risk method and its project criteria via an “inducement resolution” approved by the Board.

- 2) Once a week for two consecutive weeks prior to opening submitted qualifications submissions or Proposals, as applicable, - notice of RFQ or RFP shall be advertised by publication in a newspaper of general circulation published in the county where the Port KC office is located (Jackson County) and the county where the project is to be constructed.
- 3) Within forty-five days after final bid opening (i.e., receipt of Proposals and compliance with applicable public notification processes in RSMO §67.5050) - Port KC's Evaluation Team shall award the CM At-Risk Contract subject to a two-stage qualifications-based selection process set forth in detail below.
- 4) The Board shall approve award of the CM At-Risk Contract and its adherence to the two-stage qualifications-based selection process.

### **Designated Engineer/Architect**

Before or concurrently with selecting a CM At-Risk, Port KC shall select or designate an engineer or architect who shall prepare the construction documents for the project and who shall comply with all state laws, as applicable. Unless the engineer or architect is a full-time employee of Port KC, Port KC shall adhere to RSMO §§8.285 to 8.291, as may be amended, in evaluating the qualifications of each firm. Port KC shall use the following criteria:

- 1) The specialized experience and technical competence of the firm with respect to the type of services required;
- 2) The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;
- 3) The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules;
- 4) The firm's proximity to and familiarity with the area in which the project is located.

The selected engineer or architect may not serve (alone or in combination with another) as the CM At-Risk. Employed or selected engineers or architects are not prohibited from providing customary construction phase services under the engineer's or architect's original professional service agreement in accordance with applicable licensing laws.

### **CM At-Risk - Two-Stage Selection Process**

Port KC may provide or contract for, independently of the construction manager-at-risk, inspection services, testing of construction materials, engineering, and verification of testing services necessary for acceptance of the project by Port KC. In selecting the CM At-Risk, Port KC shall adhere to the following process.

#### **Overview of Process** (See Chart 1: General Overview)

Port KC shall evaluate the qualifications of each CM At-Risk through a two-step process based on Proposals submitted in accordance with the instruction provided within the solicitation. Price or fees shall not, under any circumstances, be considered in the Step I qualification criteria.

#### **Step I - the solicitation of qualifications of the CM At-Risk (At Least 40% Evaluation)**

**Step I Solicitation** - the solicitation of qualifications submission via RFQ of the CM At-Risk.

- Port KC shall not request fees or prices in Step I

### **Step I RFQ Requirements**

The RFQ for the CM At-Risk Contract shall, at a minimum, include:

- General information on the project site, project scope, schedule, selection criteria (including how points will be assigned), payment and performance bond requirements, and the time and place for receipt of Proposals or qualifications, as applicable, and other information that may assist Port KC in its selection of a CM At-Risk.
- Port KC shall state the selection criteria in the RFQ, as applicable. The selection criteria may include the CM's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the CM At-Risk.

Port KC shall not request fees or prices in the RFQ.

**Step I RFQ Opening** - Port KC shall receive, publicly open, and read aloud the names of the responding Construction Managers.

**Step I RFQ Review** - Port KC or its representative shall review submitted RFQs within forty-five (45) days of opening of qualifications submissions.

- Port KC or its representative shall evaluate and rank each qualification submission submitted in relation to the criteria set forth in the RFQ and appropriately assign points to reflect same

### **Step II - Additional Information (Maximum 60% Evaluation)**

#### **Step II Evaluation**

- Port KC may request that five (5) or fewer CMs, selected solely on the basis of qualifications, provide additional information, including the CM At-Risk's proposed fee and its price for fulfilling the general conditions.
- Port KC shall interview at least two (2) of the top qualified offerors as part of the final selection process and assign points accordingly.

#### **Step II Selection**

Port KC shall select the CM At-Risk that submits the Proposal that offers the best value for Port KC based on the published selection criteria and on its ranking evaluation.

### **Negotiation and Award of the Project**

If Port KC decides to award the project, the responsive CM At-Risk that offers the best value on the published selection criteria and on its ranking evaluation after the two-step process as being

considered the best qualified and capable at performing the desired work shall be selected for entry into negotiation of the CM At-Risk Contract.

If Port KC is unable to negotiate a satisfactory contract with the CM At-Risk selected, negotiations with that CM At-Risk shall, in writing, be formally ended. Port KC shall then undertake negotiations with the next ranked CM At-Risk of the qualified CM At-Risks selected until a contract is reached or negotiations with all ranked CM At-Risks end.

### **Stipend**

None.

### **CM At-Risk - Performance and Payment Bonds**

Once a CM At-Risk is selected, within ten (10) days after the contract amount or guaranteed maximum price is established for the project the CM At-Risk is required to provide performance and payments bonds for an amount equal to the fixed contract amount or guaranteed maximum price for the project and shall deliver the performance and payment bonds to Port KC.

### **CM At-Risk - Process for Bidding Project(s)**

**CM At-Risk Solicitation of Bids** - Once awarded the project, a CM At-Risk shall advertise and award work under the project under the following conditions:

- 1) CM At-Risk shall publically advertise the proposed letting of bids or Proposals from trade contractors or subcontractors - for the performance of all major elements of the work other than the minor work that may be included in the general conditions - in a newspaper in the or the City of Kansas City, Missouri with a circulation of at least five hundred copies per issue, except that the advertising is not required in case of contracts or purchases involving an expenditure of less than six thousand dollars (\$6,000.00).

A CM At-Risk may seek to perform portions of the work if the CM At-Risk submits its sealed bid or sealed Proposal for those portions of the work in the same manner as all other trade contractors or subcontractors.

Port KC shall have the authority to restrict the CM At-Risk from submitting bids to perform portions of the work.

**CM At-Risk Bid Opening** - All sealed bids or Proposals shall be submitted at the time and location as specified in the advertisement for bids or Proposals and shall be publically opened and the identity of each bidder and their bid amount shall be read aloud.

**CM At-Risk Review of Bids** - CM At-Risk and Port KC or its representative shall review all trade contractor, subcontractor, or CM At-Risk Proposals in a manner that does not disclose the contents of the bid or Proposal during the selection process to a person not employed by the CM At-Risk, Port KC, engineer, or architect involved with the project.

If a CM At-Risk submitted bids or Proposals for work, Port KC shall determine if the CM At-Risk's bid or Proposal offers the best value for Port KC.

After all Proposals have been evaluated and clarified, the award of all subcontractors shall be made public.

**CM At-Risk Bid Recommendation** - If the CM At-Risk reviews, evaluates, and recommends to Port KC a bid or Proposal from a trade contractor or subcontractor but Port KC requires another bid or Proposal to be accepted, Port KC shall compensate the CM At-Risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the CM At-Risk may incur because of Port KC's requirement that another bid or Proposal be accepted.

### **CM At-Risk - Contractor/Subcontractor Default**

**Default of Selected Contractor/Subcontractor-** If a selected trade contractor or subcontractor materially defaults in the performance of its work or fails to execute a subcontract after being selected under the "CM At-Risk - Process for Bidding Project(s)" section above, the CM At-Risk must either:

- 1) itself, without advertising, fulfill the contract requirements; or
- 2) select a replacement trade contractor or subcontractor to fulfill the contract requirements

The penal sums of the performance and payment bonds delivered to the political subdivision shall each be in an amount equal to the fixed contract amount or guaranteed maximum price.

### **CM At-Risk - Railroad**

If Port KC engages in a project which impacts a railroad regulated by the Federal Railroad Administration, Port KC shall consult with the affected railroad on required specifications related to clearance, safety, insurance, and indemnification to be included in the construction documents for such project.

## **Section 10- Public-Private Partnerships Procurement Method.**

### **A - General Matters.**

This Section 10 is intended to provide general parameters concerning project/facility identification and implementation processes for Public-Private Partnerships. This Section 10 does not set out defined requirements. Port KC recognizes that each project/facility will have its unique characteristics and goals and that tailored approaches to assessing and implementing projects will be required for any Public-Private Partnership. Port KC intends to retain the flexibility to modify or deviate from Section 10 of this Procurement Policy as it sees fit and in the interest of Port KC, the State of Missouri, the Port KC's "port district," and the public, to the extent permitted under applicable law (e.g., inclusion of/publication of affordability limits, additive options to project scoping, etc.). Furthermore, Port KC reserves the right to deviate from the following procurement procedures and/or incorporate any or all of the procurement processes, contract or other limitations or restrictions set forth in Chapter 68, and RSMO §227.600 et seq., if Port KC determines any such deviation/incorporation is in its best interest, but subject to other restrictions as set forth in this Procurement Policy. Port KC shall document the procurement procedure that deviates from that set forth in this Section 10 and that is to govern any procurement of a Public-Private Partnership in advance of commencement of any such procurement and publish relevant information pertaining to such deviations/incorporation in the Solicitation Documents. Port KC shall incorporate any deviations, processes, limitations, restrictions or other impositions as may be required by applicable law.

With respect to Public-Private Partnerships, Port KC reserves the right, in its discretion, to utilize other evaluation methodologies other than the P3 Method to evaluate Proposals, including low bid, lowest adjusted cost, highest payment, lowest public subsidy, “trade-offs” and any other methodology that is appropriate and available under existing law. If an alternative evaluation method is used, Port KC will publish the intended evaluation method in the Solicitation Documents and set forth the processes, criteria and objectives for such alternative evaluation method prior to release of any P3 RFQ or, if no P3 RFQ, P3 RFP. Unless an alternative evaluation method is explicitly selected and published, Public-Private Partnerships will be procured by the P3 Method, as set forth in this Section 10. Notwithstanding the foregoing, Port KC may not waive or deviate from any such requirement(s) that are imposed by, and where such waiver or deviation would conflict with or violate, applicable law.

Missouri Prevailing Wage Law requires Port KC to obtain the applicable County Prevailing Wage forms and incorporate the appropriate wage rates into all construction contracts for Public Works projects. Accordingly, projects procured pursuant to this Section 10 shall be subject to prevailing wages.

The applicable County Prevailing Wage form can be located at: <http://labor.mo.gov/DLS/PrevailingWage> (current as of February 25, 2019).

The procurement documents should state the Missouri’s prevailing wage rate will be paid.

## **B - Goals and Objectives**

Port KC’s goals and objectives in implementing any Public-Private Partnership are to benefit the Port District, the General Welfare (as construed under RSMO Chapter 68), and the public by utilizing Innovative Project Delivery methods.

For those projects/facilities selected for procurement and delivery as Public-Private Partnerships, Port KC shall determine that utilization of any Innovative Project Delivery method can provide some or all of the following:

- Greater partnership opportunities between the public and private sectors
- Capture private sector innovation
- More choices in funding and delivery methods
- Accelerated project delivery (i.e., reduce either or both procurement and project delivery times.
- Control or lower capital costs; achieve greater cost certainty
- Minimized public cost and investment, including better leveraging of limited public funds
- Achieve enhanced project discipline and oversight through project financing (lender “skin in the game”)
- Optimize risk allocation
- Improved life-cycle costs and/or quality; capture life-cycle efficiencies
- Impose O&M discipline and eliminate deferred maintenance

- Improved quality of life
- Capture economies of scale
- Environmental benefits (e.g., improved air quality, logistics-wide fuel efficiency)
- Enhanced safety attributes
- Minimize impact on existing operations
- Other public purposes and benefits arising from the proposed project/facility

## **C - Procurement Structure**

If Port KC determines that a proposed project/facility is suitable or potentially suitable for delivery as a Public-Private Partnership under an Innovative Project Delivery structure, Port KC may undertake the P3 Method to procure a Concessionaire to develop, finance, construct, improve, maintain or operate, or any combination thereof, the project/facility or service. The type of delivery structure will be determined on the basis of, among other things, the nature and status of the project/facility or service, risk factors, schedule, funding, and goals.

If the determination is made to procure a Public-Private Partnership, any rules developed pursuant to this Section 10, applicable portions of this Procurement Policy, and/or rules that may be developed pursuant to applicable law will govern the procurement.

The P3 Method is a multi-phase selection process consisting in some or all of the following:

- issuance of a RFI;
- issuance of a P3 RFQ;
- Industry Review Meetings;
- Industry Day(s)
- issuance of a P3 RFP
- Proposer Review Meetings (“one-on-one meetings”)

The determination on whether to utilize some or all of the foregoing P3 Method procurement phases will be determined by Port KC on a project/facility-specific basis. “One-Step” or “Two-Step” procurements may involve use of RFIs, Industry Day(s), and/or Industry Review Meetings. Industry Day(s) and Industry Review Meetings, as appropriate and in Port KC’s sole discretion, may be held prior to issuing a RFI, P3 RFQ, or P3 RFP.

### **1. Industry Day(s)**

In order to inform the industry of a planned or proposed Public-Private Partnership and/or to obtain industry feedback, Port KC may elect to hold one or more Industry Days. These may be informal one-on-one meetings, general open meetings, or these and other meetings or events. Form and substance of any Industry Day is in Port KC’s sole discretion.

Port KC is not obligated to hold Industry Days under the P3 Method and may, at its sole discretion, proceed directly to the issuance of a RFI, P3 RFQ, or P3 RFP.

## **2. Requests for Information (RFI)**

A RFI is an additional evaluation tool to be used as a method to determine if there is sufficient interest to advance a potential or proposed Public-Private Partnership and to assess under what type of conditions the project/facility would be of interest to private sector prospective Concessionaire/bidders. RFIs could also be used such that responders are placed on the list of firms that receive information/Solicitation Documents as the solicitation advances or the procurement commences.

Port KC is not obligated to utilize a RFI under the P3 Method and may, at its sole discretion, proceed directly to the issuance of a P3 RFQ or P3 RFP.

## **3. P3 Requests for Qualifications (P3 RFQ)**

If Port KC elects a “Two-Step” P3 Method procurement, then Port KC shall prepare and issue a P3 RFQ to identify qualified candidate Concessionaires to “short-list” for continuing in the procurement. In response to a P3 RFQ, candidate Concessionaires must submit a SOQ.

As a part of the SOQ, candidate Concessionaires may be required to provide information related to the structure of the candidate Concessionaire team, the background and experience of the candidate Concessionaire, individual team members, and key personnel with conducting the applicable components comparable to the solicited Public-Private Partnership such as: developing, designing, constructing, financing, operating and/or maintaining, and their specific experience with similar projects/facilities.

The RFQ may, at Port KC’s discretion, require submittal of financial information from the candidate Concessionaire and some or all of its prospective team. The intent of this requirement is to ensure that the candidate Concessionaire (and any or all such prospective team members) has/have sufficient financial capacity to assume the responsibilities and obligations required to deliver the project/facility or services on schedule and on budget. As part of the financial capacity assessment, Port KC may require the candidate Concessionaire to submit evidence of insurance and evidence of its and its prospective team members’ ability to obtain performance and payment security required under the Agreement, which may include financial close, performance, payment, warranty and/or operations and/or maintenance bonding or letters of credit. Port KC may also require the submission of financial statements and other evidence of financial capacity.

Candidate Concessionaires may, at Port KC’s discretion, be required to submit, as part of the SOQ, a description of their approach to and conceptual plan for implementing some or all of the development, design, construction, financing, operations and/or maintenance of the project/facility or services. Such required information may include a required commitment of resources and the use of subcontractors, suppliers, vendors, or service providers. The RFQ may also require that the SOQ include, among other things, the following:

- The candidate Concessionaire’s conceptual approach to financing the project, if applicable
- The candidate Concessionaire’s view of the roles and responsibilities of Port KC, the Proposer, and third parties in connection with the project/facility or services
- A description of how certain elements of the project/facility or services will be achieved

- A list of the major risk issues and factors associated with the project/facility or services
- A description of the availability of candidate Concessionaire resources for the project/facility or services

Port KC may also include requirements pertaining to:

- certain legal and past-performance matters (e.g., non-collusion, Equal Employment Opportunity, OSHA-related, lobbying activities, safety records, litigation, debarment, etc.)
- licensure, suspensions, accreditations, etc.
- Other matters that Port KC determines to be in its best interest.

To the extent permitted by applicable law, the RFQ may require Proposers to submit information different from or in addition to the information referenced in this Section 10-C-1.

Port KC may short-list one or more candidate Concessionaires based upon submitted, complete, and compliant SOQs. Short-listed candidate Concessionaires are determined, by the terms of the P3 RFQ, to have the qualifications, experience, financial capability and approach required for successful development of the project/facility and participation in the Public-Private Partnership.

Port KC is not obligated to utilize a P3 RFQ under the P3 Method and may, at its sole discretion, proceed directly to the issuance of a P3 RFP.

#### **4. Industry Review Meetings**

Industry Review Meetings may be held at the discretion of Port KC. These meetings are intended to share Port KC information regarding the project/facility or services, the intended Public-Private Partnership, and/or other information with short-listed candidate Concessionaires and to obtain feedback, comments, and suggestions and to field questions from such candidate Concessionaires regarding items such as draft documents (including draft P3 RFP Documents), key project components and technical, financial and legal issues. No candidate Concessionaire information which is confidential or proprietary will be shared with other candidate Concessionaires. Port KC will issue an “industry review protocol” to short-listed candidate Concessionaires outlining expectations, restrictions, constraints/limitations, and other protocols on the conduct of such Industry Review Meetings. Short-listed candidate Concessionaires will enter into an agreement with Port KC acknowledging and agreeing to the “industry review protocol,” with each representative of short-listed candidate Concessionaires (and team members) acknowledging such agreement as a condition to personal participation in the Industry Review Meetings. Entry into the “industry review protocol” agreement is a condition to formal short-listing of a candidate Concessionaire.

The meetings may be joint workshops with all short-listed candidate Concessionaires or individual one-on-one meetings (which may be physical meetings, virtual/web-based meetings, or conference calls), as deemed necessary or advisable by Port KC, in its sole discretion. One-on-one meetings with the short-listed candidate Concessionaires are generally confidential and often address topics that are proprietary to the short-listed candidate Concessionaire. Nonetheless, Port KC will always reserve the right to modify or revise the RFP documents as a result of the one-on-one meetings. Generally, short-listed candidate Concessionaires shall each be afforded

materially the same opportunity to meet and talk with Port KC in connection with the project/facility and, to the extent practicable, the same Port KC personnel and advisors should be present during each round of meetings.

In addition to meetings with the short-listed candidate Concessionaires, Port KC may issue drafts of some or all of the P3 RFP Documents. Short-listed candidate Concessionaires will be encouraged to submit written comments and questions concerning the P3 RFP Documents, and Port KC will review and consider such input and potentially revise or adjust the documents in consideration thereof. In the “industry review protocol,” Port KC may limit the number, scope or length of written comments and questions.

The goal of the Industry Review Meetings is to refine the RFP to attempt to address candidate Concessionaire concerns, to the extent possible and to the extent Port KC is willing, in order to maximize competition, improve Proposal quality, reduce or eliminate post-selection negotiations, promote partnerships and incorporate innovative and/or cost-saving ideas.

Port KC is not obligated to hold Industry Days under the P3 Method and may, at its sole discretion, proceed directly to the issuance of a RFI, P3 RFQ, or P3 RFP.

#### **5. P3 Requests for Proposal (P3 RFP)**

Under a “Two-Step” P3 Method procurement, upon making a determination of short-listed candidate Concessionaires for a particular Public-Private Partnership, or under a “One-Step” procurement as an initial or early step, Port KC shall issue a P3 RFP that will in most cases require candidate Concessionaires to provide a Proposal containing at least a technical portion and a financial portion. Port KC may include other requirements (e.g., legal, corporate, other processes) depending upon the Innovative Project Delivery structure selected and the nature of the Public-Private Partnership being procured. Port KC may also issue a P3 RFP without first issuing a P3 RFQ. To the extent permitted by applicable law, the P3 RFP may require candidate Concessionaires to submit information different from or in addition to such information referenced in this Section 10-D-5.

##### *Technical Proposal*

Port KC may require the candidate Concessionaire to provide such technical information regarding the project/facility scope of work and technical requirements as Port KC deems appropriate. Such required information may include, without limitation, design elements and approach, construction approach, operations approach, maintenance approach, project management approach, schedule, phasing, quality control and assurance approach, and other information as appropriate for the project/facility’s development. The intent of the Technical Proposal is to provide assurance that the candidate Concessionaire selected has:

- A sufficient understanding of the project/facility or desired service
- An approach that meets technical and contractual requirements
- The ability to deliver the project or service timely, efficiently, and in a quality manner consistent with contractual requirements

Port KC may choose to include a process for Alternative Technical Proposals/Concepts (ATCs) as part of the P3 RFP process. ATCs are a mechanism to allow the private sector to submit and have approved alternatives to the stated technical criteria in the RFP documents. If ATCs are utilized the details for how they will be submitted, reviewed and approved will be included in the P3 RFP.

### *Financial Proposal*

The type and extent of financial documentation to be submitted as part of the financial portion of the Proposal will depend on the Innovative Project Delivery structure selected for the Public-Private Partnership. The P3 RFP may also require that the candidate Concessionaire update the financial information provided in the SOQ and will require disclosure of any material changes in the candidate Concessionaire's financial position. The P3 RFP may also require financial information from team members or parent organizations of the candidate Concessionaire, as Port KC may deem appropriate, in its sole discretion.

If the P3 RFP and project scope require the candidate Concessionaire to finance any or the entirety of the Concessionaire's obligations under the Public-Private Partnerships, then the RFP will generally require that the financial portion of the Proposal must include a financial plan and a financial model. The nature of the Public-Private Partnership, the Innovative Project Delivery method selected, market conditions at the time of the Proposal will dictate:

- The contents and level of detail of the financial plan
- Whether the financial proposal is fully or partially committed (and whether Port KC will require any or all of the financial proposal to be committed)
- The permitted commitment and closing conditions that may be included by the candidate Concessionaire

Requirements for a financial plan may require the candidate Concessionaire to:

- Identify the financial institution(s) involved
- Provide a description of senior debt finance, mezzanine debt finance, equity and quasi-equity finance (including subordinated debt or loan stock), any other forms of finance
- Identify investors, lead arrangers, lead managers and/or underwriting banks and/or quasi-equity providers that have given indications/commitments; and identify their level of project knowledge and due diligence performed
- Describe the type and purpose of each funding source and facility
- Describe the proposed steps and timeframes for reaching financial close; and
- Provide specific information for each separate bank, loan facility, or other debt instrument such as commitments, amounts, terms and conditions attaching to the loan, drawdown schedule, capital repayment moratorium, repayment schedule and final maturity date, events of default, security required (including any guarantees), any reserve

accounts, interest rate, any proposed hedging arrangements in respect of interest rates, average life of debt, credit ratings, due diligence, and timetables

Generally, requirements for a financial model submittal may include inputs (specific dates, periods, revenues, expenditures, contingencies and profit margins, macroeconomic assumptions, and inflation), outputs (cash balances, returns on equity, cost of capital, net present value of construction costs, and reserves), and calculations. Candidate Concessionaires may be required to provide detailed backup information, a list of assumptions, and details of how the financial model operates.

The P3 RFP will provide details regarding applicable requirements for the financial plan and Financial Model portions of the Financial Proposal. Port KC may choose to include a process for Alternative Financial Proposals (AFCs) as part of the RFP process. AFCs are a mechanism to allow the private sector to submit and have approved alternatives to the stated financial plan criteria in the RFP documents. If AFCs are utilized the details for how they will be submitted, reviewed and approved will be included in the RFP.

Unless the nature of the market, coupled with unusual circumstances relating to a particular Public-Private Partnership, where possible and financially feasible, Port KC will seek Proposals that minimize the use of public funds as well as the creation of Port KC-supported debt or pledges. If a Proposal including a financial plan requiring a public subsidy or contribution, then the RFP may require that the Proposal identify the amount of public funds required and specify the project-level approvals by Port KC, other appropriate public entities, private lending institutions and ratings agencies.

#### *Other Content of the Proposal*

Port KC may also require the candidate Concessionaire to provide corporate and legal information (e.g., authorizing resolutions, corporate charters, final draft subcontracts/heads of terms, surety letters, etc.) as Port KC deems appropriate to provide assurance that the candidate Concessionaire selected, inclusive of its team members:

- Is organized, existing and in good standing, with the required power, authority and licenses, as applicable, to perform the scope of the work under the Public-Private Partnership
- Is not in default of its governing instruments, judgments, decrees, applicable laws or otherwise, and that entering into the Agreement will not cause any such default or conflict, such that the candidate Concessionaire selected, or any of its team members, would not be able to perform the scope of the work under the Public-Private Partnership
- Is entering into a legal, valid and binding obligation to Port KC, such that the terms of the Agreement are enforceable against the candidate Concessionaire; and
- Are not involved in, or threatened with, suits, investigations or other proceedings that could threaten the candidate Concessionaire selected, inclusive of its team members, from performing the scope of the work under the Public-Private Partnership.

Port KC will include in the P3 RFP a procurement schedule, to include pertinent dates relating to meetings, pre-Proposal submissions, site visits (if applicable), comment/question submissions,

post-selection submission content and deadlines, and other protocols intended to displace the protocols in the “industry review protocol,” so as to govern the continued orderly progression of the procurement. Port KC will also publish a protest procedure in the P3 RFP. Candidate Concessionaires will be required to identify one “Authorized Representative” for itself and its team members in its Proposal.

Port KC will also include an overview of the evaluation process and criteria to be observed in selecting the Concessionaire counterparty to the Public-Private Partnership. This includes general information on reviews for compliance with P3 RFP submission requirements, responsiveness review, qualitative evaluation, and calculation. The extent of Port KC’s disclosure of individual evaluation criterion weighting or relative weighting in the P3 RFP is in Port KC’s sole discretion.

Port KC may also include requirements pertaining to:

- Additional or different rules of contact with Port KC staff, consultants, affiliates and certain third parties (e.g., affected utilities, adjacent landowners, permitting authorities, jurisdictions, etc.)
- Processes and restrictions relating to submission of pre-Proposal documents and information, to include requirements pertaining to ATCs, AFCs, other alternative Proposal comments (if Port KC chooses, in its sole discretion), key personnel commitments and changes thereto,
- General Proposal submission requirements (e.g., font, page limitation, delivery instructions, etc.)
- Bid bonds or other security
- Certificates, disclosures, and affidavits pertaining to certain matters (e.g., non-collusion, Equal Employment Opportunity, OSHA-related, lobbying activities, safety records, litigation, debarment, etc.)
- Other matters on a project/facility- or service-specific basis.

Short-listed candidate Concessionaires may be required to submit any or all of the information required under the P3 RFP in forms provided by Port KC.

#### *Content of the Proposal Required by Applicable Law*

P3 RFPs must also observe the requirements set forth in Section 3 of this Procurement Policy, excepting the following:

- As lowest dollar amount is not the sole criterion for selection, Proposals are not to be “opened” per RSMO §68.055, as Port KC will instead notify the apparent Lowest Most Qualified Proposer, per Section 10-D-4 below in light of, and observing restrictions within, Port KC’s confidentiality policy, set forth in the subsection titled “Public Records and Confidentiality” below.
- For “Two-Step” P3 Method procurements, Proposals will be solicited from all short-listed candidate Concessionaires, regardless as to number.

## **5. Proposer Review Meetings**

Proposer Review Meetings may be held at the discretion of Port KC. These meetings are intended to share Port KC information regarding the project/facility or services, the intended Public-Private Partnership, and/or other information with short-listed candidate Concessionaires and to obtain feedback, comments, and suggestions and to field questions from such candidate Concessionaires regarding items such as Solicitation Documents (including the P3 RFP Documents), key project components and technical, financial and legal issues. No candidate Concessionaire information which is confidential or proprietary will be shared with other candidate Concessionaires. Proposer Review Meetings are intended to function similarly to Industry Review Meetings, only that protocols will be governed by the P3 RFP.

## **E - Evaluation and Selection**

Whether by One-Step or Two-Step procurement, Port KC's objective is to evaluate, short-list (if applicable), and ultimately select the candidate Concessionaires that is deemed most highly qualified and to provide Port KC with the "greatest overall benefit," by valuing a candidate Concessionaire's pricing proposal and other key factors.

### **1 - General Evaluation Criteria**

#### *Pass/Fail and Responsiveness Thresholds*

When a SOQ or a Proposal is submitted, two initial determinations are made: (a) whether the SOQ or Proposal is responsive to the requirements of the P3 RFQ/RFP and (b) whether the SOQ or Proposal passes all of the pass/fail criteria set forth in the P3 RFQ/RFP. Pass/fail criteria may include assessments Port KC evaluator judgment (e.g., financial capability to carry out the Public-Private Partnership). To be responsive, the SOQ or Proposal should conform to the P3 RFQ/RFP instructions regarding organization and format and contain the complete submittals required by the RFQ/RFP. Those SOQs or Proposals not responsive to the RFQ or RFP, respectively, or that do not pass the pass/fail criteria will be excluded from further consideration. Port KC reserves the right to waive minor informalities, irregularities, and apparent clerical mistakes which are unrelated to the substantive content of the SOQs or Proposals. Port KC also reserves the right to seek clarifications in order to address such minor informalities, irregularities and apparent clerical mistakes, as well as other deficiencies.

#### *Evaluation Criteria for SOQs*

The P3 RFQ issued under a P3 Method procurement will clearly describe the criteria on which the experience of a candidate Concessionaire, including that of its proposed team and respective staffs, will be evaluated. Evaluation criteria and weightings of evaluation criteria will vary on a solicitation-by-solicitation basis to reflect the specific Port KC objectives, Innovative Project Delivery structure, scopes of work, and other factors, determined by Port KC in its sole discretion, for each Public-Private Partnership. The extent of Port KC's disclosure of individual evaluation criterion weighting or relative weighting in the P3 RFQ is in Port KC's sole discretion.

Evaluation criteria may include some or all of the following:

- Capability and relevant experience of candidate Concessionaire, proposed team members and respective staffs
- Team structure and organization
- Key personnel qualifications and resource availability
- General approach to project development and delivery
- Relationships, roles and responsibilities between Port KC and candidate Concessionaire,
- Financial capability, capacity
- Ability to provide required payment and performance security
- Quality of project references
- Other information required by the P3 RFQ

### *Evaluation Criteria for Proposals*

The P3 RFP issued under a P3 Method procurement will clearly describe the criteria on which the candidate Concessionaire's Proposal will be evaluated. Evaluation criteria and weightings of evaluation criteria will vary on a solicitation-by-solicitation basis to reflect the specific Port KC objectives, Innovative Project Delivery structure, scopes of work, and other factors, determined by Port KC in its sole discretion, for each Public-Private Partnership. The extent of Port KC's disclosure of individual evaluation criterion weighting or relative weighting in the P3 RFQ is in Port KC's sole discretion.

Evaluation criteria may include some or all of the following:

- Qualifications, experience and capabilities (as described with respect to SOQ evaluation) if not previously addressed in a RFP process or if any changes
- Pricing or, where relevant, project scope
- Project technical approach
- Project management approach
- Quality approach
- Financing plan and feasibility
- Operations and maintenance plan, where relevant
- Project delivery schedule
- Term length
- Approach to User Fees (if applicable)
- Other specific information as required by the RFP

## **2 - General Evaluation Methodology**

### *Evaluation Methodology for SOQs*

If a SOQ passes both Port KC's pass/fail and responsiveness reviews, then Port KC will substantively evaluate the SOQ. The P3 RFQ for a particular solicitation will set forth the evaluation methodology for the SOQs.

Unless specifically stated otherwise in the RFP, if a candidate Concessionaire is short-listed, then the rankings, scores and evaluation of the SOQs are not expected to carry over to the evaluation of submitted Proposals for the Public-Private Partnership.

#### *Evaluation Methodology for Proposals*

Unless Port KC utilizes an alternative evaluation methodology, under the P3 Method, Port KC will allocate a percentage of a total "score" to a candidate Concessionaire's Proposal price and the remaining percentage to the qualitative evaluation of the Proposal's technical and financial plans and, if solicited, such other criteria as may be published in the P3 RFP. Internal structuring and access to the percentage allocation, as well as individual criterion weighting or relative weighting, will be handled prior to Proposal evaluations and involving such Port KC staff and consultants as determined in advance of the Proposal delivery date.

### **3 - SOQ, Proposal Clarifications; Proposal Revisions; Best and Final Offers**

Port KC may choose, in its sole discretion, to request SOQ and/or Proposal clarifications following the process outlined in the P3 RFQ/RFP. Port KC may also require that candidate Concessionaires or Proposer submit additional information or details, all of which will become part of the SOQ or Proposal, as applicable.

After evaluation of the Proposals, Port KC may decide to ask Proposers to submit "best and final offers" (BAFOs), or Proposal revisions. Typically, only those Proposers who are responsive and/or whose Proposals fall within a competitive range of the most highly ranked responsive Proposals will be permitted to submit Proposal revisions. Proposal revisions are not mandatory for all procurements and may not be useful or appropriate for some.

If Port KC elects to request Proposal revisions, Port KC may have discussions with the Proposers in advance of and/or following issuance of the request for Proposal revisions. More than one series of Proposal revisions may occur, as determined in Port KC's sole discretion.

The purposes of any discussions with Proposers are to (a) inform each Proposer of any changes or potential changes to the terms and requirements of the solicitation and of weaknesses and deficiencies in the Proposer's Proposal, and (b) receive and consider questions and comments from each Proposer. Port KC will not assist or coach any Proposer in how to improve its Proposal. Port KC will not share the proprietary content of a Proposer's Proposal with any other Proposer during the revised Proposal solicitation process.

### **4 - Selection of Apparent Lowest Most Qualified Proposer**

Once Port KC has determined a total Proposal score for each Proposal based on the evaluation criteria and methodology set forth in the RFP, it will assign rankings to the Proposals (whether based on the original Proposals or Proposal revisions) and engage in negotiations with the Proposer identified with the highest ranking.

## **5 - Negotiations**

Port KC may engage in negotiations with the Proposer identified as offering the apparent Lowest Most Qualified Proposal. Except for alternative technical, financial, or other concepts of unsuccessful Proposers for which Port KC has right by virtue of payment of a stipend, Port KC will not disclose the proprietary contents of any Proposal to competing Proposers during the negotiation and selection processes.

If at any point in negotiations, it appears to Port KC that the apparent Lowest Most Qualified Proposer will not provide Port KC with the overall best value based on the published selection criteria and on its ranking evaluation or that the parties will be unable to reach agreement, Port KC may suspend or terminate negotiations with the apparent Lowest Most Qualified Proposer and enter into negotiations with the Proposer submitting the next highest ranking Lowest Most Qualified proposal. This process may continue until Port KC reaches an agreement acceptable to it or determines that it will not be able to do so.

Port KC is not required to enter into negotiations with any Proposer.

## **6 - Agreement**

Port KC intends to provide shortlisted Proposers with the form of Agreement upon issuance of the final RFP, if not before in connection with Industry Review Meetings.

## **7 – Additional Information**

### ***Proposal Development Fee/Stipend***

Port KC may, pursuant to the Solicitation Documents for Public-Private Partnerships, pay a stipulated amount to an unsuccessful Proposer that submits a complete, compliant, and responsive Proposal in response to a P3 RFP in exchange for the work product contained in that Proposal. Port KC may also agree to pay a stipulated amount if it cancels the procurement prior to the Proposal due date. In each case, the stipulated amount and the terms under which such amount may be paid will be stated in the RFP. No stipulated amounts will be paid unless specific language is included in Solicitation Documents. A Proposer wishing to receive the stipulated amount, if offered, shall include an executed “stipend agreement,” in the form provided as part of the Solicitation Documents, with its Proposal.

Solicitation Documents containing stipulated amounts are expected to include language whereby (1) Port KC shall have the right to make use of any work product contained in the Proposal, including the technologies, techniques, methods, processes, ideas, and information contained in the project design; and (2) the use by the unsuccessful Proposer of any portion of the work product contained in the Proposal is at the sole risk of the unsuccessful Proposer and does not confer liability on Port KC. The use by Port KC of any such work product contained in an unsuccessful Proposal would be at the sole risk and discretion of Port KC and would not confer liability on the recipient of the stipulated amount.

If the project/facility or service involves use of federal-aid funds or credit assistance, then language will be included in the P3 RFP related to any Proposers eligible to receive the stipulated amount in exchange for work product contained in the Proposal that will comply with applicable

federal law.

### ***Real Property Interests***

No Public-Private Partnership will be “sold” to a Concessionaire, but leasehold, easement, operating, license, right-of-entry permit or similar rights may, but are not required to, be provided to a Concessionaire under the Agreement. As between the Concessionaire and Port KC, Port KC will retain ownership of all projects and project site real property interests, unless Port KC elects or is required to leave fee title to all or portions of the underlying project in a third party.

### **General Policies**

Solicitations under this Procurement Policy are subject to either or both the Port KC Affirmative Action Policy and Port KC Construction Workforce Policy, as and when required explicitly under this Procurement Policy.

### **Conflicts of Interest**

A Person is eligible for award of any Contract or Agreement under this Procurement Policy so long as the Contract/Agreement does not create an actual, potential, or apparent conflict of interest. A prohibited conflict of interest exists when, because of other activities, relationships, or contracts, a Person is or may be unable to render impartial, objective assistance or advice to Port KC; or a Person’s objectivity in performing its obligations under the Contract/Agreement is or might be otherwise impaired; or where a Person would receive an unfair competitive advantage. Prohibited conflicts of interest include, but are not limited to, the following situations (as examples):

1. Any Person that provides design services or project management services to Port KC for a project will be ineligible for award of a construction Contract to construct the improvements or a construction management Contract to manage construction of the improvements, in each case that are the subject of the design services.
2. Any Person that assists Port KC in the preparation of any procurement document will not be allowed to participate as a bidder/offeror or join a team submitting a bid/offer in response to such procurement.

Furthermore, Port KC shall not contract with, and will reject any bid or Proposal submitted by, the following Persons:

1. Persons employed by Port KC;
2. Profit-making firms or businesses in which Port KC employees or Board members serve as officers, principals, partners, or shareholders;
3. Persons who, within the immediately preceding 12 months, were employed by Port KC and (a) were employed in positions of substantial responsibility in the area of service to be

performed by the Contract or Agreement, or (b) participated in any way in developing any procurement documents; or

4. Profit-making firms or businesses in which the former employees described in clause (3) just above serve as officers, principals, partners or major shareholders.

If there is any doubt by a firm regarding a potential conflict of interest for a specific project, function or procurement, then the Port KC General Counsel will, upon written request, provide a written ruling. This procedure is encouraged prior to submittal of SOQs, Proposals or bids and may be specified in the RFQ or RFP.

In the event a conflict of interest is determined to exist, a written appeal may be made by the affected Person to the President within five calendar days of notice from Port KC of the conflict. The President shall determine the adequacy of the appeal and make a subsequent final decision. No further appeal shall be considered.

### **Public Records and Confidentiality**

No portion of any Proposal will be released or disclosed by Port KC before execution and delivery of any Contract or Agreement, and the conclusion of any protest or other challenge to award, except and only to the extent required by applicable law or court of competent jurisdiction.

All Proposal contents will be treated as confidential and will not be released or disclosed to the public or to anyone other than Port KC and consultant personnel who are involved in the procurement prior to execution and delivery of any Contract or Agreement, and the conclusion of any protest or other challenge to the award.

Materials contained in SOQs or qualifications statements will be treated similarly.

Maintaining confidentiality is in the interest of Port KC as premature release of confidential information could harm Port KC's negotiation position, taint the procurement process, or render a short-listing or award decision subject to challenge.

It is anticipated that Port KC will institute formal safeguards for procurement of each P3 Method procurement concerning SOQ (or qualifications statements) and Proposal "security". Issues to be addressed include where materials will be stored, document access and under what circumstances, etc. All evaluators will be required to execute Confidentiality/Non-Disclosure and Conflict of Interest Agreements which require each individual to keep the evaluation and procurement materials confidential and require disclosure of potential or actual conflicts of interest with candidate Concessionaire and Proposer teams (e.g., financial interest, etc.)

**The procurement documents will set forth matters pertaining to designation of confidential or proprietary information within SOQs, Proposals and other procurement correspondence or other documents. Nothing in this Procurement Policy pertaining to confidential or proprietary information, however, shall be deemed to waive, deviate from, or empower Port KC to defy any requirement(s) that are imposed by applicable law or any court of competent jurisdiction. Notwithstanding the foregoing, it is Port KC's intent that no confidential or proprietary information of any Proposer under any solicitation method**

**described here will be shared with other Proposers or the general public, to the extent permitted under applicable law.**

### **Reservation of Right to Waive Requirements**

Port KC, at its sole discretion, may waive or deviate from some or all of the requirements under this Procurement Policy where it deems such waiver(s) or deviation to be in the best interest of Port KC, the State of Missouri, the Port District, or the General Welfare. In no event shall any such waiver of deviation result in any liability for Port KC, the State of Missouri, the Port District or any other party. Notwithstanding the foregoing, Port KC may not waive or deviate from any such requirement(s) that are imposed by, and where such waiver or deviation would conflict with or violate, or interpreted to conflict or violate, applicable local, state, or federal law, as and if applicable.

### **Rights Reserved**

Port KC reserves all rights available by law and in equity in its procurement processes, including, without limitation, the sole right to:

1. Modify the procurement at its sole discretion to address applicable law and/or the best interests of Port KC, the State of Missouri, the Port District, or the General Welfare;
2. Develop the project/facility or service in any manner that it, at its sole discretion, deems necessary;
3. Modify all dates set or projected in any procurement documents;
4. Reject any and all submittals, responses, SOQs, Proposals and Bids at any time;
5. Terminate evaluation of any and all SOQs or Proposals and Bids at any time;
6. Suspend and/or terminate negotiations with any Proposer at any time, elect not to commence negotiations with any responding Proposer and engage in negotiations with other than the highest ranked Proposer;
7. Negotiate with a Proposer without being bound by any provision in the Proposal;
8. Negotiate a revised Bid with the apparent lowest most qualified Bidder, including changes in Bid requirements, price, scope, specifications or quantity, if the Bid exceeds the appropriation or relevant budget for that project and Port KC determines that resoliciting bids is not in its best interests.
9. Require confirmation of information furnished by a Proposer, require additional information from a Proposer concerning its SOQ and/or Proposal, require additional evidence of qualifications to perform the work described in the RFQ and RFP, including holding meetings and exchanging correspondence with the Proposers to seek an improved understanding of the SOQs and Proposals. If individual Proposer informational meetings are held, all Proposers submitting a responsive SOQ and Proposal shall be afforded an opportunity to participate in an individual Proposer informational meeting;

10. Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to any procurement documents;
11. Add or delete Proposer or Bidder responsibilities from the information contained in any procurement documents;
12. Revise and modify the evaluation factors or otherwise revise or expand the evaluation methodology for the SOQ at any time before the SOQ due date and for the Proposals at any time before the Proposal due date. If such revisions or modifications are made, Port KC shall post an addendum to the RFQ, RFP setting forth the changes to the evaluation criteria or methodology;
13. Cancel procurement in whole or in part at any time prior to the execution of a Contract or an Agreement without incurring any cost obligations or liabilities;
14. Initiate a new procurement after withdrawal of original procurement;
15. Not prequalify or short-list any Person responding to a RFQ;
16. Not issue procurement documents;
17. Issue addenda, supplements and modifications to any procurement documents;
18. Appoint committees and subcommittees to review procurement documents, make recommendations and seek the assistance of outside technical, financial, legal, and other experts and consultants in SOQ and Proposal and Bid evaluation;
19. Waive immaterial deficiencies in any Proposal, Bid or SOQ, accept and review a non-conforming Proposal, Bid or SOQ or permit clarifications or supplements to a Proposal, Bid or SOQ;
20. Disqualify any Proposer or Bidder that changes its submittal without Port KC approval;
21. Disqualify any Proposer or Bidder for violating any rules or requirements of the procurement set forth in the procurement documents or in any other communication, document or signed agreements (e.g., "industry review protocol") from Port KC;
22. Develop some or all of a project/facility or perform some or all of the service itself;
23. Disclose information contained in a response submitted to Port KC as governed by the law and/or the Solicitation Documents;
24. Exercise any other right reserved or afforded to Port KC under procurement documents or applicable law or in equity;
25. Disqualify any Proposer or Bidder for any conflict of interest, including use of any key former Port KC employee or member of the Board hired within 12 months of any solicitation under this Procurement Policy or such longer period as may be imposed by applicable law.

26. With respect to Public-Private Partnerships, negotiate with a Proposer to include aspects of unsuccessful Proposals for the Public-Private Partnership in the Agreement;
27. With respect to Public-Private Partnerships, negotiate with a Proposer other than the apparent Lowest Most Qualified Proposer if negotiations with the apparent Lowest Most Qualified Proposer are unsuccessful or if a financial close with the apparent Lowest Most Qualified Proposer does not occur;

Additional reservations of rights may be included in the Solicitation Documents for a particular solicitation. Except as set forth in the Solicitation Documents, should the procurement process or negotiations be suspended, discontinued or terminated the Proposer shall have no rights of recourse, including reimbursement of Proposal review fee(s) or costs associated, directly or indirectly, with the Proposal development or presentations.

### **Ex Parte Communications**

No Proposer or representative thereof shall have any ex-parte communications during the procurement for a proposed project with any member of the Board or with any of Port KC's staff, advisors, contractors or consultants involved with the procurement, except for communications expressly permitted by the solicitation. The foregoing restriction shall not, however, preclude or restrict the Proposer from communications with regard to matters unrelated to the RFQ, RFP or from participation in public meetings.

Unless otherwise directed pursuant to Solicitation Documents, all communications to Port KC during any active procurement, under any procurement method described in this Procurement Policy, shall be directed via email to [info@portkc.com](mailto:info@portkc.com). Any Proposer engaging in prohibited communications may be disqualified in the sole discretion of Port KC. Additional requirements and limitations on communications may be included in the solicitation documents for a project. Port KC will provide a list in the Solicitation Documents of agencies, organizations, stakeholders, consultants and contractors with whom Proposers should not communicate.

### **Disclaimers and Conditions for Proposals**

Unless otherwise stated in the Solicitation Documents, under no circumstance shall Port KC, the State of Missouri, Kansas City, Missouri, or any department or agency of any of the foregoing be liable for or reimburse the costs incurred by the Proposers or Bidders whether or not they are selected, or if the procurement process is delayed, altered or terminated. Except as expressly provided in the Solicitation Documents, any and all information Port KC makes available to Proposers or Bidders shall be as a convenience to the Proposer or Bidder without representation or warranty of any kind.

### **Public Notice and Document Availability**

Port KC will issue public notices of its procurements consistent with applicable legal requirements. Notices will generally describe the project scope or services desired, indicate the recipient of and the deadline for responses and will contain such other information as Port KC deems appropriate for the project.

### **Liability for Private Obligations**

Port KC, its Board, President and staff; the State of Missouri, or any political subdivision or corporate subsidiary, in whole or in part, as applicable, of any of the foregoing, are not, and shall not be, liable for any financial or other obligation except as explicitly agreed in an Agreement or other contract or otherwise as explicitly required by applicable law. The credit of Port KC or the State of Missouri will not be pledged by any counterparty under any procurement or otherwise; provided, however, that the foregoing is not intended to restrict or limit the ability of Port KC, the State of Missouri, or any other Person or governmental entity to act as a conduit issuer of any bond or other financing, including private activity bonds, or to initiate any federal, state, or local funding or financing tool (e.g., the federal TIFIA, INFRA, BUILD, or similar programs) or credit facility process with any federal, state or local governmental entity. Nothing in this Procurement Policy shall, or shall be deemed to, waive the sovereign immunity of either or both Port KC and the State of Missouri pursuant to applicable State law.

**Chart 1: General Overview**

	<b>Design-Build (RSMO §67.5060)</b>	<b>CM At-Risk (RSMO §67.5050)</b>
<b>Bidding</b>	<u><b>Three Phases:</b></u> <b>Phase I</b> - Solicitation of qualifications of the Design-	<u><b>Two Steps:</b></u> <b>Step I</b> - Purely qualitative submission; no fees or pricing

	<p>Build team, including list of required submissions</p> <p><b>Phase II</b> - Technical proposal including conceptual design (min. 2, max. 5 firms)</p> <p><b>Phase III</b> - Proposal of construction cost</p>	<p><b>Step II</b> - Five or less firms selected solely on basis of qualifications provide proposed fee and price for fulfilling general conditions</p>
<b>Award</b>	<p><b>Phase I</b> - Points in this pages are not counted towards award</p> <p>Phase II and III points are counted towards award as set forth in the RFP with the following minimum requirements:</p> <p><b>Phase II</b> -</p> <p>Qualifications: ≤ 20% of total points; Phase II must account for ≥ 40% of the total point score as specified in the RFP</p> <p><b>Phase III</b> -</p> <p>Must account for ≥ 40% of the total point score as specified in the RFP</p>	<p>Qualifications: ≥ 40% of the total point score</p> <p>Cost: ≤ 60% of total points</p>
<b>Timing for Evaluations</b>	No requirement	Evaluation and ranking of bids must occur within 45 days after date of opening the Proposals or qualification submissions
<b>Publication of Request for RFP</b>	Newspaper of general circulation in the county where Port KC is located once per week for two consecutive weeks prior to opening Proposals	Same
<b>Thresholds for Use</b>	Civil Works: None Non-Civil Works: Over \$7 Million	Civil Works: Over \$2 Million Non-Civil Works: Over \$3 Million
<b>Bid Stipend</b>	Amount set in RFP - not less than one half of one percent (.005) - of the total project budget. Paid by Port KC to each prequalified Design-Builder whose Proposal is responsive but not accepted; bidder provides nonexclusive	None

	license to use design submitted without any liability for use of such design	
<b>Sunset</b>	September 1, 2026	September 1, 2026

