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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.

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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:

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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.

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- 80 b. Continuing contracts for these services may be solicited and entered into  
 81 on a rotational basis between at least three (3) firms, in accordance with  
 82 F.S. § 287.055(2)(g), as may be amended, and as further delineated in the  
 83 Procurement Manual.  
 84
- 85 (2) Competition among qualified proposers. When it is in the city's best interest  
 86 to choose a qualified provider of professional services other than those  
 87 encompassed by the Consultants' Competitive Negotiation Act, the city may  
 88 issue a request for qualifications and thereby attain a pool of qualified  
 89 providers. Fees are established via a competitive sealed bid process among  
 90 the qualified providers.  
 91
- 92 (d) *Competitive negotiations process.*  
 93
- 94 (1) When the chief procurement officer determines that the use of competitive  
 95 negotiations is advantageous to the city, the competitive negotiations process  
 96 may be used. An invitation to negotiate (ITN) may be the solicitation method.  
 97
- 98 (2) The goal of an ITN is to obtain proposals from interested and qualified firms  
 99 so that the city may enter into negotiations with the firm or firms determined  
 100 most capable of providing the required supplies and services.  
 101
- 102 (3) The ITN document will supply the firms with information necessary to  
 103 understand the need; however, the terms, scope of work, price, method of  
 104 delivery, conditions of performance, and approaches of the project may be  
 105 open to consideration and negotiations, including simultaneous negotiations  
 106 with the most qualified firms.  
 107
- 108 (4) ITNs may not be used for procuring professional services addressed by F.S.  
 109 Ch. 287.055 (CCNA).  
 110
- 111 (e) *Request for information process.*  
 112
- 113 (1) When it is considered impractical to prepare a purchase description to  
 114 support an award based on price or detailed scope of work, any competitive  
 115 solicitation may be preceded by a request for information (RFI) requesting  
 116 the submission of unpriced submittals, which will provide input for the

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

119  
120 Public notice of a competitive solicitation shall be published on the city's website for a  
121 reasonable period prior to bid opening or response due date.

122  
123 The public notice shall state the place, due date, time for delivery or receipt, and the  
124 location of the public acknowledgement of receipt. Bids and responses received after the time  
125 and date specified in the solicitation document shall not be opened but will be reported to the city  
126 manager. Only the city manager may authorize the opening of a late bid or proposal.

127  
128 (f) *Alternative source selection.*

- 129  
130 (1) Small purchases. Any purchase for an amount less than the mandatory  
131 commission approval amount shall be made in accordance with those  
132 procedures promulgated in the Procurement Manual, provided, however, no  
133 purchase shall be artificially divided so as to constitute a small purchase under  
134 this section.  
135
- 136 (2) Sole source purchases. The chief procurement officer may make or authorize  
137 the procurement of goods and/or services, subject to the mandatory  
138 commission approval level stipulated in this article, without competitive  
139 solicitation when the director of the client department has documented in  
140 writing that such good or service is the only item that meets the need and is  
141 available through only one (1) source of supply, or when the intent to award  
142 through sole source is posted on the city's website for a reasonable time period,  
143 or when a documented research effort by the chief procurement officer or  
144 designee fails to identify further competing sources of the goods or services.  
145 Such written determinations and supporting documentation shall be retained  
146 by the chief procurement officer for public inspection and auditing purposes.  
147 The sole source process shall be further delineated in the Procurement  
148 Manual.  
149
- 150 (3) Proprietary purchases. The chief procurement officer may make or authorize  
151 the procurement of goods and/or services, subject to the mandatory  
152 commission approval level stipulated in this article, without competitive  
153 solicitation when the director of the client department has documented in  
154 writing that such goods and/or services is proprietary in nature. Such written

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

159  
160 (4) Emergency purchases. The city manager and/or designee may make or  
161 authorize emergency purchases as defined herein.

162  
163 a. In the event of an emergency, such as an equipment failure, catastrophic  
164 damage to city property, or other similar unexpected event, all normal  
165 procurement procedures and requirements directly related to such  
166 emergency shall be suspended; and with the approval of the city  
167 manager or designee, the head of any department may purchase any  
168 required emergency supplies, materials, equipment or services. The  
169 head of such department shall send to the chief procurement officer a  
170 requisition and copy of the delivery record together with a full justification  
171 and circumstances of the emergency.

172  
173 b. Records of emergency purchases shall be maintained by the chief  
174 procurement officer. A full report of emergency purchases exceeding the  
175 mandatory commission approval amount shall be submitted to the city  
176 commission at the earliest available commission meeting.

177  
178 The emergency purchase process shall be further delineated in the Procurement Manual.

179  
180 (5) Cooperative purchases.

181  
182 a. The city may purchase from any cooperative contract, including but not  
183 limited to, term contracts by the State of Florida, Federal General  
184 Services Administration, and other governmental or public entity and  
185 entities within and outside the State of Florida provided that the  
186 cooperative contract is established in compliance with the procurement  
187 procedures and requirements of the issuing body, entity, authority, or  
188 cooperative. If such other governmental or cooperative contract is  
189 utilized, the public notice requirements and the need to utilize the  
190 methods of selection processes included in this article and the  
191 Procurement Manual are obviated.  
192

- 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.
- 201
- 202                   c.    Other governmental agencies may purchase from the city's contracts.
- 203
- 204                   d.    The cooperative and piggyback procurement processes shall be further  
205                   delineated in the Procurement Manual.

206

207                   (6) Design-build services.

- 208
- 209                   a.    In accordance with Florida Statutes, the city may use a competitive  
210                   solicitation process to establish a design-build contract.
- 211
- 212                   b.    The design-build process shall be further delineated in the Procurement  
213                   Manual which implements this section.
- 214
- 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.

218

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.

227

228                   (8) Construction management and construction management at risk services. The  
229                   procurement of construction management services shall be made in

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

232  
233 (9) Negotiated procurements. Negotiation of contracts and pricing by any method  
234 of selection process identified herein shall be by means promulgated in the  
235 Procurement Manual. Said procedures may include provisions for the right of  
236 the city to audit, cost principals to be used to determine the allowability of  
237 reimbursing expenses, and the designation of members of evaluation and  
238 negotiation teams.

239  
240 (10) Job order contracting (JOC). The city may procure services by means of job  
241 order contracting. The job order contracting procurement process shall be  
242 further delineated in the Procurement Manual.

243  
244 (g) Public-private partnerships.

245  
246 (1) Public-private partnership.

247  
248 a. Definitions. For purposes of this section, the words defined in F.S.  
249 § 255.065(1), as amended, including, without limitation, "qualifying  
250 project," shall have the same meaning in this section.

251  
252 b. In accordance with Florida Statutes, the city may receive unsolicited  
253 proposals or may solicit proposals for a qualifying project and may  
254 thereafter enter into a comprehensive agreement with a private entity,  
255 or a consortium of private entities, for the building, upgrading,  
256 operating, ownership, or financing of facilities or infrastructure. The city  
257 hereby adopts F.S. § 255.065, as amended, and expressly  
258 incorporates it by reference into the City of Fort Lauderdale  
259 Procurement Ordinance

260  
261 (2) Solicited proposals.

262  
263 a. Solicitation Method.

264  
265 1. The City may use the competitive sealed proposal, competitive  
266 negotiation methods, or other procurement processes for soliciting  
267 public-private partnerships as determined by the CPO pursuant to

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this Procurement Ordinance and further delineated in the Procurement Manual.

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

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

a. Phase I – Unsolicited Proposal Submission

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

a. Proposals submitted without the application fee shall not be accepted.

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

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

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

315  
 316 d. *Waiver of application fee.*

317  
 318 1. The city manager may waive the application fee for any  
 319 governmental entity or private entity for any proposal for a qualifying  
 320 project with an estimated construction value less than \$100,000.00.

321  
 322 e. *Refund of application fee.*

323  
 324 1. *City Commission Decision Not to Evaluate* - If the initial  
 325 proposal is not chosen by the city commission to be evaluated, the  
 326 application fee shall be returned to the applicant in whole.

327  
 328 2. *Post-City Commission Decision to Evaluate.* City shall refund  
 329 any portion of the application fee, or subsequent additional fees  
 330 collected which are in excess of the costs of evaluating the proposal,  
 331 after the evaluation or negotiation of the comprehensive agreement  
 332 is complete, whichever is later.

333  
 334 2. *Required Proposal Contents.* All unsolicited proposals shall be in  
 335 writing, submitted electronically, and include an application package with  
 336 a clear table of contents that indexes the accompanying material and  
 337 information required to be in the proposal, unless waived by the city  
 338 manager. All unsolicited proposals shall contain, at a minimum, the  
 339 following items, as appropriate for the proposed qualifying project:

340  
 341 (1) *A description of the qualifying project, including the conceptual*  
 342 *design of the facilities or a conceptual plan for the provision of*  
 343 *services.*

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- (2) A site plan indicating the location of the project proposed;
- (3) A schedule for the initiation and completion of the qualifying project.
- (4) A description of the method by which the private entity proposes to secure the necessary property interests that are required for the qualifying project.
- (5) A description of the private entity's general plans for financing the qualifying project, including the sources of the private entity's funds and a description of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity. The financing plans shall address any and all means by which the costs of the project will be borne by persons or entities other than the city, and any anticipated financial participation to be requested from the city.
- (6) The name, address, and contact information of persons who may be contacted for additional information concerning the proposal.
- (7) The proposed user fees, lease payments, or other service payments over the term of a comprehensive agreement, and the methodology for and circumstances that would allow changes to the user fees, lease payments, and other service payments over time.
- (8) An executive summary of the project.
- (9) Description of the need for the project or facility and the public benefit to be served;
- (10) The names of owners, directors and officers of the proposer, and such information as may be necessary to evaluate the qualifications of the critical personnel to be engaged in the project;

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- (11) An accompanying title search from a reputable title company of any property(ies) proposed to be used in the proposal;
- (12) The proposed schedule for development of the project and/or the proposed term for operating of the project, along with an estimate of the life cycle cost of the proposed project;
- (13) A financial plan and proforma for the entire time period of the proposed private entity's involvement in the project, including major assumptions, internal rate of return of government funds are assumed, and a total cash-flow analysis beginning with the implementation of the project and extending for the term of the proposed agreement;
- (14) A list of all public utilities, railroad lines, navigable waters and flight paths, if any, that will be crossed or affected by the proposed project and a statement of the plan to accommodate such crossings or affects;
- (15) Performance guarantees, if any, and any proposed bonding to be provided by the proposer including ability to provide statutorily required public construction bonds or performance and payment bonds for construction of public facilities;
- (16) A listing of all proposed obligations and requirements of the city and any other governmental or regulatory agencies, including, but not limited to, contributions to the project financing, development approvals, waivers, and permitting;
- (17) Identification of whether the proposal involves turning over any operation, maintenance or other responsibilities to the city, along with an estimate of immediate and long-term costs;
- (18) Statement regarding ability to add capacity and future expansions to project if it becomes necessary;

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

b. Phase II – Evaluation Determination

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

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

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

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

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

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

c. Phase III – Unsolicited Proposal Evaluation

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

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

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

1. Construction, Architectural and Engineer consultants
2. Financial consultants and other subject matter experts
3. Outside Counsel, with City Attorney approval.

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

1. Title Search
2. Boundary and ALTA Surveys
3. Phase I and Phase II Environmental Studies
4. Market Analysis Studies
5. Property Appraisal(s)

2. 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

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

537  
 538 3. After reviewing the evaluation committee's recommendation, the city  
 539 manager shall place an item on the city commission regular meeting  
 540 agenda containing the unsolicited proposal, the evaluation committee's  
 541 recommendation and the city manager's recommendation. The city  
 542 manager's recommendation shall be one of the following:

543  
 544 a. Approve the recommendation of the evaluation committee, written  
 545 notice of which shall be provided to all proposers, and the city  
 546 manager shall then submit his or her recommendation to the city  
 547 commission; or

548  
 549 b. Recommend that the city commission reject all proposals.

550  
 551 4. At the conclusion of the presentation of the city manager's recommendation  
 552 on the initial unsolicited proposal at a City Commission regular meeting the  
 553 City Commission shall make one of the following determinations:

554  
 555 a. *Set Public Meeting* – The City Commission may elect to proceed  
 556 with an unsolicited proposal for a qualifying project without engaging  
 557 in a public solicitation or bidding process by approving a motion  
 558 setting public meetings in accordance with the procedure outlined in  
 559 Section 255.065(3)(c), Florida Statutes.

560  
 561 b. *Adopt resolution* - The City Commission may elect to proceed with  
 562 an unsolicited proposal for a qualifying project subject to a public  
 563 solicitation process by adopting a resolution expressing the intent of  
 564 the city to enter a comprehensive agreement for the type of qualified  
 565 project proposed by the unsolicited proposal.

566  
 567 c. *Reject Proposal.* – The City Commission may by motion reject the  
 568 initial unsolicited proposal. The decision not to enter into a  
 569 comprehensive agreement shall create no rights in the proposer and  
 570 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

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

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

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

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

- 1. Construction, Architectural and Engineer consultants
- 2. Financial consultants and other subject matter experts
- 3. Outside Counsel, with City Attorney approval.

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

- 1. Title Search
- 2. Boundary and ALTA Surveys
- 3. Phase I and Phase II Environmental Studies
- 4. Market Analysis Studies

646 5. Property Appraisal(s)

- 647
- 648 7. If an unsolicited proposal, or competing proposal received if solicited, is not
- 649 deemed to be complete or in sufficient detail, it may be rejected at the sole
- 650 discretion of the city manager, or his or her designee. If the city manager,
- 651 or his or her designee, determines that it is in the best interests of the city
- 652 to do so, the city manager, or his or her designee, may reject, in whole or
- 653 in part, any or all proposals. The city shall have no responsibility to itemize
- 654 or advise the proposer of the incomplete items or terms of the proposal. The
- 655 City shall refund any portion of the application fee paid which, in the
- 656 determination of the CPO, exceeds the direct costs associated with
- 657 evaluating the proposal up to the time of rejection. The rejection of a
- 658 proposal shall create no rights in the proposer and such decision is not
- 659 subject to protest or appeal. The city, in its discretion, reserves the right to
- 660 reject all proposals or suspend negotiations at any point in the process prior
- 661 to the full execution of a contract with a proposer.
- 662
- 663 8. After reviewing the evaluation committee's recommendation, the city
- 664 manager shall place an item on the city commission regular meeting
- 665 agenda containing the unsolicited proposal, the evaluation committee's
- 666 recommendation and the city manager's recommendation. The city
- 667 manager's recommendation shall be one of the following:
- 668
- 669 a. Approve the recommendation of the evaluation committee, written
- 670 notice of which shall be provided to all proposers, and the city
- 671 manager shall then submit his or her recommendation to the city
- 672 commission; or
- 673
- 674 b. Recommend that the city commission commence negotiation with a
- 675 proposer not recommended by the evaluation committee; or
- 676
- 677 c. Recommend that the city commission reject all proposals.
- 678
- 679 9. Award Process for Solicited Proposals:
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- 681 a. Award. The award shall be made to the highest-ranked responsive
- 682 and responsible proposer whose proposal is most advantageous to

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

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

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

- 1. Approve the city manager's recommendation and authorize agreement negotiations; or
- 2. Reject the city manager's recommendations and authorize negotiations with a different proposer; or
- 3. Reject the proposal(s).

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

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

- 720 1. The city commission must approve any comprehensive agreement entered  
721 into pursuant to this Article between the city and a successful proposer before  
722 the Agreement becomes enforceable. The city shall accept no liability for  
723 development or operation of a proposed project before entering into a  
724 comprehensive agreement. Each comprehensive agreement shall define the  
725 rights and obligations of the City and the contracting party regarding the  
726 proposed project. The terms of the comprehensive agreement shall be  
727 tailored to address the specific proposed project and may include, but not be  
728 limited to:
- 729
- 730 a. Prior to execution of a comprehensive agreement, a value-for-  
731 money analysis shall be conducted, verifying that the project  
732 represents a superior public value compared to traditional delivery  
733 methods;
- 734
- 735 b. The delivery of security, including performance and payment bonds,  
736 letters of credit and other security in connection with, but not limited  
737 to, any acquisition, design, construction, improvement, renovation,  
738 expansion, maintenance, or operation of the proposed project;
- 739
- 740 c. The stages of the City's review and approval of the conceptual design  
741 of the proposed project;
- 742
- 743 d. The rights of the City to inspect the construction, operation, and  
744 maintenance of the proposed project to ensure compliance with  
745 specified performance standards and the ability for the City to reduce  
746 the contracting party's compensation or the City's right to collect  
747 liquidated damages should the contracting party fail to meet  
748 specified performance standards or deadlines;
- 749
- 750 e. The maintenance of insurance policies is reasonably sufficient to  
751 ensure coverage of all aspects of the proposed project, including  
752 design, construction, and operations;
- 753
- 754 f. The services to be provided by the city and the terms of  
755 compensation due the city for same;  
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- 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
- 765 h. The terms under which the contracting party will file, with the city,  
766 financial statements pertaining to the proposed project;
- 767
- 768 i. A schedule of fees or lease payments and circumstances for, and  
769 method of calculating, anticipated adjustments to same over the  
770 project life cycle;
- 771
- 772 j. The mechanism by which fees, lease payments, or other payments,  
773 if any, may be established from time to time upon agreement of the  
774 parties.
- 775
- 776 k. A summary of reasonable categories for assessment of fees;
- 777
- 778 l. The terms and conditions under which the city will contribute  
779 financial resources, including cost overruns and unforeseen  
780 circumstances, if required, for the proposed project;
- 781
- 782 m. The terms and conditions under which existing or future site  
783 conditions will be assessed and deficiencies therein addressed,  
784 including identification of the responsible party(ies) for conducting  
785 the assessment and taking necessary remedial action;
- 786
- 787 n. The terms and conditions under which capacity for the Proposed  
788 Project may be increased or enlarged;
- 789
- 790 o. A periodic reporting procedure incorporating a description of the  
791 impact of the proposed project, financially and socially, on the City;  
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- 793 p. A list of attorneys, architects, engineers, planners, and other third-  
794 party consultants to be used on the proposed project, with the ability  
795 for the city to approve future third-party consultants;  
796
- 797 q. All mandatory contract provisions required by the Florida Statutes,  
798 as amended;  
799
- 800 r. Other requirements of the P3 Program, applicable law or that the city  
801 deems appropriate;  
802
- 803 s. The contracting party will be expected to assume single point  
804 responsibility and liability for all planning, designing, financing,  
805 constructing, operating, and maintaining the Proposed Project;  
806
- 807 t. The risk of inadequate geotechnical investigation or improper  
808 interpretation of the results of the geotechnical investigation, as well  
809 as all other unforeseen site conditions, will be allocated to the  
810 contracting party in the comprehensive agreement;  
811
- 812 u. The city encourages the contracting party to propose a formula for  
813 the mutual sharing of cost savings realized during construction by  
814 virtue of value engineering initiatives and efficiencies. Mutually  
815 agreed upon terms for the sharing of such savings may be  
816 incorporated in the comprehensive agreement;  
817
- 818 v. The city may require that the contracting party, and/or their principal  
819 members, provide performance guaranties for any or all obligations  
820 undertaken in the comprehensive agreement. This requirement  
821 would be in addition to the statutory requirement for a performance  
822 and payment bonds and any other performance security required by  
823 the comprehensive agreement; and.  
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- 825 w. Milestones and potential termination option clauses, liquidated  
826 damages, or other remedies for failure to meet said milestones,  
827 obligations or performance standards.  
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829 SECTION 2. CODIFICATION AND SCRIVENER'S ERRORS. The City intends that this  
830 Ordinance will be made part of the Code of Ordinances; that sections of this Ordinance can be  
831 re-numbered or re-lettered to accomplish codification and, regardless of whether this Ordinance  
832 is ever codified, the Ordinance can be re-numbered or re-lettered, and typographical errors that  
833 do not affect the intent can be corrected with the authorization of the City Manager, or his or her  
834 designee, without the need for a public hearing.

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

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

840  
841 SECTION 5. That this Ordinance shall be effective immediately upon its passage and  
842 adoption.

843 PASSED FIRST READING this \_\_\_\_\_ day of \_\_\_\_\_, 2025.  
844 PASSED SECOND READING this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

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Mayor  
DEAN J. TRANTALIS

ATTEST:

\_\_\_\_\_  
City Clerk  
DAVID R. SOLOMAN