

ORDINANCE NO. C-25-42

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING THE CITY OF FORT LAUDERDALE CODE OF ORDINANCES SECTIONS 25-129.4, 25-129.17 AND 25-130 TO ADDRESS UNDERGROUNDING OF UTILITIES; PROVIDING FOR SEVERABILITY; REPEAL OF CONFLICTING ORDINANCE PROVISIONS; CODIFICATION AND CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City of Fort Lauderdale, Florida Code of Ordinances, City Code Chapter 25 - Streets and Sidewalks, Division 2 - Undergrounding Section 129.4 – Underground utility line assessments directs the City's undergrounding of utilities and special assessment process; and

WHEREAS, City of Fort Lauderdale, Florida Code of Ordinances, City Code Chapter 25 - Streets and Sidewalks, Division 2 - Undergrounding Section 129.17 – Establishes directives on revisions to underground utility line assessments; and

WHEREAS, City of Fort Lauderdale, Florida Code of Ordinances, Code Chapter 25 - Streets and Sidewalks, Division 2 - Undergrounding Sec. 25-130 Bonds provides a method of issuing bonds; and

WHEREAS, Staff recommends an edit to the Code of Ordinances that modifies the undergrounding of utilities.

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

SECTION 1. That Section 25-129.4. - Initiation of Process., is hereby amended as follows:

Sec. 25-129.4. Initiation of Process

- (a) An association wishing to institute a UULA within a proposed USAA may initiate the review and implementation of a UULA by filing an application with the Public Works Director of the City of Fort Lauderdale in accordance with the provisions of this division.
- (b) An application for a UULA shall contain the following:

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- (1) Identification of the boundaries of and the name of platted subdivisions within the proposed UULA including the identification of any street or alley within the proposed area.
 - (2) A map of the proposed assessment plat UULA area showing each property proposed to be assessed.
 - (3) Name and address of a natural person who has been authorized by the association to represent the group with respect to the application (hereinafter "representative").
 - (4) Application fee. The application fee shall be determined by the city commission and set forth in a resolution.
- (c) The public works director shall submit the application to FP&L for its determination whether the proposed USSA is a qualified area and to request FP&L, along with all other above ground utilities, to provide to the public works director nonbinding ball park estimates of the cost to implement the undergrounding of FP&L and other above ground utility lines within the proposed USSA.
- (d) When FP&L advises the PWD that the proposed area is a qualified area and ~~provides its nonbinding~~ the City receives the nonbinding ball park estimate of the cost of implementing the undergrounding of FP&L and other above ground utility lines within the proposed USSA, the following shall occur:
- (1) The PWD shall ~~submit the application to all other utilities with above or below ground utility facilities in the qualified area. The PWD shall request that other utilities with utilities in the proposed USSA provide their preliminary estimate for relocating their facilities underground or their acknowledgement that there is no objection to undergrounding existing utility facilities~~ select a consultant from the City's existing Consultants' Competitive Negotiation Act (CCNA) contract and direct them to provide a proposal that will include engineering services for a conceptual design opinion of probable cost for the overhead/undergrounding conversion of existing utilities (Design Phase I).

~~If the proposed USSA is not a qualified area, the PWD shall advise the representative who may resubmit such additional information needed to the PWD until the criteria to be a qualified area is met.~~

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- (2) ~~When estimates from all other utilities have been received by the city, an estimate of the underground utility line assessed cost shall be determined and a proposed allocation for each parcel within the proposed USAA shall be made. The estimate of the UULAC shall include the following:~~ The probable cost estimate of the Design Phase I UULA shall include the following:
- i. ~~The preliminary estimate for the cost of preliminary plans and final plans and specifications and contract documents provided by FP&L and the other utilities or such other consultant capable of providing such documents. The estimate for the cost of conceptual design provided by the consultant assigned by the city and ball park estimate provided by FP&L and other above ground utilities.~~
 - ii. ~~Estimated construction cost. Ball park construction cost estimate, including but not limited to right-of-way restoration, repaving and conduit installation.~~
 - iii. ~~Estimated right-of-way restoration costs including repaving of the rights-of-way and restoring sidewalks, landscaping and drainage within the rights-of-way. Estimated cost from a consultant to coordinate all activities and prepare all documents necessary to bring the UULA to the city commission for a public hearing to consider adoption of an initial UULA assessment.~~
 - iv. ~~The estimated cost of laying the required conduit leading from the public right-of-way and ending at the meter box located on the parcel if owner has agreed in writing to permit city's contractor to construct the conduit on the parcel. Estimated terms for payment of the special assessment for Design Phase I.~~
 - v. ~~The estimated cost of restoration of parcel damage as a result of the installation of the conduit on the parcel if owner has agreed in writing to permit city's contractor to construct the conduit on the parcel.~~
 - vi. ~~Estimated costs of obtaining any required easements or other conveyances or agreements. In addition to the cost estimates, the City will review existing records that may assist the applicant with understanding the existing right-of-way and property lines boundaries as well as existing utility easements in preparation of potential property impacts would be identified in Phase I.~~

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~~vii. Estimated cost of a coordinating consultant to coordinate all activities and prepare all documents necessary to bring the UULA to the city commission for a public hearing to consider adoption of a final UULA assessment.~~

~~viii. Estimated terms for payment of the special assessment.~~

(3.) (2.1)i. Design Phase I (Conceptual Design)

- i. ~~Upon receipt of all the estimated costs set forth in subsection 25-129.4 (d)(2) above, a first ballot for signature by an owner of a parcel within a proposed USAA shall be prepared by the PWD. the city commission shall proceed to authorize the expenditure of city funds in an identified amount necessary to prepare the plans and specifications and study and pay for the services to be provided by the coordinating consultant to coordinate all activities and prepare all documents necessary to bring the UULA to the city commission for a public hearing to consider adoption of a final UULA.~~
- ii. ~~Simultaneous with the authorization for expenditure of city funds as set forth above, the city commission shall implement a method of reimbursement to the city of such funds by the owners of the parcels within the underground special assessment area through a separate special assessment or fee mechanism. The ballot shall be mailed by the city clerk to all parcel owners with a postage paid, return envelope. The ballot must be returned to the city clerk within thirty (30) days of mailing. In order for the city commission to proceed with consideration of a UULA, ballots must be timely returned to the city evidencing that of those owners who returned signed ballots within the USAA in accordance with the procedures set forth in section 25-129.4, at least seventy (70) percent must have voted in favor of the proposed underground utility line assessment. For purposes of calculating the percentage, each parcel shall be counted as one (1) owner.~~
- iii ~~In conjunction with authorizing the expenditure of city funds as set forth in subsection (2.1)i. above, the city commission shall authorize execution of an agreement with the coordinating consultant to perform the services as provided herein. Pursuant to the agreement the coordinating consultant shall prepare or facilitate the final plans and specifications and study. The coordinating consultant will also conduct a parcel by parcel estimate of the cost of work necessary to lay the conduit within the underground utility service area together with the cost of work necessary to lay the conduit on each parcel and the cost to restore each parcel after~~

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~~the conduit has been laid.~~ The city commission, at its sole discretion, may proceed to authorize the expenditure of city funds in an identified amount necessary to prepare the plans and specifications for the services to be provided by the coordinating consultant. The consultant shall coordinate all activities and prepare all documents- necessary to bring the UULA for the Design Phase I to the city commission for a public hearing to consider adoption of an initial UULA.

- iv. Simultaneous with the authorization for expenditure of city funds as set forth above, the city commission, with the recommendation of the Director of Finance, shall implement a method of reimbursement to the city of such funds by the owners of the parcels within the underground special assessment area through a separate special assessment or fee mechanism. Such reimbursement should be completed within 24 months of City Commission authorization.
- v. In conjunction with authorizing the expenditure of city funds as set forth above, the city commission shall authorize execution of an agreement with the coordinating consultant to perform the estimate of services for Design Phase II as provided herein. Pursuant to the agreement the coordinating consultant shall prepare or facilitate the final plans and specifications and study. The coordinating consultant will also conduct a parcel by parcel estimate of the cost of work necessary to lay the conduit within the underground utility service area together with the cost of work necessary to lay the conduit on each parcel and the cost to restore each parcel after the conduit has been laid.

~~(3-4.)~~ Design Phase II (Final Design / Construction Costs) - When the coordinating consultant has provided final preliminary plans and specifications, a bidding process will commence to determine the final construction cost, with a ninety (90) percent completion, then a second ballot for signature by an owner of a parcel within a proposed USAA shall be prepared by the PWD. The ballot shall include the following:

- i. That a UULA is being considered for an area where the owner's parcel is located;
- ii. Identification of the final preliminary estimate of the total UULAC as identified in ~~subsection (d)(2) of this section 25-129.~~ The final preliminary estimate shall include the estimate if the twenty-five (25) percent contribution in aid of construction is applied by FP&L and the estimate without the twenty-five (25) percent contribution in aid of construction is applied;

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- iii. That one hundred (100) percent of the parcels must be converted to the UULF within six (6) months of completion of the UULF in order for the twenty-five (25) percent discount to apply. That if one hundred (100) percent of the parcels are not converted within this time period, the parcels shall be assessed for the total cost without the twenty-five (25) percent discount;
 - iv. That the conceptual ~~preliminary~~ estimates are subject to change when final plans are prepared. Further, the estimates for work on a parcel will be a ball park estimate and subject to verification on a parcel by parcel review by the coordinating consultant;
 - v. Drawings depicting the final location and dimensions within the USAA of all associated above-grade structures accessory to the UULF; and
 - vi. That the estimates do not include costs for the following:
 - (a) Unless an owner agrees as provided in subsections (d)(2)(iv) and (v), the cost for each owner to complete connection and activation of the UULF which will require the owner to secure the services of a licensed electrician or other professional at a cost to the owner; and
 - (b) The existing electrical meter box on the building(s) on the property will be required to meet the provisions of the Florida Building Code that are in effect at the time the electrical work is provided and this may mean that wiring from the existing meter box to the service connection point may need to be replaced and brought into compliance with the provisions of the Florida Building Code then in effect at a cost to be – borne by the owner; and
 - (c) If the owner does not agree in writing to permit city's contractor to construct the conduit on the parcel, the cost of the owner securing the services of a contractor to lay the required conduit leading from the public right-of-way and ending at the meter box located on the parcel and the cost of restoration of the parcel damage as a result of the installation of the conduit on the parcel.
- (~~4.5.~~) The ballot shall include a statement that by signing and returning this ballot, the owner requests and agrees to:

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- i. To the construction and activation of underground utility line facilities in the proposed USAA.
 - ii. The underground utility line facilities shall be paid for by parcel owners within the USAA through the city imposing a special assessment on the parcels in the proposed USAA and by the parcel owner signing the ballot that the parcel owner will pay a special assessment in the estimated amount identified in the ballot, and acknowledges that their property will be subject to a special assessment lien to secure payments due in an amount as approved by resolution adopted by the city commission, subject to interest and payable over a period of time as provided in the adopted final assessment resolution approved by the city commission after a public hearing. All parcel owners will be notified of the date and time of the public hearing at least twenty (20) days prior to the public hearing.
 - iii. To the extent possible, UULF will be located in the public right-of-way. However, if not possible, a utility easement measuring ten (10) feet by ten (10) feet or greater on the ground on the owner's parcel may be needed for placement of a utility box measuring approximately three (3) feet by three (3) feet and thirty (30) inches to forty-eight (48) inches high.
 - iv. The ballot shall be mailed by the city clerk to all parcel owners with a postage paid, return envelope. The ballot must be returned to the city clerk within thirty (30) days of mailing.
- (~~5-6~~) The ballots ~~as described in subsection (3) and (4)~~ may be modified by the PWD to include any facts or representations that may be applicable to a proposed USAA.
- (e) The ballots shall be delivered to the city clerk, along with a copy of the tax roll to verify that the names of the owners on the ballots correspond with the owners on the most current tax roll. The city clerk may consider any other evidence provided that may contradict the information provided on the tax roll in order to identify and verify the owner of a parcel within a proposed USAA but reliance on the information contained in the tax roll is valid.
 - (f) In order for the city to proceed with consideration of a UULA, ballots must be timely returned to the city evidencing that of those owners who returned signed ballots within the USAA in accordance with the procedures set forth in section 25-129.4, at least seventy (70) percent must have voted in favor of the proposed

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underground utility line assessment. For purposes of calculating the percentage, each parcel shall be counted as one (1) owner.

- (g) Upon receipt of ballot verified as provided in 6(e)and 6(f), a reimbursement resolution shall be placed on a city commission agenda to approve:
- (1) Proposed boundaries of and the name of platted subdivisions within the proposed USSA;
 - (2) Completion of plans and specifications;
 - (3) An agreement between the city and coordinating consultant to facilitate the process to obtain approval of an UULA as provided in this section 25-129;
 - (4) Reimbursement for the costs and fees described in this subsection (h) along with other costs and fees associated with implementation of UULF from special assessment revenues collected in the event the city approves a UULA for the proposed USAA in accordance with this section 25-129.

It is within the sole discretion of the city commission to approve or not approve the reimbursement resolution. Approval of the reimbursement resolution is contingent upon the identification and approval of funds needed to pay for the costs associated with the implementation of a UULA.

If approved, the reimbursement resolution shall be recorded in the public records of Broward County as notice to owners of the pending application to implement a UULA.

If a reimbursement resolution is not approved, the city commission may take whatever action it deems appropriate with regard to the application for a UULF.

- (h) Upon completion of the plans and specifications, study and installation and restoration on each parcel estimates, a final estimate of the total cost and identification of the benefit each parcel shall receive and the apportioned share of the total cost among the owners shall be made. There shall be an estimate that includes the twenty-five (25) percent CIAC contribution in aid of construction discount, and one (1) without the twenty-five (25) percent CIAC discount.

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- (i) Regardless of the provisions of this division 2, an underground utility line assessment facilities may be constructed in any area of the city upon the request of the city commission.

SECTION 2. That Section 25-129.17. – Revisions to unground utility line assessments., is hereby amended as follows:

Sec. 25-129.17. Revisions to underground utility line assessments.

If any underground utility line assessment made under the provisions of this section 25-129 is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the city commission is satisfied that any such underground utility line assessment is so irregular or defective that the same cannot be enforced or collected, or if the city commission has failed to include or omitted any property on the assessment roll which property should have been so included, or if the other costs (as defined in Sec. 25-124) are either greater or less than what is included in the final assessment resolution, the city commission may take all necessary steps to impose a new underground utility line assessment against any parcel benefited by the underground utility line facilities, following as nearly as may be practicable, the provisions of this section 25-129 and in case such second underground utility line assessment is annulled, vacated, or set aside, the city commission may obtain and impose other underground utility line assessments until a valid underground utility line assessment is imposed.

SECTION 3. That Section 25-130. – Bonds. is hereby amended as follows:

Bonds may be issued to an amount not exceeding the amount of liens assessed for the cost of improvements to be paid by special assessment. After the adoption of the Final Assessment Resolution as provided by section 25-129.12 the city commission may by resolution or ordinance authorize the issuance of Bonds, and if applicable, to be designated "Improvement Bonds, Series No. _____," in an amount not in excess of the aggregate amount of said liens levied for such improvements. Said Bonds shall be payable from a special and separate fund, to be known as the "Improvement fund, Series No. _____," which shall be used solely for the payment of the principal and interest of said "Improvement Bonds, Series No. _____" and for no other purpose. Said fund shall be deposited in a separate bank account; and all the proceeds collected by the city from the principal, interest, and penalties of said liens shall be deposited and held in said fund. Said Bonds so issued shall never exceed the amount of liens assessed, and said Bonds shall mature not later than two (2) years after the maturity of the last installment of said liens. Said Bonds shall bear certificates signed by the clerk of the municipality certifying that the amount of

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liens levied, the proceeds of which are pledged to the payment of said Bonds, are equal to or more than the amount of the bonds issued. The Bonds may be delivered to the contractor in payment for his or her work or may be sold at public or private sale for not less than ninety-five (95) percent of par and accrued interest, the proceeds to be used in paying for the cost of the work. Said Bonds shall not be a general obligation of the city, but shall be payable solely out of said assessments, installments, interest, penalties, provided that said Bonds may be secured by any other revenues that may be legally available for such purpose. Any surplus remaining after payment of all Bonds and interest thereon shall revert to the city and be used for any municipal purpose. Bonds issued under this section may be refunded from time to time as provided in this section.

SECTION 4. CODIFICATION AND SCRIVENER'S ERRORS. The City intends that this Ordinance will be made part of the Code of Ordinance; 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 the City Manager's designee, without the need for a public hearing.

SECTION 5. That all ordinances or parts of ordinances in conflict herewith are hereby repealed, only to the extent of such conflict.

SECTION 6. 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 7. That this Ordinance shall be effective immediately upon its passage and adoption.

PASSED FIRST READING this 23rd day of October, 2025.

PASSED SECOND READING this _____ day of _____, 2025.

Mayor
DEAN J. TRANTALIS

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ATTEST:

City Clerk
DAVID R. SOLOMAN

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