



## **New Adopted Policy for Public/Private Partnerships**

**Effective September 19, 2007**

# Policy for Public Private Partnerships

## Section 1: Introduction

### 1.1 Purpose

A partnership is a cooperative relationship between people or groups who agree to share responsibility for achieving some specific goals, while also achieving the respective goals of each partner. Public Private Partnerships are contractual arrangements between public agencies and private sector entities that provide the prospect for greater opportunities for the general public and greater benefits to the private sector partner by combining and leveraging the resources and risks of each through cooperation and consolidation of their respective resources.

We have entered an era of growing demand for additional programs, enhanced parks and recreational facilities, and limited resources in competition with the growing demand for other publicly funded projects. Public Private Partnerships, when properly applied, will work to the mutual advantage of the Maryland-National Capital Park and Planning Commission ("Commission"), users of services generally offered by the Commission, the taxpayers, and private companies seeking new business opportunities or a means in which to contribute to its community. However, only by establishing clear priorities and a user-friendly framework within which both the Commission and the private sector partner can reasonably operate, will Public Private Partnerships work and best serve the interests of all parties. The Public Private Partnership provide added value to each partner through its participation in the partnership.

According to the National Council for Public Private Partnerships, five critical components are required for successful public private partnerships:

- Political leadership;
- Public sector involvement;
- A well thought out plan that outlines all the expectations for the public private partnership project;
- Communication with all stakeholders, including affected employees, residents of the impacted community, the portion of the public receiving the service, and relevant interest groups; and
- Selection of the right partner.

This Policy for Public Private Partnerships (this "Policy") addresses all of these critical components by defining the expectations of the Commission and setting forth the parameters under which the Commission's program of public private partnerships will operate in order to assure success of its public private partnerships. This Policy is intended to achieve these results while adhering to the principles of preservation and use of parkland, Commission facilities and resources in the best interests of the public.

Public Private Partnerships should not be considered a 'silver bullet' remedy, but they can offer innovative and competitive solutions when:

- The value of the Partnership is demonstrated;
- Risk is allocated to the partner best able to manage and mitigate it; and
- Processes are open, fair and transparent.

Clearly, there are roles for both the public and private sectors. The challenge, which the Policy is designed to address, is to determine the optimum mixture of public and private resources that will lead to the optimum method of providing public services at acceptable levels of quality, cost, and risk. Furthermore, the Commission recognizes that public private partnerships require significant investment, and the Commission must consider all costs, including opportunity costs and operating budget impacts before committing its resources to a proposed Public Private Partnership. Prior to the Commission's entry into a Public Private Partnership, the essential terms of the Partnership as set forth in this Policy will be presented in open session to the Commission or the relevant Planning Board for approval after public review and comment.

#### 1.2 Public Private Partnerships Defined

A Public Private Partnership (sometimes referred to herein as a "Partnership") is an agreement between the Commission and a private sector entity (sometimes referred to herein as "Partner" or "Private Partner"), through which the skills, assets and resources of the Commission and the Partner are shared in delivering a service or facility for the use of the general public<sup>1</sup>. It is a cooperative relationship between the Commission and its Partner, who agree to share responsibility for achieving specific goals. The Commission and the Private Partner share in the risks assumed and rewards gained by the delivery of the service and/or facility. The roles, risks and rewards must be contractually agreed, setting forth incentives for maximum performance while allowing for the flexibility necessary to achieve the desired results.

Not every agreement between the Commission and a private entity is a public private partnership. For example, private donations or private sponsorships of Commission programs do not necessarily create a public private partnership. The proposal by the private entity must be evaluated to determine the true nature of the relationship, and what, if any, risks, resources, and responsibilities are shared. For example, donations may appear to be partnership. But they may be conditional donations instead of partnerships. A concessionaire, where a private party is simply given the right to undertake and profit from a particular activity on Commission property, is not a public private partnership. Leases that do not extend beyond a typical landlord-tenant relationship with the typical rights and obligations of the respective parties are not public private partnerships. And

---

<sup>1</sup> The Commission's entry into any agreement with a private entity under this Policy is not intended to, and does not create a legal partnership.

agreements with other public entities do not qualify as public private partnerships. That does not mean that any of those arrangements are not, or should not be guided by a clear set of priorities and establish the roles and responsibilities of each party. But such relationships do not fall within the framework of this Policy.

### 1.3 Types of Partnerships

Public private partnerships are developed in a wide variety of forms. The following are examples of existing or potential types of Partnerships appropriate for the Commission, which may be in the form set forth below, or take another form, so long as the terms of the Partnership and all Partnership Agreements (as defined later in this Policy) are in compliance with this Policy.

1.3.1. *Adopt a Field/Playground/Facility.* Private Partner agrees to maintain or upgrade a specified Commission-owned field, playground or facility, either due to the location of the field, playground or facility or in exchange for the benefit of use at particular times, and the maintenance or upgrade is in accordance with established Commission standards.

1.3.2. *Operations and Maintenance.* Private Partner operates and maintains a specified Commission-owned facility.

1.3.3. *Design-Build-Donate.* Commission provides access to the land to a Private Partner. The design and construction of the facility is fully or partially funded by the Private Partner, who donates the facility to the Commission. The Commission may be responsible for, or have oversight and review for a portion of the design or construction of the facility (including necessary infrastructure), as agreed in a development agreement between the Commission and the Partner, and the Commission operates the facility.

1.3.4. *Lease-Design-Build-Operate.* Commission leases the land to a private partner for the design, construction and, ultimately, operation of the facility. Responsibility of the respective partners for the design and construction of the facility (including necessary infrastructure) is negotiated through a development agreement. The Private Partner maintains and operates the facility under the lease.

1.3.5. *Commission Investment.* Commission provides resources, such as redevelopment or construction funding to a Private Partner to use on the privately owned property in exchange for an in-kind benefit to the Commission. For example, the Commission may prepay rent to the private partner to be used for construction funding of a facility in exchange for a long-term leasehold to the Commission in the facility.

## Section 2: Guiding Principles

### 2.1 Review of Public Private Partnerships

In order for the Commission to efficiently and effectively manage its Public Private Partnership opportunities, all proposals will be vetted through an initial review process. The following questions must be addressed before the Commission considers the substantive benefits of entry into a Public Private Partnership:

- Is the proposal defined clearly enough for evaluation?
- Is the proposal aligned with the mission and values of the Commission?
- Is the proposed relationship a Public Private Partnership, or is the proposal best served through another arrangement with the Commission?
- Does the Commission have the legal authority to enter into the Partnership as proposed?
- Can the Secretary-Treasurer ensure that the tax exempt status of bonds or other financing mechanisms issued for the Commission assets to be impacted by the proposal will not be at risk?<sup>2</sup>

### 2.2 Benefits of Public Private Partnerships

If benefits inure to both partners, the Public Private Partnership may be justified.

2.2.1. *Benefits to the Commission.* First and foremost, a Public Private Partnership must have a clearly defined public purpose. An objective of the Commission is to provide standardized public services and facilities while making the most efficient use of public resources in an equitable manner with a strong emphasis on a stable baseline level of service. At the same time, staff and budgetary resources are often limited or fixed, and public regulations sometimes inhibit rapid innovation or technology upgrades. This does not mean that challenges related to delivery of services are unimportant, but rather that the Commission must consider alternative means of delivering services, or delegating them to appropriate non-public sector partners. Public private Partnerships allow the Commission the flexibility to minimize these constraints while achieving its public objectives.

2.2.2. *Benefits to the Private Partner.* Private businesses are generally seeking a return on company resources and/or a means by which to contribute to the community of which it is a part. Private businesses that operate as non-profit entities generally have purposes and goals aligned with the public sector. Private

---

<sup>2</sup> There are strict IRS regulations regarding tax exempt bond financing and the impact from private uses on projects with outstanding tax exempt bonds. There are some ways to structure a transaction with private use without triggering a tax-exempt bond problem, but the terms of the transaction must be vetted through the Commission's Secretary-Treasurer. They would involve very limited "private payments" to the Commission and/or an operating contract based on a fixed fee. Private payments include not just rent, but other investment such as private construction of facilities and private party operation/maintenance responsibilities.

businesses meet these objectives by making strategic investment decisions, seeking new business opportunities, and/or supplying needed services to its clients. Public private partnerships offer private businesses the opportunity to improve profitability, expand their markets, and meet their clients' needs.

2.3 Justification for Public Private Partnerships.

However, a Public Private Partnership should be considered if there is no legal, regulatory or legislative prohibition to involving the Private Partner in the provision of the service or the project, and one or more of the following conditions exist:

- a. The Partnership leverages the assets of both the public and the private sector while increasing the quality or level of service over that which the public resources alone would provide, such as relief for overburdened Commission staff in the development, construction or operations of parks facilities, or providing access to private investment and innovative financing to augment public resources;
- b. There is support from the users of the service for the involvement of a Private Partner;
- c. A project can be expedited by grouping multiple responsibilities in a single agreement (such as combined design and construction);
- d. The Commission will receive access to a specialized expertise, not otherwise available;
- e. The Partnership is reflective of new and emerging trends in the parks and recreation field and provides an opportunity for innovation;
- f. The Partnership provides access to proprietary technology not otherwise available;
- g. The Partnership provides the ability to apply special incentives and disincentives to improve project performance; or
- h. A service or project can be implemented sooner than the Commission's resources alone would allow.

2.4 Constraints

2.4.1. *Equity of Service.* The Commission attempts to maintain equity of service throughout Montgomery and Prince George's Counties, respectively. Partnership Agreements should include means to ensure that Partnerships do not create an imbalance of services and projects so that the county residents with greater economic needs are not underserved in relation to those residents who are more able to raise private funds for Partnerships.

2.4.2. *Access Not Limited.* Participation in the activity that is the subject of the Public Private Partnership must be available to all constituents of the Commission. The Private Partner cannot limit access in the form of a "private club," which would require membership in a particular organization in order to participate.

2.4.3. *Legal Authority.* Participation in the activity that is the subject of the Public Private Partnership, and all obligations of the Commission must be within the legal authority of the Commission.

2.4.4. *Lease Limitations.* Pursuant to Section 5-110, Article 28 of the Maryland Annotated Code, all leases exceeding 20 years must be approved by the County Council for the County in which the property is located, no lease of Commission land can be for a term exceeding 40 years, and at the expiration or termination of the lease, all improvements to the property must convey to the Commission at no cost to the Commission, regardless whether the improvements were added by the lessee during the term of the lease.

2.4.5. *Level of Maintenance.* All Partnership Agreements must include a requirement for the Private Partner, if responsible for maintenance of Commission assets, to maintain them at a level no less than the Commission's standards for maintenance. In order to assure such level of maintenance, in addition to specific maintenance obligations in a lease, the Private Partner will be required to maintain capital and operating reserve funds during the term of lease.

2.4.6. *Environmental Stewardship.* The mission of the Commission includes the responsibility to protect and steward natural resources. The Commission operates its parks and facilities consistent with that mission and in compliance with sound environmental practices. Therefore, all operations at or on parks or park facilities will be in a manner consistent with the environmental guidelines and programs of the Commission.

2.4.7. *Tax-Exempt Bonds.* A Public Private Partnership that includes or anticipates the use of Commission assets must be reviewed and approved by the Commission's Secretary-Treasurer to ensure that the tax-exempt status of Commission or publicly issued bonds is not impacted by the private contribution of or through such Partnership.

2.4.8. *Taxes.* Any taxes that are assessed or charged against the Partnership due to the activities of Public Private Partnership will be the responsibility of the Private Partner.

2.5 Compliance with Laws

The Partnership Agreements and the activities of all Partnerships must be within the authority of the Commission under Article 28 of the Maryland Annotated Code, and must be in compliance with Commission regulations, federal, state, and, if applicable, local laws. Partners must comply with Commission regulations such as the Commission's Anti-Discrimination Program, federal, state, and local laws.

### Section 3: Communications Strategy and Public Accountability

#### 3.1 Reporting and Monitoring

Once a Public Private Partnership has been established, the Commission must remain actively involved in the Partnership and the activities provided by the Partnership. On-going monitoring of the performance of the Partnership is important means of assuring its success by maintaining open, fair and transparent processes and sustaining the support of relevant interest groups, including the public receiving the service. Therefore, all Partnership Agreements must include provisions for regular reporting to the Commission and the right of the Commission to periodically audit the Partner's books and records.

3.1.1. *Financial Reporting.* In accordance with a reasonable schedule to be established between the Commission's Secretary-Treasurer and the Partner, the Partner will provide the following financial reports to the Commission's Secretary-Treasurer for review and comment. The extent of the financial information will be dependent on the type of partnership and complexity of the transaction. Required reporting may include:

- a. Audited financial statements, including an independent certification of the amount of payments, if any, due to the Commission that are based on performance;
- b. Annual Budget
- c. Quarterly income statements;
- d. Applicable income and/or operating projections, compared to budget, and prior year actual results; and
- e. Any other information reasonably requested by the Secretary-Treasurer.

3.1.2 *Audit.* The Commission, through its Secretary-Treasurer, will have the right to access the Partner's books, records, and financial accounts pertaining to any matters related to or derived from the Partnership and the Partnership Agreements to ensure compliance with the Agreements and this Policy. The Partner will maintain supporting data and accounting records for a period of three (3) years in accordance with generally accepted accounting practices.

3.1.3 *Public Reporting.* More people are affected by a public private partnership than the Commission and the Partner. Portions of the public receiving the service, impacted communities and relevant interest groups will all have opinions about a Public Private Partnership and its value to the public. It is important to communicate openly and candidly with these stakeholders to maximize continuing support for, and minimize potential resistance to establishing and maintaining a Partnership. Therefore, the Partner must make an annual presentation to the Commission, in open session before the appropriate Planning Board to report significant activities conducted in support of the Partnership during the previous year, provide details about its business plan for the forthcoming year, and any other information reasonably requested by the



Commission, including but not limited to volunteer activity and patronage use. Additionally, if requested by the Commission, the Partner will participate in the meetings of relevant advisory boards to advise the Commission on matters of interest to the Commission that impact the continued successful operations of the Partnership, including its impact on neighboring communities.

#### Section 4: Processes and Procedures

##### 4.1 Incorporation into Commission Regulations

Public Private Partnerships are generally exempt from the Commission's procurement regulations under its Purchasing Manual [see Section 1-500(o)]. However, because public assets are involved, Public Private Partnerships are subject to certain competition procedures as outlined in Section 9 of the Purchasing Manual. If a prospective Private Partner is uniquely qualified, or if an unsolicited proposal is received, unless upon the recommendation of the Director of Parks/Parks and Recreation and after consultation with the appropriate Planning Board, the Executive Director determines that it is in the best interest of the Commission to competitively compete the partnership opportunity, an RFP for the partnership opportunity does not need to be issued. However, the Private Partner must engage in competitive processes in the provision of services to be provided by the Partnership, and MFD and Non-Discrimination requirements must be included in all Partnership Agreements. In order to assure the proper and uniform implementation of this Policy, upon adoption by the Commission, this Policy will be managed through amendments to Section 9 of the Commission Purchasing Manual.

##### 4.2 Public Review and Comment

Subject to Section 4.5.3, prior to the Commission's entry into a Public Private Partnership, the essential terms of the Partnership will be presented in open session to the Commission or the relevant Planning Board for approval after public review and comment. The Planning Board may require that the Partnership Agreements be presented in open session, as well.<sup>3</sup>

##### 4.3 Managing the Public Private Partnerships

4.3.1 *Staffing the Public Private Partnership Program.* Effective management of Public Private Partnerships requires special expertise at many levels. This includes evaluation of the proposed Partnership, project development and implementation, and ongoing contract management. It is essential to involve personnel that clearly understand the Commission's objectives and regulations, and private business and contracting conventions. Most Public Private Partnerships require assessment of the financial capabilities of the Private Partner, as well as impacts to public financing and budgets. At a minimum, staff from the following departments/divisions should be involved with Public Private Partnerships:

---

<sup>3</sup> The Montgomery County Planning Board will review all of its Partnership Agreements.

- a. Prince George's County Department of Parks and Recreation or Montgomery County Department of Parks, as appropriate
  - i. Park Planning
  - ii. Park Development
  - iii. Park/Property/Facility Management
- b. Finance/Office of the Secretary-Treasurer
- c. Office of General Counsel
- d. Procurement
- e. Risk Management

To create responsive, efficient and effective management of Public Private Partnerships, any of the following organizational options could be undertaken and should reflect the present organizational structure and decision-making process within each County:

- a. Create a special or select committee to deal with Public Private Partnerships;
- b. Expand the role of an existing committee to include responsibility for Public Private Partnerships; or
- c. Delegate responsibility for Public Private Partnerships to a department with support from other departments and/or divisions.

4.3.2 *Responsibilities of the Public Private Partnership Staff.* The Commission must know what to expect of a Public Private Partnership before the Partnership is established. A carefully evaluated and developed plan for the Partnership and on-going monitoring of the performance of the Partnership will substantially increase the Partnership's probability of success. Within the parameters of this Policy, and in order to make appropriate and timely recommendations to the Commission or the relevant Planning Boards, the Public Private Partnership staff will:

- a. Act as the single point of entry for the private sector to approach the Commission with Public Private Partnership initiatives;
- b. Identify existing and future Public Private Partnership opportunities, and develop Requests for Expressions of Interest (REOIs) and/or Requests for Proposals (RFPs) to provide competitive Partnership opportunities that allows the Commission to compare and select the proposals that best serve the public interests;
- c. Evaluate proposals for Public Private Partnerships, whether such proposals are solicited or unsolicited, based on the criteria established in this Policy;
- d. Monitor existing Partnerships to ensure compliance with Partnership Agreements and this Policy, and evaluate revisions, expansions or changes to such Partnerships, whether requested by the Private Partner or by the Commission;
- e. Develop implementation strategies for specific Public Private Partnerships, including recommendations for designation of a project

manager and project team who will be responsible on behalf of the Commission to work directly with the Private Partner to assure successful project implementation and success of the Partnership on an ongoing basis; and

- f. Keep the Commission and/or the Planning Board regularly informed about the Public Private Partnership program and initiatives.

#### 4.4 Evaluations and Recommendations

4.4.1 *Initial Submission.* In order for the Commission to appropriately evaluate proposals for Public Private Partnerships, whether solicited or unsolicited, the initial Partnership proposal must include, at a minimum:

- a. A clear and complete description of the purpose and outline of the expectations of the respective partners, sufficient to vet the proposal through an initial review process as set forth in Section 2.1 of this Policy;
- b. Justification why a Public Private Partnership is the appropriate mechanism for delivery of the project or activities of the proposed Partnership consistent Section 2.3 of this Policy;
- c. A description of the proposed Partner, including relevant experience and references, and the proposed form of the Partnership;
- d. A business plan, including a market analysis of the proposed activities and a financial plan for the Partnership;
- e. A facility plan, if relevant; and
- f. Any other information required by the Commission for staff to complete its evaluation of the initial submission.

4.4.2 *Review of the Proposal.* The following comprises the minimum criteria and/or conditions of a proposal that staff should consider in its evaluation of a specific Partnership proposal when making its recommendation to the Planning Board:

- a. Whether the proposal meets the guiding principles outlined in this Policy and is otherwise consistent with this Policy;
- b. Whether the activities and terms of the proposal are acceptable for coverage of the Commission's risk by the Montgomery County Self Insurance Fund;
- c. Whether a proposed project is consistent with existing Commission policy plans, or has been identified by the Commission and/or Planning Board for a potential Partnership;
- d. Whether the proposed project and the Partnership is commercially reasonable;
- e. Whether the Private Partner has the financial capability, a sound financial plan and an appropriate level of experience to deliver the project and/or conduct the activities required of it in the Partnership;
- f. Anticipated short and long-term costs to Commission in resources, including workload and CIP or operating budget impacts;

- g. Whether the proposed project has a clearly identified and dedicated funding source to support the obligations of the Private Partner;
- h. Whether the level of entitlements and rights of the Private Partner are supported by economic value consistent with such Partner's contribution to the Partnership in resources and risks;
- i. Whether the output of the service can be measured and valued in a manner that allows the Commission to easily determine compliance with the purpose of the Partnership;
- j. The level of support for the Partnership from the proposed users of the service or project proposed;
- k. Whether the Partnership provides opportunities for access for underserved communities;
- l. Park Police must be involved in review of the proposed partnership activities and the Partnership Agreements so that, if appropriate, Crime Prevention through Environmental Design Concepts (CPTED) are utilized; and
- m. Whether the Commission has the availability to effectively oversee the Partnership, including design and construction of the project, and on-going activities of the Partnership.

#### 4.5 Implementation

4.5.1. *Public Private Partnership Agreements.* Public Private Partnerships are contractual arrangements. Allocating and assigning the proper roles, risks and rewards to the respective partners provides incentives for maximum performance, flexibility necessary to achieve the desired results, and is vital to the success of the Partnership. Therefore, every Partnership requires appropriate written documentation that sets forth the terms of the Partnership and the respective rights and obligations of the Commission and the Private Partner ("Partnership Agreements"). The Partnership Agreements can be in the form of one or more written agreements such as memoranda of understanding, leases, development agreements, joint use agreements and funding agreements. The Partnership Agreements, in addition to standard contractual provisions required in agreements between the Commission and third parties, will include, at a minimum the following detail of expectations and deliverables:

- a. The purpose of the Partnership;
- b. A description of the services to be provided or the activities to be conducted by the Partnership;
- c. Designation of the roles and responsibilities/risks and rewards of each partner, which should be based on a fair deal structure;
- d. A level of quality for the project consistent with standards established by the Commission for projects of a similar nature;
- e. The Partner must assign experienced and, if applicable, licensed professionals, dedicated to the project, to support the private sector responsibilities;

- f. Project milestones to assure the timely delivery of a Partnership project;
- g. Benchmarks that can be measured and valued to demonstrate the success of the Partnership, and that the purpose of the Partnership is being met;
- h. Appropriate obligations for sound financial management of the project or service offered by the Partnership;
- i. Obligations of the private Partner to provide regular reporting consistent with this Policy in order to assure that the activities and processes of the Partnership are open, fair and transparent to the community;
- j. Risk allocation to the partner best able to manage and mitigate such risks, with appropriate supporting indemnifications;
- k. The Private Partner must provide insurance with the types and amounts of coverage required by the Commission's Risk Management Office naming the Commission as an additional insured or loss payee, as appropriate;
- l. Provision of services or development of facilities in the park system must address the public's interests with regard to access, affordability, customer service, hours of operation, variety of programming, and diversity of staff;
- m. The Park Police must maintain jurisdiction in the parks;
- n. A clearly defined method of dispute resolution;
- o. The Private Partner will have no right to assign or otherwise transfer its obligations in the Partnership without the Commission's consent; and
- p. Provisions addressing the requirements that are otherwise set forth in this Policy.

**4.5.2. Construction on Park Property.** A hearing and review by the Planning Board of the proposed plans for the project may be required, which will follow the standards of review applicable to private development in the applicable County. Prior to commencement of construction on Commission-owned property, the Private Partner must apply to the appropriate department for a Permit to Construct on Park Property ("Park Permit"). Along with the application, the Private Partner must submit construction plans, a project schedule, and a project budget for review and approval. Construction of any improvements will be completed in a good and workmanlike manner, and in accordance with all applicable laws, regulations, approval and permitting processes, including any applicable CIP process for the County in which the property is located. Facilities must be constructed in accordance with the design, safety, maintenance standards, and construction specifications established or approved by the Commission. The Commission's issuance of a Park Permit will be conditioned upon the following:

- a. All necessary Partnership Agreements have been reviewed and endorsed by the Office of General Counsel, the Secretary-Treasurer, and Risk Management;
- b. All necessary Partnership Agreements have been fully executed by all authorized parties;
- c. The Commission has approved the construction plans and project schedule;

- d. The Commission has approved the project budget, and the Secretary-Treasurer has confirmed the Private Partner's certification that all funds as set forth in the approved budget are available for use in the project;
- e. The Commission has received all required insurance certificates and completion bonds;
- f. The Private Partner has provided the Commission with copies of all required governmental permits and approvals<sup>4</sup>;
- g. Any other requirements required by the Partnership Agreements have been met, such as public hearings and approvals of the appropriate Planning Board, or CIP funding approval by the County Council;
- h. The Private Partner must provide the Commission with as-built plans and assignment of any warranties upon completion of the construction of the improvements; and
- i. The Private Partner must, in a timely manner, meet all conditions required by relevant governmental agencies to close all permits issued for the project.

4.5.3. *Administrative Management.* Partnerships will be managed administratively if they do not meet a minimum threshold dollar value to the Commission of \$100,000 or more, or the active relationship will not extend beyond a six month time period.

---

<sup>4</sup> The Private Partner will be the named applicant on such governmental permits. However, under extraordinary circumstances, including but not limited to financial hardship, the Private Partner may apply to the Commission for a waiver and request that the Commission be the named applicant. Regardless, the Partner must post any bonds that would be required for the issuance of such permits, without regard to the Commission being exempt from any such bonding requirements.