“The 3P’s for Successful P3’s in Municipal Sustainability: Procurement, Partnership & Performance”





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IMLA Virtual Annual Conference
Wednesday, September 30, 2020

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Municipal Sustainability: A Call to Local Action

- States Continue to Enact or Enhance Climate Goals and GHG limits
- Municipal Water/Wastewater/Solid Waste/Transportation/Energy Sectors Impacted
- Surplus/abandoned/outdated municipal assets are available for repurposing
- Municipal brownfield development can sustain renewable resources & storage
- Distributed Generation, Microgrids and District Energy Systems are natural fits for municipal participation

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SUSTAINABILITY:
Municipal Energy Opportunities

Solar

Wind

Landfill Gas (LFG & Solar)

Municipal Waste to Energy/fuels {Circular Economy}

- Biomass and biosolids
- Post-recycled municipal solid waste
- Water Resource Recovery Facility (WRRF)
- Collocation of organics and WRRF facilities – “merchant waste”

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SUSTAINABILITY:
WHAT ELSE IS CHANGING

- DISTRIBUTED GENERATION RESOURCES [DERs]
- INCREASED USE OF RENEWABLE FUEL SOURCES
- STORAGE [“Batteries”]
- MICROGRID TECHNOLOGY AND SERVICE PLATFORMS
- INCREASED NET METERING OPPORTUNITIES
- MUNICIPAL AGGREGATION
- COMMUNITY CHOICE & RENEWABLE PURCHASE OPTIONS

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SUSTAINABILITY:
WHERE MUNICIPALITIES FIT IN

- DER – Development of sites will involve local permitting, right of ways and facilitate P3 Energy Project Development
- Net Metering – On-site Municipal Energy Generation Connecting "Host" and "Satellite" facilities
- Building Efficiencies – Performance Contracting
- Co-generation and Microgrids
- Municipal Aggregation
- Resource Waste-to-Energy
- Qualified Facilities [FERC 789]

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SUSTAINABILITY'S NEW FRIEND
IDENTIFY THE DERs

DER EXAMPLES

- Solar photovoltaic (PV)
- Combined heat and power (CHP)/cogeneration systems
- Microgrids - [Islanded and non-islanded]
- Wind turbines
- Micro turbines
- Back-up generators
- Energy storage

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SUSTAINABILITY: LEAVE ME ALONE, OR NOT

Microgrid Platform Technology

"Microgrid" means an integrated energy system consisting of interconnected loads and distributed energy resources with clearly defined electrical boundaries that acts as a single controllable entity with respect to the transmission or distribution grid and can connect and disconnect from the transmission or distribution grid to enable it to operate in parallel with the grid or in an intentional island mode

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SUSTAINABILITY: MUNICIPAL AGGREGATION

- Community choice aggregation (CCA) is a state policy that enables local governments to aggregate electricity demand within their jurisdictions in order to procure alternative energy supplies while maintaining the existing electricity provider for transmission and distribution services
- Municipalities, either by referendum or legislation, determine where their electricity will come from and who will generate it allowing them to negotiate competitive prices from independent energy service companies

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SUSTAINABILITY: Municipal Energy Opportunities

Lease arrangements

- Solar Voltaic Facilities – Ground mounted, roof top, landfill post closure, brownfield
- Landfill Gas (LFG)
- Wind – Small to midscale
- Battery storage facilities – Brownfield redevelopment
- Municipal Parking Slots to Electrical Vehicles & Charging Stations

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SUSTAINABILITY:
HOW DO MUNICIPALITIES PLAY

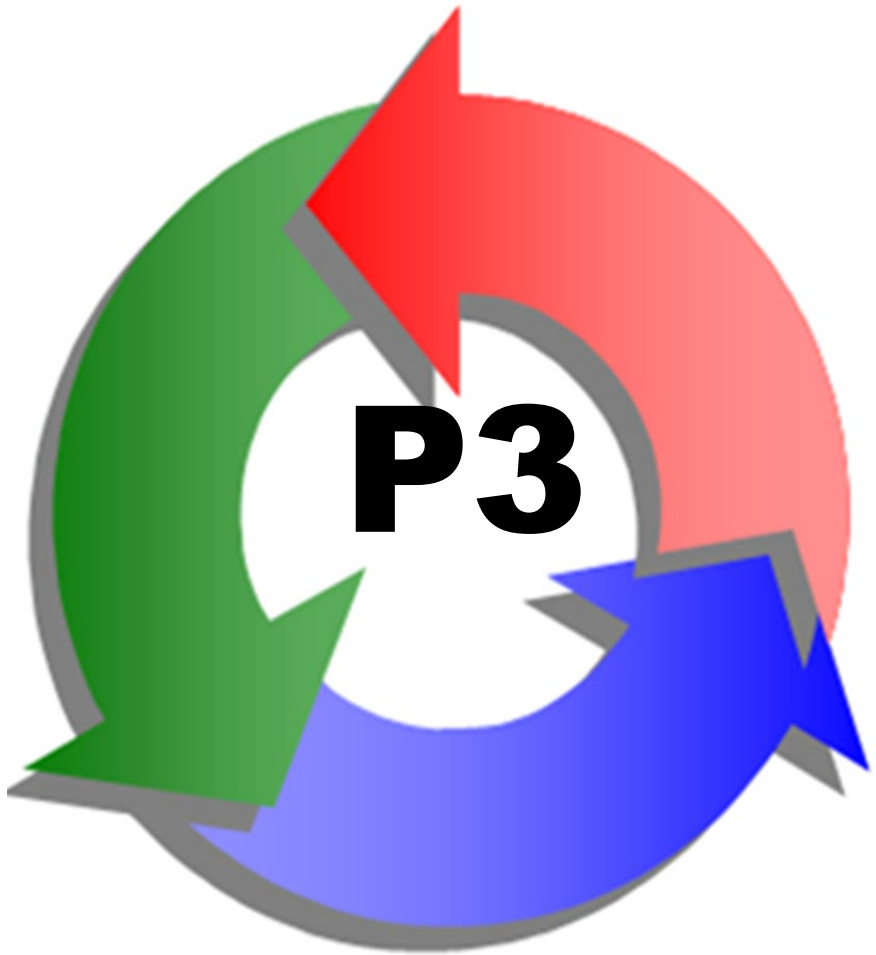
- PUBLIC PRIVATE PARTNERSHIPS
- POWER PURCHASE AGREEMENTS/NET METERING AGREEMENTS
- HOST COMMUNITY AGREEMENTS
- CONCESSIONS, LEASE AND/OR SERVICE AGREEMENTS
- REPURPOSING PUBLIC FACILITIES

Procurement Fundamentals

- Delivery Method Selection
  - Traditional (Low Bid) or Alternative Delivery (Qualifications Based/P3)
- Type of Project
  - New construction,
  - Expansion, or
  - Upgrade
- Appointment of Technical Team
  - Responsible for all aspects of procurement
- Requests for …
  - Expression of Interest,
  - Qualifications,
  - Proposals, and
  - Qualifications and Proposals
- Proposal evaluations
- Contract award and contract negotiations

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Sustainability:P3 Project Advantages



- Non-traditional Project Types
- Private Sector Expertise
- Enables best value procurement
- Empowers private team's creativity
- Increases access to capital
- Greater efficiency

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Sustainability: Forms of P3 Projects

- Design-build
- Design-build-operate
- Design-build-operate-finance
- Design-build-Operate-Transfer
- Design-build-finance-own-operate
- Concessions



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Sustainability: Examples

- Utilities - Water/Wastewater/Energy
- Public Recreation
- Renewables







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Sustainability: Sources of P3 Authority

State Law
Home Rule Authority
Special Legislation



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Municipal Sustainability: Components of Legislation

- Ideal legislation should expressly authorize the following:
  - Public Private Partnerships
  - Qualifications based selection (QBS)
  - Alternative project delivery arrangements
  - Collection of user fees
  - Long-term agreements
  - Provide for private, non-municipal finance
  - Limit restrictions on conveyance of public property
  - Shared profit/savings [Environmental Attributes]

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Procurement Processes
Essential Components of Procurement Documents

- Introduction
- Project Overview, Description & Objectives
- Scope of Services
- Description of Existing Facilities
- Submission Requirements, Protocol, Process and Schedule
- Pre-Submittal Meeting and Site Visit
- Clarification Requests
- Respondent Interviews
- Evaluation Criteria
- Reference Documents
- Questions
- Terms & Conditions
- Forms/Appendices

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Sustainability & the Procurement Process: Tools of the Trade

Request for Expression of Interest (RFEI)

- Used in the pre-project development phase to stimulate and assess interest in the project
- Can also be used to gather useful information from interested parties and adjust the project requirements accordingly
- Identify who will be eligible for the competitive selection process

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Sustainability & the Procurement Process:
Tools of the Trade: Request for Qualifications (RFQ)

- Pre-qualification stage of the procurement process
- A screening step to establish a pool of qualified, potential proposers
- The response to the RFQ describes the firm's general qualifications, but will not include specific details or price proposals
- May include "Project narrative" demonstrating understanding of objectives
- Only those firms who successfully respond to the RFQ and meet the qualification criteria will be included in the subsequent Request for Proposals solicitation process for ***Technical and Price Proposals***.

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Evaluation Criteria

Standards that measure how well proposal meets requirements, needs and expectations of the project

- Experience and Qualifications – similar scope, size and purpose
- Demonstrate understand project
- Technical/Business Approach
- Price proposal
- Adherence to instructions and requirements/completeness of response
- Ability and willingness to meet all of the responsibilities and performance guarantees
- Selection not based solely on economics, but is a factor in the evaluation process



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Sustainability and Contract Design

- The goal is to assign each risk to the party better able to manage the risk
- No contract of adhesion
  - Negotiated transaction
- Regulated Utility Components
  - Interconnection
  - Compensations Schemes
- Third-party Agreements

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Sustainability and the Contract Design

- Determine Form of Agreement
- Define and Outline Contractor Tasks
- Design
- Construction
- Finance
- Operation
- Ownership and Conveyance
- Power Purchase

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Sustainability and the Contract Design – 7Ps

- Price
- Performance
- Protection
- Possession
- Period
- Project acceptance
- Provisions

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The Contract Components: Performance

- Design Specifications
- Construction Standards
- Operations Standards
- Performance Guarantees
- Compliance
- Environmental
- Enhanced Standards

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The Contract Components: Protection

- Insurance
- Bonds
  - Performance
  - Completion
  - Labor & Materials
- Guarantees
  - Parent
  - Corporate

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The Contract Components: Possession

- Public Land Conveyance
- Ground Lease
- Private Purchase and Ownership
- End of Term Transfer or Buyback
  - Fixed Price
  - Fair Market Value
  - Book Value
  - Independent Valuation

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The Contract Components: Period

- Contract Term
  - Design-Build Period
  - Operations [Service] Period
  - Post-term Obligations
- Renewal Periods
  - Sole or mutual options
  - Same or renegotiated terms
- Closeout Valuation and Life Assessment

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The Contract Components: Provisions

- Essential Provisions
  - Provision of Services – fully define scope
  - Design review and/or approval
  - Construction Schedule-Liquidated damages
  - Owner approval of subcontractors
  - Third-party and utility agreements
  - Owner notice for start-up/commissioning
  - Capital Improvements

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The Contract Components: Provisions [cont'd]

- Essential Provisions
  - Insurance
  - Parent Corporation Guarantees
  - Performance/Labor & Materials Bonds
  - Warranties/Risk Allocation
  - MBE/WBE
  - Dispute resolution/litigation/arbitration
  - Choice of Law/jurisdiction/Service of Process
  - Return of Facilities
  - Sinking funds

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The Contract Components: Provisions [cont'd]

- Performance Security
- Permitting Responsibility and Milestone schedules
- Pricing
- Revenue sharing and Environmental attributes
- Curtailments (if municipality is purchasing or anchor for offtake
- D-Rate adjustments and other energy peculiarities
- End of Term ownership - Valuation
- Default and removal
- Renewal Terms
- Industry escalators

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Summary and Path Forward

- Municipal Sustainability is not only here – ***it is the future!!!***
- Identify your state's climate action & sustainability legislation providing municipal opportunities
- Identify existing infrastructure resources for sustainability initiatives in your municipality
- Identify existing P3 and procurement vehicles to facilitate projects or design home-rule path
- Assemble competent, experienced project team and develop project outline

PROCURE * PARTNER * PERFORM

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