

City of Houston, Texas, Resolution No. 2014-_____

A RESOLUTION ADOPTING GUIDELINES FOR THE CITY'S PARTICIPATION IN PUBLIC-PRIVATE PARTNERSHIPS AND CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT.

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WHEREAS, the terms "Public-Private Partnership" and "P3" refer generally to agreements between public entities and the private sector by which the private sector makes physical assets or services available to a public entity in exchange for fixed payments over a term of twenty or more years; and

WHEREAS, as memorialized in Section 2267.002(a), Texas Government Code, the Texas Legislature has found:

- (1) That there is a public need for timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, operation, implementation, and installation of government facilities in this state that serve a public need and purpose;
- (2) That the public need may not be wholly satisfied by existing methods of procurement in which qualifying projects are acquired, designed, constructed, improved, renovated, expanded, equipped, maintained, operated, implemented, or installed;
- (3) That there are inadequate resources to develop new facilities, technology, and other public infrastructure and government facilities for the benefit of the citizens of this state, and there is demonstrated evidence that partnerships between public entities and private entities or other persons can meet these needs by improving the schedule for delivery, lowering the cost, and providing other benefits to the public;
- (4) That financial incentives exist under state and federal tax provisions that encourage public entities to form Public-Private Partnerships to develop "Qualifying Projects" within the meaning of Section 2267.001(10), Texas Government Code, which Projects include "any ... vehicle parking facility, ... water supply facility, public work, waste treatment facility, ... recreational facility, public building, technology facility, or other similar facility ... to be made available to a governmental entity for public use," or, more broadly, "any improvements necessary or desirable to real property owned by a governmental entity"; and
- (5) That authorizing private entities or other persons to develop or operate one

or more Qualifying Projects may serve the public safety, benefit, and welfare by making the projects available to the public in a more timely or less costly fashion; and

WHEREAS, the City Council (the "City Council") of the City of Houston (the "City") adopts by reference the said findings of the Legislature; and

WHEREAS, the Legislature has authorized political subdivisions of this state to enter into Public-Private Partnerships for the purposes stated in Section 2267.002(c), Texas Government Code, namely:

- (1) To encourage investment in this state by private entities and other persons;
- (2) To facilitate bond financing or other similar financing mechanisms, private capital, and other funding sources that support the development or operation of Qualifying Projects in order to expand and accelerate financing for such Projects; and
- (3) To provide political subdivisions of this state with the greatest possible flexibility in contracting with private entities or other persons to provide public services through Qualifying Projects,

which purposes the City Council finds serve the public interest; and

WHEREAS, Section 2267.051(a), Texas Government Code, prohibits development or operation of a Qualifying Project through a Public-Private Partnership unless the person or entity contracts with a responsible governmental entity in accordance with Chapter 2267, Texas Government Code; and

WHEREAS, the City is a "responsible governmental entity" within the meaning of Section 2267.001(11), Texas Government Code; and

WHEREAS, Section 2267.052(a), Texas Government Code, requires a responsible governmental entity to promulgate publicly available "guidelines" before requesting or considering a proposal for a Public-Private Partnership; and

WHEREAS, the City Council finds that the public interest will be well served by the City's promulgation of such guidelines, to enable the City to request or to consider proposals for Public-Private Partnerships;

WHEREAS, the City Council finds that adoption of the "Guidelines for Public-Private Partnerships" in the form attached to this Ordinance as Exhibit "A" will provide the City with additional options to obtain physical assets or services serving the needs of the public;
NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Resolution are determined to be true and correct and are adopted as a part of this Resolution.

Section 2. That the City Council adopts the "Guidelines for Public-Private Partnerships" ("P3 Guidelines") in the form attached to this Resolution as Exhibit "A."

Section 3. That the City Council instructs the City's Chief Procurement Officer to post the P3 Guidelines at <http://purchasing.houstontx.gov/index.shtml> no later than twenty days after the effective date of this Resolution and to take such other actions as may be advisable to make the Guidelines reasonably available to the public, as required by Section 2267.052(a), Texas Government Code.

Section 4. That this Resolution shall take effect immediately upon its passage and approval by the Mayor; however, in the event the Mayor does not sign this Resolution within five days after its passage and adoption, the Resolution shall take effect in accordance with Article VI, Section 6, of the Houston City Charter.

PASSED AND ADOPTED this _____ day of _____, 2014.

APPROVED this _____ day of _____, 2014.

Mayor of the City of Houston

Requested by Kelly Dowe
Director, Finance Department

Prepared by Legal Dept. _____
First Assistant City Attorney