

ORDINANCE NO. C-25-

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING DIVISION 2, – PURCHASING, OF ARTICLE V. - FINANCE, OF CHAPTER 2 – ADMINISTRATION, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING SECTION 2-181 – METHOD OF PROCUREMENT TO ADD PROVISIONS GOVERNING THE PUBLIC-PRIVATE PARTNERSHIP EVALUATION PROCESS, AND PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS, CODIFICATION AND CORRECTION OF SCRIVENER’S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida (“Legislature”) found that there is a public need for the construction or upgrade of facilities that are used predominately for public purposes; and

WHEREAS, there is a public need for timely and cost-effective construction, improvement, operation, and maintenance of public infrastructure and government facilities within the state which serve a public need and purpose, and that such public need may not be wholly satisfied by existing procurement methods; and

WHEREAS, public-private partnerships can meet these needs by improving the schedule for delivery, lowering the cost, and providing other benefits to the public; and

WHEREAS, the proposed Public-Private Partnership Ordinance (“Ordinance”) will codify provisions by which the City may contract with private entities for the improvement and development of public infrastructure, as defined in the Florida Statutes, § 255.065; and

WHEREAS, the City Commission finds that it is necessary to modify the Code of Ordinances of the City of Fort Lauderdale, Florida, to create and codify a process for public-private partnerships; and

WHEREAS, the City Commission finds that the procurement process enacted by adopting this Ordinance is in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Section 2-181, Division 2. – Procurement, of Article V. – Finance, of Chapter 2 - Administration of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended to provide as follows:

Sec. 2-181. - Methods of procurement.

The chief procurement officer shall determine the appropriate method of source selection for each procurement, including but not limited to the following:

(a) *Competitive sealed bid process.*

- (1) Invitation to bid. The invitation to bid (ITB) solicitation document shall include the specifications and all contractual terms and conditions applicable to the procurement.
- (2) ITBs may include pricing for the life cycle cost of items and shall be awarded to the lowest responsive and responsible bidder, considering all pertinent qualifications of the recommended awardee.

(b) *Competitive sealed proposal process.*

- (1) Request for proposals: When it is determined by the chief procurement officer that the use of competitive sealed bidding is either not practical, not advantageous to the city due to the technical or specialized nature of the goods and/or services sought, or best value procurement will result in selection of the best qualified vendor/contractor at a reasonable price, the city may use the competitive sealed proposal process. A request for proposals may be used as the solicitation document.

(c) *Request for qualifications (RFQ) process.*

- (1) Consultants' Competitive Negotiation Act.

- a. The services of professional architects, engineers, landscape architect, surveyors, and mapping services shall be acquired in accordance with F.S. § 287.055, and as further delineated in the Procurement Manual.

b. Continuing contracts for these services may be solicited and entered into on a rotational basis between at least three (3) firms, in accordance with F.S. § 287.055(2)(g), as may be amended, and as further delineated in the Procurement Manual.

- (2) Competition among qualified proposers. When it is in the city's best interest to choose a qualified provider of professional services other than those encompassed by the Consultants' Competitive Negotiation Act, the city may issue a request for qualifications and thereby attain a pool of qualified providers. Fees are established via a competitive sealed bid process among the qualified providers.

(d) *Competitive negotiations process.*

- (1) When the chief procurement officer determines that the use of competitive negotiations is advantageous to the city, the competitive negotiations process may be used. An invitation to negotiate (ITN) may be the solicitation method.
- (2) The goal of an ITN is to obtain proposals from interested and qualified firms so that the city may enter into negotiations with the firm or firms determined most capable of providing the required supplies and services.
- (3) The ITN document will supply the firms with information necessary to understand the need; however, the terms, scope of work, price, method of delivery, conditions of performance, and approaches of the project may be open to consideration and negotiations, including simultaneous negotiations with the most qualified firms.
- (4) ITNs may not be used for procuring professional services addressed by F.S. Ch. 287.055 (CCNA).

(e) *Request for information process.*

- (1) When it is considered impractical to prepare a purchase description to support an award based on price or detailed scope of work, any competitive solicitation may be preceded by a request for information (RFI) requesting the submission of unpriced submittals, which will provide input for the

specifications or scope of work to be included in a subsequent competitive solicitation.

Public notice of a competitive solicitation shall be published on the city's website for a reasonable period prior to bid opening or response due date.

The public notice shall state the place, due date, time for delivery or receipt, and the location of the public acknowledgement of receipt. Bids and responses received after the time and date specified in the solicitation document shall not be opened but will be reported to the city manager. Only the city manager may authorize the opening of a late bid or proposal.

(f) *Alternative source selection.*

- (1) Small purchases. Any purchase for an amount less than the mandatory commission approval amount shall be made in accordance with those procedures promulgated in the Procurement Manual, provided, however, no purchase shall be artificially divided so as to constitute a small purchase under this section.
- (2) Sole source purchases. The chief procurement officer may make or authorize the procurement of goods and/or services, subject to the mandatory commission approval level stipulated in this article, without competitive solicitation when the director of the client department has documented in writing that such good or service is the only item that meets the need and is available through only one (1) source of supply, or when the intent to award through sole source is posted on the city's website for a reasonable time period, or when a documented research effort by the chief procurement officer or designee fails to identify further competing sources of the goods or services. Such written determinations and supporting documentation shall be retained by the chief procurement officer for public inspection and auditing purposes. The sole source process shall be further delineated in the Procurement Manual.
- (3) Proprietary purchases. The chief procurement officer may make or authorize the procurement of goods and/or services, subject to the mandatory commission approval level stipulated in this article, without competitive solicitation when the director of the client department has documented in writing that such goods and/or services is proprietary in nature. Such written

determination and supporting documentation shall be retained by the chief procurement officer for public inspection and auditing purposes. The proprietary purchase process shall be further delineated in the Procurement Manual.

(4) Emergency purchases. The city manager and/or designee may make or authorize emergency purchases as defined herein.

a. In the event of an emergency, such as an equipment failure, catastrophic damage to city property, or other similar unexpected event, all normal procurement procedures and requirements directly related to such emergency shall be suspended; and with the approval of the city manager or designee, the head of any department may purchase any required emergency supplies, materials, equipment or services. The head of such department shall send to the chief procurement officer a requisition and copy of the delivery record together with a full justification and circumstances of the emergency.

b. Records of emergency purchases shall be maintained by the chief procurement officer. A full report of emergency purchases exceeding the mandatory commission approval amount shall be submitted to the city commission at the earliest available commission meeting.

The emergency purchase process shall be further delineated in the Procurement Manual.

(5) Cooperative purchases.

a. The city may purchase from any cooperative contract, including but not limited to, term contracts by the State of Florida, Federal General Services Administration, and other governmental or public entity and entities within and outside the State of Florida provided that the cooperative contract is established in compliance with the procurement procedures and requirements of the issuing body, entity, authority, or cooperative. If such other governmental or cooperative contract is utilized, the public notice requirements and the need to utilize the methods of selection processes included in this article and the Procurement Manual are obviated.

- 193 b. The city may purchase from (piggyback) a contract entered into by
194 another governmental or public entity and a provider of supplies or
195 services required by the city, if the chief procurement officer determines
196 that it is practicable and advantageous for the city to employ this method
197 of procurement. If such other governmental or public entity contract is
198 utilized, the public notice requirements and the need to use the methods
199 of selection processes included in this article and the Procurement
200 Manual are obviated.
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- 202 c. Other governmental agencies may purchase from the city's contracts.
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- 204 d. The cooperative and piggyback procurement processes shall be further
205 delineated in the Procurement Manual.
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- 207 (6) Design-build services.
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- 209 a. In accordance with Florida Statutes, the city may use a competitive
210 solicitation process to establish a design-build contract.
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- 212 b. The design-build process shall be further delineated in the Procurement
213 Manual which implements this section.
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- 215 c. Prohibition against contingent fees. Each contract for design-build
216 services shall contain a prohibition against contingent fees as required
217 by Florida Statute.
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- 219 (7) Capital improvement and construction services. Construction services shall be
220 acquired in accordance with the competitive selection process as determined
221 by the chief procurement officer. Performance bonds and payment bonds shall
222 be as stipulated in F.S. § 255.05, as may be amended. Public notice for
223 competitive solicitations related to construction and capital improvement
224 projects shall be in accordance with F.S. § 255.0525(2), as may be amended.
225 The capital improvement and construction procurement process shall be
226 further delineated in the Procurement Manual.
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- 228 (8) Construction management and construction management at risk services. The
229 procurement of construction management services shall be made in

accordance with the request for proposal or request for qualifications process herein and as further delineated in the Procurement Manual.

- (9) Negotiated procurements. Negotiation of contracts and pricing by any method of selection process identified herein shall be by means promulgated in the Procurement Manual. Said procedures may include provisions for the right of the city to audit, cost principals to be used to determine the allowability of reimbursing expenses, and the designation of members of evaluation and negotiation teams.

- (10) Job order contracting (JOC). The city may procure services by means of job order contracting. The job order contracting procurement process shall be further delineated in the Procurement Manual.

(g) Public-private partnerships.

(1) Public-private partnership.

a. Definitions. For purposes of this section, the words defined in F.S. § 255.065(1), as amended, including, without limitation, "qualifying project," shall have the same meaning in this section.

b. In accordance with Florida Statutes, the city may receive unsolicited proposals or may solicit proposals for a qualifying project and may thereafter enter into a comprehensive agreement with a private entity, or a consortium of private entities, for the building, upgrading, operating, ownership, or financing of facilities or infrastructure. The city hereby adopts F.S. § 255.065, as amended, and expressly incorporates it by reference into the City of Fort Lauderdale Procurement Ordinance

(2) Solicited proposals.

a. Solicitation Method.

1. The City may use the competitive sealed proposal, competitive negotiation methods, or other procurement processes for soliciting public-private partnerships as determined by the CPO pursuant to

268 this Procurement Ordinance and further delineated in the
269 Procurement Manual.

- 270
271 2. Financing. Public-private partnerships traditionally involve long-term
272 financing agreements between the parties. Solicited proposals for a
273 qualifying project that contemplates long-term financing wherein the
274 city would incur a debt obligation must be reviewed and approved in
275 advance of advertisement as to form by the City's Finance
276 Department.

- 277
278 (3) Unsolicited proposals. The city may receive unsolicited proposals for a
279 qualifying project and may thereafter enter into an agreement with a private
280 entity, or a consortium of private entities, for said qualifying project, subject to
281 the procedures and conditions set forth herein.

282
283 a. Phase I – Unsolicited Proposal Submission

- 284
285 1. Application fee. Any private entity or consortium of private entities
286 desiring to submit an unsolicited proposal for a qualifying project shall
287 submit a minimum application fee in the amount of set by Resolution
288 adopted by the City Commission. The city manager may request
289 additional fees based on the nature of the proposal and the complexity of
290 the review required consistent with Florida Statutes.

- 291
292 a. Proposals submitted without the application fee shall not be
293 accepted.

- 294
295 b. Project costs. The application fee is intended to cover the costs of
296 the evaluation, including staff time, and the fees of attorneys,
297 engineers, consultants, financial advisors, and other outside
298 consultants retained to evaluate the proposal, provide
299 recommendations to the city, negotiate a contract, or both.

- 300
301 c. Increase fee. If, at any time during the process, the application fee is
302 not sufficient to pay the city's costs as described in subsection b.
303 above, the application fee shall be increased to cover the city's actual
304 costs. The proposer will be notified in writing by the city. The
305 proposer shall pay the requested additional fee within thirty (30)

calendar days. Failure to pay any additional fee shall result in rejection of the proposal or the suspension or termination of contract negotiations. If the additional fees paid are not sufficient to cover the costs of staff time, and attorneys, engineers, consultants, and financial advisors to complete the evaluation of the proposal, recommendation and contract negotiations, the city may, in the same manner described earlier in this section, require further additional fees from the proposer to ensure that all the city's costs are paid for or reimbursed by the proposer.

d. Waiver of application fee.

1. The city manager may waive the application fee for any governmental entity or private entity for any proposal for a qualifying project with an estimated construction value less than \$100,000.00.

e. Refund of application fee.

1. City Commission Decision Not to Evaluate - If the initial proposal is not chosen by the city commission to be evaluated, the application fee shall be returned to the applicant in whole.

2. Post-City Commission Decision to Evaluate. City shall refund any portion of the application fee, or subsequent additional fees collected which are in excess of the costs of evaluating the proposal, after the evaluation or negotiation of the comprehensive agreement is complete, whichever is later.

2. Required Proposal Contents. All unsolicited proposals shall be in writing, submitted electronically, and include an application package with a clear table of contents that indexes the accompanying material and information required to be in the proposal, unless waived by the city manager. All unsolicited proposals shall contain, at a minimum, the following items, as appropriate for the proposed qualifying project:

- (1) A description of the qualifying project, including the conceptual design of the facilities or a conceptual plan for the provision of services.

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- 345 (2) A site plan indicating the location of the project proposed;
- 346
- 347 (3) A schedule for the initiation and completion of the qualifying
- 348 project.
- 349
- 350 (4) A description of the method by which the private entity
- 351 proposes to secure the necessary property interests that are
- 352 required for the qualifying project.
- 353
- 354 (5) A description of the private entity's general plans for financing
- 355 the qualifying project, including the sources of the private
- 356 entity's funds and a description of any dedicated revenue
- 357 source or proposed debt or equity investment on behalf of the
- 358 private entity. The financing plans shall address any and all
- 359 means by which the costs of the project will be borne by
- 360 persons or entities other than the city, and any anticipated
- 361 financial participation to be requested from the city.
- 362
- 363 (6) The name, address, and contact information of persons who
- 364 may be contacted for additional information concerning the
- 365 proposal.
- 366
- 367 (7) The proposed user fees, lease payments, or other service
- 368 payments over the term of a comprehensive agreement, and
- 369 the methodology for and circumstances that would allow
- 370 changes to the user fees, lease payments, and other service
- 371 payments over time.
- 372
- 373 (8) An executive summary of the project.
- 374
- 375 (9) Description of the need for the project or facility and the public
- 376 benefit to be served;
- 377
- 378 (10) The names of owners, directors and officers of the proposer,
- 379 and such information as may be necessary to evaluate the
- 380 qualifications of the critical personnel to be engaged in the
- 381 project;

- 382
- 383 (11) An accompanying title search from a reputable title company of
- 384 any property(ies) proposed to be used in the proposal;
- 385
- 386 (12) The proposed schedule for development of the project and/or
- 387 the proposed term for operating of the project, along with an
- 388 estimate of the life cycle cost of the proposed project;
- 389
- 390 (13) A financial plan and proforma for the entire time period of the
- 391 proposed private entity's involvement in the project, including
- 392 major assumptions, internal rate of return of government funds
- 393 are assumed, and a total cash-flow analysis beginning with the
- 394 implementation of the project and extending for the term of the
- 395 proposed agreement;
- 396
- 397
- 398 (14) A list of all public utilities, railroad lines, navigable waters and
- 399 flight paths, if any, that will be crossed or affected by the
- 400 proposed project and a statement of the plan to accommodate
- 401 such crossings or affects;
- 402
- 403 (15) Performance guarantees, if any, and any proposed bonding to
- 404 be provided by the proposer including ability to provide
- 405 statutorily required public construction bonds or performance
- 406 and payment bonds for construction of public facilities;
- 407
- 408 (16) A listing of all proposed obligations and requirements of the city
- 409 and any other governmental or regulatory agencies, including,
- 410 but not limited to, contributions to the project financing,
- 411 development approvals, waivers, and permitting;
- 412
- 413 (17) Identification of whether the proposal involves turning over any
- 414 operation, maintenance or other responsibilities to the city,
- 415 along with an estimate of immediate and long-term costs;
- 416
- 417 (18) Statement regarding ability to add capacity and future
- 418 expansions to project if it becomes necessary;
- 419

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions.

- 420 (19) Proposed safeguards to protect the city from additional costs or
421 service disruption in the event of default or termination of
422 contract;
- 424 (20) Information on how the project would benefit local contractors,
425 firms and vendors within the city;
- 427 (21) A list of all third-party planning consultants, land use attorneys,
428 law firms, architectural and engineering firms, construction
429 firms, and other applicant contractors to be proposed on the
430 project team and their qualifications and a description of their
431 role in the proposal and project. Include history of the proposed
432 project team on related or similar projects;
- 434 (22) Signature by a responsible official or other representative
435 authorized to obligate the proposer contractually;
- 437 (23) Such additional material and information requested by city in
438 order to review, evaluate, or clarify such proposal.

440 b. Phase II – Evaluation Determination

442 1. Initial Administrative Review. Upon receipt of a complete unsolicited
443 proposal application package the city manager shall promptly notify the city
444 commission of receipt of an unsolicited proposal and place the proposal as a
445 discussion item on the next available city commission conference meeting
446 agenda, subject to the following:

- 448 (1) Supplemental Notice - No notice other than the notice required by
449 Florida Statutes shall be required; however, the City recognizes the
450 importance of community involvement in many proceedings for which
451 notice is not required by Florida Statutes. In an attempt to facilitate such
452 involvement, and to provide courtesy notification of such proceedings
453 to property owners and residents in affected neighborhoods and to
454 other interested parties, it is the intent of the City to provide the following
455 supplemental notice. The city manager shall provide electronic mail
456 notice to any civic association within 300 feet of the proposed site of the
457 qualifying project that is also registered with the city and official

458 recognized at the time the unsolicited proposal is received by the city.
459 Notice pursuant to this subsection is supplemental to the notices
460 required by Florida Statutes, Section 255.065, and failure of city to
461 deliver Supplemental Notice shall not be grounds to invalidate any
462 decision of the city or a basis for appeal.

463
464 (2) *City Commission Decision* – At the conclusion of the presentation of the
465 unsolicited proposal at a City Commission conference meeting for an
466 evaluation determination the City Commission shall, by consensus,
467 make one of the following determinations:

468
469 a. *Advance project to evaluation subject to solicitation* - The City
470 Commission may elect to proceed with the evaluation of an
471 unsolicited proposal for a qualifying project subject to a public
472 solicitation process by instructing the city manager to have staff
473 evaluate the unsolicited proposal to determine whether the city
474 should consider entering a comprehensive agreement for the
475 type of qualified project proposed by the unsolicited proposal.

476
477 b. *Reject Evaluation.* – The City Commission may elect not to
478 evaluate the unsolicited proposal. The city manager shall refund
479 the application fee in accordance with the Code. The decision
480 not to evaluate shall create no rights in the proposer and such
481 decision is not subject to protest or appeal.

482
483 c. *Phase III – Unsolicited Proposal Evaluation*

484
485 1. *Initial Proposal Evaluation.* Upon city commission consensus to evaluate,
486 either with solicitation or without solicitation, the city manager shall:

487
488 a. Identify and designate the appropriate member(s) of city staff
489 to evaluate the proposal. The evaluation team shall be appointed by
490 the city manager, in consultation with the CPO, for the purpose of
491 evaluating and ranking the proposals and shall follow section
492 255.065, Florida Statutes, as may be amended, and any applicable
493 city policies and procedures, in evaluating the proposal(s).
494

495 (b) If pledged from the application fee, the city manager shall be
496 enabled to administratively enter into agreements to hire third-party
497 consultants, subject to the city attorney's approval, consistent with
498 the City Charter, to assist with the evaluation, and comprehensive
499 agreement negotiation, including, but not limited to:

- 500
- 501 1. Construction, Architectural and Engineer consultants
- 502
- 503 2. Financial consultants and other subject matter experts
- 504
- 505 3. Outside Counsel, with City Attorney approval.
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507 (c) If pledged from the application fee, the City Manager shall be
508 enabled to administratively enter into agreements to order third-party
509 studies, subject to the city attorney's approval, consistent with the
510 City Charter, to assist with the evaluation, solicitation, or negotiation
511 of the comprehensive agreement, including, but not limited to:

- 512
- 513 1. Title Search
- 514
- 515 2. Boundary and ALTA Surveys
- 516
- 517 3. Phase I and Phase II Environmental Studies
- 518
- 519 4. Market Analysis Studies
- 520
- 521 5. Property Appraisal(s)
- 522

- 523 2. If an unsolicited proposal, or competing proposal received if solicited, is not
524 deemed to be complete or in sufficient detail, it may be rejected at the sole
525 discretion of the city manager, or his or her designee. If the city manager,
526 or his or her designee, determines that it is in the best interests of the city
527 to do so, the city manager, or his or her designee, may reject, in whole or
528 in part, any or all proposals. The city shall have no responsibility to itemize
529 or advise the proposer of the incomplete items or terms of the proposal. The
530 City shall refund any portion of the application fee paid which, in the
531 determination of the CPO, exceeds the direct costs associated with
532 evaluating the proposal up to the time of rejection. The rejection of a

proposal shall create no rights in the proposer and such decision is not subject to protest or appeal. The city, in its discretion, reserves the right to reject all proposals or suspend negotiations at any point in the process prior to the full execution of a contract with a proposer.

3. After reviewing the evaluation committee's recommendation, the city manager shall place an item on the city commission regular meeting agenda containing the unsolicited proposal, the evaluation committee's recommendation and the city manager's recommendation. The city manager's recommendation shall be one of the following:

a. Approve the recommendation of the evaluation committee, written notice of which shall be provided to all proposers, and the city manager shall then submit his or her recommendation to the city commission; or

b. Recommend that the city commission reject all proposals.

4. At the conclusion of the presentation of the city manager's recommendation on the initial unsolicited proposal at a City Commission regular meeting the City Commission shall make one of the following determinations:

a. *Set Public Meeting* – The City Commission may elect to proceed with an unsolicited proposal for a qualifying project without engaging in a public solicitation or bidding process by approving a motion setting public meetings in accordance with the procedure outlined in Section 255.065(3)(c), Florida Statutes.

b. *Adopt resolution* - The City Commission may elect to proceed with an unsolicited proposal for a qualifying project subject to a public solicitation process by adopting a resolution expressing the intent of the city to enter a comprehensive agreement for the type of qualified project proposed by the unsolicited proposal.

c. *Reject Proposal.* – The City Commission may by motion reject the initial unsolicited proposal. The decision not to enter into a comprehensive agreement shall create no rights in the proposer and such decision is not subject to protest or appeal.

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5. If the City Commission elects to proceed with an unsolicited proposal for a qualifying project subject to a public solicitation process by adopting a resolution expressing the intent of the city to enter a comprehensive agreement, the City Manager shall reconstitute the evaluation committee and the City shall provide notice stating that the City has received a proposal and will accept other proposals for the same project following all notice and other requirements as outlined in Section 255.065, Florida Statutes, which include the following:
- a. The CPO shall ensure notice is published in the Florida Administrative Register, on the city's procurement website and/or via the online procurement/bidding platform.
- b. The CPO shall ensure notice is published in a newspaper of general circulation in Broward County, Florida, at least once a week for a minimum of two weeks stating that the city has received an unsolicited proposal and that the city will accept other proposals for the same qualifying project.
- c. The City shall set forth in each such request for proposals the criteria to be evaluated and how such private entity shall be selected from the proposals submitted. The entity submitting the original unsolicited proposal may submit a more detailed proposal in response to the City's notice. The timeframe for allowing other proposals shall be no fewer than 21 calendar days but no more than 120 calendar days after the initial date of publication. A copy of the notice must be mailed to each local government in the affected area of the qualifying project which shall mean Broward County and any special district in which all or a portion of the qualifying project is located.
- d. Receipt of proposals. Sealed proposals shall be submitted through the City's online procurement/bidding platform no later than the time and date specified and remit the initial application evaluation fee. The name of each proposer shall be recorded by the online procurement/bidding platform, and the record and each proposal, to

608 the extent consistent with applicable state law, shall be open to
609 public inspection.

610
611 6. *Second Round Proposal Evaluation.* Upon city commission adoption of a
612 resolution expressing the intent of the city to enter into a comprehensive
613 agreement, the city manager shall:

614 a. Reconstitute the evaluation team for the purpose of evaluating and
615 ranking the proposals and shall follow section 255.065, Florida
616 Statutes, as may be amended, and any applicable city policies and
617 procedures, in evaluating proposals.

618 b. If pledged from the application fee, the city manager shall be enabled
619 to administratively enter into agreements to hire third-party
620 consultants, subject to the city attorney's approval, consistent with
621 the City Charter, to assist with the evaluation, and comprehensive
622 agreement negotiation, including, but not limited to:

623 1. Construction, Architectural and Engineer consultants

624 2. Financial consultants and other subject matter experts

625 3. Outside Counsel, with City Attorney approval.

626 c. If pledged from the application fee, the City Manager shall be
627 enabled to administratively enter into agreements to order third-party
628 studies, subject to the city attorney's approval, consistent with the
629 City Charter, to assist with the evaluation, solicitation, or negotiation
630 of the comprehensive agreement, including, but not limited to:

631 1. Title Search

632 2. Boundary and ALTA Surveys

633 3. Phase I and Phase II Environmental Studies

634 4. Market Analysis Studies
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5. Property Appraisal(s)

7. If an unsolicited proposal, or competing proposal received if solicited, is not deemed to be complete or in sufficient detail, it may be rejected at the sole discretion of the city manager, or his or her designee. If the city manager, or his or her designee, determines that it is in the best interests of the city to do so, the city manager, or his or her designee, may reject, in whole or in part, any or all proposals. The city shall have no responsibility to itemize or advise the proposer of the incomplete items or terms of the proposal. The City shall refund any portion of the application fee paid which, in the determination of the CPO, exceeds the direct costs associated with evaluating the proposal up to the time of rejection. The rejection of a proposal shall create no rights in the proposer and such decision is not subject to protest or appeal. The city, in its discretion, reserves the right to reject all proposals or suspend negotiations at any point in the process prior to the full execution of a contract with a proposer.
8. After reviewing the evaluation committee's recommendation, the city manager shall place an item on the city commission regular meeting agenda containing the unsolicited proposal, the evaluation committee's recommendation and the city manager's recommendation. The city manager's recommendation shall be one of the following:
- a. Approve the recommendation of the evaluation committee, written notice of which shall be provided to all proposers, and the city manager shall then submit his or her recommendation to the city commission; or
 - b. Recommend that the city commission commence negotiation with a proposer not recommended by the evaluation committee; or
 - c. Recommend that the city commission reject all proposals.
9. Award Process for Solicited Proposals:
- a. Award. The award shall be made to the highest-ranked responsive and responsible proposer whose proposal is most advantageous to

683 the city in accordance with the criteria the evaluation committee used
684 in evaluating and ranking the proposals.

685
686 b. *Supplemental Notice* - No notice other than the notice required by
687 Florida Statutes shall be required; however, the city recognizes the
688 importance of community involvement in many proceedings for
689 which notice is not required by Florida Statutes. In an attempt to
690 facilitate such involvement, and to provide courtesy notification of
691 such proceedings to property owners and residents in affected
692 neighborhoods and to other interested parties, it is the intent of the
693 city to provide the following supplemental notice. The city manager,
694 in their sole discretion, may provide notice to any homeowners or
695 neighborhood associations currently registered with the city within
696 300 feet of the proposed site of the qualifying project. Notice
697 pursuant to this subsection is supplemental to the notices required
698 by Section 255.065, Florida Statutes, and failure of city to deliver
699 Supplemental Notice shall not be grounds to invalidate any decision
700 of the city or a basis for appeal.

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702 c. *City Commission Action*. After reviewing the city manager's
703 recommendation, the city commission may:

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705 1. Approve the city manager's recommendation and authorize
706 agreement negotiations; or

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708 2. Reject the city manager's recommendations and authorize
709 negotiations with a different proposer; or

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711 3. Reject the proposal(s).

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713 10. The decision of the city commission shall be final. Written notice of the
714 award and invitation to negotiate a comprehensive agreement shall be given to the
715 successful proposer.

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717 (h) Phase IV - Comprehensive Agreements for Solicited and Unsolicited Award
718 Winners

1. The city commission must approve any comprehensive agreement entered into pursuant to this Article between the city and a successful proposer before the Agreement becomes enforceable. The city shall accept no liability for development or operation of a proposed project before entering into a comprehensive agreement. Each comprehensive agreement shall define the rights and obligations of the City and the contracting party regarding the proposed project. The terms of the comprehensive agreement shall be tailored to address the specific proposed project and may include, but not be limited to:
- a. Prior to execution of a comprehensive agreement, a value-for-money analysis shall be conducted, verifying that the project represents a superior public value compared to traditional delivery methods;
 - b. The delivery of security, including performance and payment bonds, letters of credit and other security in connection with, but not limited to, any acquisition, design, construction, improvement, renovation, expansion, maintenance, or operation of the proposed project;
 - c. The stages of the City's review and approval of the conceptual design of the proposed project;
 - d. The rights of the City to inspect the construction, operation, and maintenance of the proposed project to ensure compliance with specified performance standards and the ability for the City to reduce the contracting party's compensation or the City's right to collect liquidated damages should the contracting party fail to meet specified performance standards or deadlines;
 - e. The maintenance of insurance policies is reasonably sufficient to ensure coverage of all aspects of the proposed project, including design, construction, and operations;
 - f. The services to be provided by the city and the terms of compensation due the city for same;

- 757 g. The policy and procedures that will govern the rights and
758 responsibilities of the parties if the comprehensive agreement is
759 terminated or there is a material default by the contracting party,
760 including the conditions governing assumption of the duties and
761 responsibilities of the contracting party by the city and the transfer or
762 purchase of property or other interests of the contracting party by the
763 city;
- 764 h. The terms under which the contracting party will file, with the city,
765 financial statements pertaining to the proposed project;
- 766 i. A schedule of fees or lease payments and circumstances for, and
767 method of calculating, anticipated adjustments to same over the
768 project life cycle;
- 769 j. The mechanism by which fees, lease payments, or other payments,
770 if any, may be established from time to time upon agreement of the
771 parties.
- 772 k. A summary of reasonable categories for assessment of fees;
- 773 l. The terms and conditions under which the city will contribute
774 financial resources, including cost overruns and unforeseen
775 circumstances, if required, for the proposed project;
- 776 m. The terms and conditions under which existing or future site
777 conditions will be assessed and deficiencies therein addressed,
778 including identification of the responsible party(ies) for conducting
779 the assessment and taking necessary remedial action;
- 780 n. The terms and conditions under which capacity for the Proposed
781 Project may be increased or enlarged;
- 782 o. A periodic reporting procedure incorporating a description of the
783 impact of the proposed project, financially and socially, on the City;
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- p. A list of attorneys, architects, engineers, planners, and other third-party consultants to be used on the proposed project, with the ability for the city to approve future third-party consultants;
- q. All mandatory contract provisions required by the Florida Statutes, as amended;
- r. Other requirements of the P3 Program, applicable law or that the city deems appropriate;
- s. The contracting party will be expected to assume single point responsibility and liability for all planning, designing, financing, constructing, operating, and maintaining the Proposed Project;
- t. The risk of inadequate geotechnical investigation or improper interpretation of the results of the geotechnical investigation, as well as all other unforeseen site conditions, will be allocated to the contracting party in the comprehensive agreement;
- u. The city encourages the contracting party to propose a formula for the mutual sharing of cost savings realized during construction by virtue of value engineering initiatives and efficiencies. Mutually agreed upon terms for the sharing of such savings may be incorporated in the comprehensive agreement;
- v. The city may require that the contracting party, and/or their principal members, provide performance guaranties for any or all obligations undertaken in the comprehensive agreement. This requirement would be in addition to the statutory requirement for a performance and payment bonds and any other performance security required by the comprehensive agreement; and.
- w. Milestones and potential termination option clauses, liquidated damages, or other remedies for failure to meet said milestones, obligations or performance standards.

SECTION 2. CODIFICATION AND SCRIVENER'S ERRORS. The City intends that this Ordinance will be made part of the Code of Ordinances; that sections of this Ordinance can be re-numbered or re-lettered to accomplish codification and, regardless of whether this Ordinance is ever codified, the Ordinance can be re-numbered or re-lettered, and typographical errors that do not affect the intent can be corrected with the authorization of the City Manager, or his or her designee, without the need for a public hearing.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith are hereby repealed, ~~only~~ to the extent of such conflict.

SECTION 4. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 5. That this Ordinance shall be effective immediately upon its passage and adoption.

PASSED FIRST READING this _____ day of _____, 2025.

PASSED SECOND READING this _____ day of _____, 2025.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
DAVID R. SOLOMAN