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ORDINANCE NO. C-12-37

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING CITY OF FORT LAUDERDALE CODE OF ORDINANCES SECTION 25-124, ENTITLED "DEFINITIONS" REVISING DEFINITIONAL TERMS; AMENDING SECTION 25-129.1(B), ENTITLED "FINDINGS AND SUPPORT FOR UNDERGROUND UTILITY LINE ASSESSMENT" AND SECTION 25-129.4, ENTITLED "INITIATION OF PROCESS" TO REQUIRE A THRESHOLD OF SEVENTY PERCENT (70%) OF THE SIGNED AND RETURNED BALLOTS WITHIN A PROPOSED UNDERGROUND SPECIAL ASSESSMENT AREA BE "IN FAVOR" OF THE PROPOSED SPECIAL ASSESSMENT AS A CONDITION PRECEDENT TO THE SPECIAL ASSESSMENT PROCESS; REQUIRING MAILING OF THE BALLOTS BY THE CITY CLERK; PROVIDING FOR AUTHORIZATION OF AN AGREEMENT WITH AND EXPENDITURES FOR COORDINATING CONSULTANT SERVICES FOR THE PREPARATION OF PLANS & SPECIFICATION AND STUDY; PROVIDING FOR SIMULTANEOUS IMPLEMENTATION OF A METHOD OF REIMBURSEMENT TO THE CITY BY THE OWNERS OF PARCELS WITHIN THE UNDERGROUND SPECIAL ASSESSMENT AREA FOR THE FUNDING OF THE COSTS OF THE COORDINATING CONSULTANT SERVICES; REQUIRING PREPARATION OF THE BALLOT UPON BEING PROVIDED WITH PRELIMINARY PLANS WITH A 90% COMPLETION AND STRUCTURE OF THE BALLOT FOR THE SPECIAL ASSESSMENT; AMENDING SEC. 25-129.13, ENTITLED "EFFECT OF FINAL ASSESSMENT RESOLUTION" REQUIRING A COMPETITIVE NEGOTIATION PROCESS FOR SELECTING THE CONTRACTORS FOR CONSTRUCTION OF THE UNDERGROUND UTILITY LINE FACILITIES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

**SECTION 1.** That the City of Fort Lauderdale Code of Ordinances Sec. 25-124, entitled "Definitions" is hereby amended to read as follows:

**Sec. 25-124. DEFINITIONS.** As used in this Article, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

"Application" means the written request by an Association for the City to install Underground Utility Line Facilities in accordance with the provisions of Section 25-129.4

"Assessment Plat" means a map of the proposed USAA with a legal description of the boundaries.

"Assessed Property" means all Parcels included on the Assessment Roll that receive a special benefit from the provision of Underground Utility Line Facilities identified in the Declaration Resolution or a subsequent Final Assessment Resolution.

"Assessment Roll" means the special assessment roll relating to an Underground Utility Line Assessment approved by a Final Assessment Resolution pursuant to Section 25-129.12 hereof.

"Association" means a group of interested Owners wishing to institute a UULA for a USAA pursuant to the provisions of this ARTICLE IV, Division 2. An Association may include but not be limited to a homeowners association or safe neighborhood improvement district authorized by law to pursue such activity. Only one Association may represent a proposed USAA. If more than one group applies for a proposed USAA or part of an Area, the Application will not proceed until agreement is reached between the groups regarding the Association and Representative for an Area for purposes of proceeding with an UULA.

"Ballot" means the ballot prepared by the PWD, mailed by the City Clerk to Owners within a proposed USAA in order to determine a level of approval within an area to implement a UULF.

"Below Ground" means below the natural grade of the ground.

"Binding Estimate" means the final estimate prepared by FP&L for the cost of undergrounding FP&L utilities within a proposed USAA. The Binding Estimate does not include estimates associated with "Other Costs".

"Bonds" mean bonds, notes or any other forms of indebtedness.

"City" means the City of Fort Lauderdale, Florida.

"City Clerk" means the Clerk of the City Commission.

"City Commission" means the City Commission of the City of Fort Lauderdale, Florida.

"City Manager" means the chief administrative officer of the City, designated by the City Commission to be responsible for coordinating Underground Utility Line Assessments, or such person's designee.

"Contract Documents" mean the Agreement between the City and Contractor, Conditions of the Contract (General, Supplementary and other Conditions), drawings, specifications, and addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Engineer. Unless specifically enumerated in the Agreement, the Contract Documents do not include other documents such as bidding requirements (advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or portions of Addenda relating to bidding requirements).

"Coordinating Consultant" means a licensed professional qualified, as determined by the PWD, to coordinate the implementation of a UULA which includes but is not limited to obtaining (1) preliminary and final cost estimates of each and every aspect of the implementation of a UULA; (2) preliminary and final Plans from FP&L and Other Utilities; (3) final construction plans which combines all Plans; interfacing with an Association regarding all aspects of the UULA; assisting the Representative to obtain all easements or other agreements or conveyances from Owners required to implement the UULA; coordinating the procurement of and contract with a Contractor to construct all aspects of the construction and activation of the Underground Utility Line Facilities; restoration of the public right of way and private properties; reviewing and preparing a report explaining all agreements that must be approved by the City in order to construct and activate the Underground Utility Line Facilities.

"Contractor" means the entity contracting with City for the construction of the Underground Utility Line Facilities.

"County" means Broward County, Florida.

"Declaration Resolution" means the resolution described in Section 25-129.5 hereof which shall be the initial Resolution for the identification of the total Underground Utility Line Assessed Cost for which an assessment is to be made, the imposition of an Underground Utility Line Assessment and the date set for a public hearing to consider a Final Assessment Resolution.

"Division means the provisions of this Ordinance codified in the Code of Ordinances of the City of Fort Lauderdale under CHAPTER 25, STREETS AND SIDEWALKS, ARTICLE IV. POLES, WIRES AND CONDUITS, DIVISION 2. UNDERGROUNDING.

"Final Assessment Resolution" means the resolution described in Section 25-129.12 hereof which shall confirm, modify, or repeal the Declaration Resolution and which shall be the final Resolution adopted for the imposition of Underground Utility Line Assessments.

"Fiscal Year" means that period commencing October 1st of each year and continuing through the next succeeding September 30th, or such other period as may be prescribed by law as the fiscal year for the City.

"FP&L" means Florida Power and Light, a corporation organized and existing under the laws of the State of Florida providing electric power throughout the City of Fort Lauderdale, Florida pursuant to a franchise agreement Adopted October 20, 2009 pursuant to City Ordinance No. C-09-26 and accepted by FP&L on October 29, 2009.

"Government Property" means property owned by the United States of America or any agency thereof, a sovereign state or nation, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

"Initial Assessment Roll" means a preliminary assessment roll in accordance with the method of assessment provided for in a Declaration Resolution showing the Parcels proposed to be assessed and the amount of the benefit to and the assessment against each Parcel, and if said assessment is to be paid in installments and the number of annual installments in which the assessment is divided.

"Nonbinding Ball Park Estimate" means the preliminary estimate prepared by FP&L for the cost of undergrounding utilities within a proposed USAA.

"Ordinance" means this Underground Utility Line Facilities Ordinance.

"Other Costs" means all costs and expenses other than the costs included in the Binding

Estimate including but not limited to Other Utilities costs, costs of restoration of right-of-way or Parcels, Coordinating Consultant fees and cost of Easements or other conveyances. The Binding Estimate and Other Costs added together make up the UULAC.

"Other Utilities" or "Other Utility Companies" means utility companies other than FP&L with overhead or Below Ground utility lines or facilities located within a proposed USAA that may be relocated Below Ground or may share the area where overhead lines will be relocated and which may include but not be limited to telephone, internet and cable, gas, water and sewer.

"Owner" shall mean a natural Person with fee simple title to a Parcel proposed to be included in a UULA as reflected on the Tax Roll on the date provided herein. For purposes of this Division, if a Parcel is owned by a trust, the designated trustee shall be considered the Owner. If a Parcel is owned by tenants in common or joint tenants with rights of survivorship, then each co-tenant shall be considered an Owner in accordance with the fractional ownership interest that each co-tenant has in the Parcel and each co-tenant shall be entitled to an equal fractional vote of the Owner ~~each tenant shall be considered for a one-half vote will be considered the Owner. If ownership of a Parcel is vested as tenants by the entirety, the Owner is entitled to one vote which may be cast by either tenant in the tenants by the entirety. If a Parcel is owned by tenants by the entirety, either owner shall be considered the Owner and if the Parcel is owned as a life estate, the natural person with the possessory interest shall be considered the Owner. If a unit is owned by a corporation, limited liability company, limited partnership or similar entity, the authorized agent for such entity shall be considered the Owner. The Owner may designate in writing a natural person to act on an Owner's behalf.~~

"Parcel" means a development site made up of one or more lots with a single principle building as defined by the ULDR or a vacant lot or lots of a size that could support a single development in accordance with the ULDR. If a proposed USAA has one or more condominiums, cooperatives, townhouses or similar buildings with multiple owners of units within the building or buildings on a single Parcel, for purposes of determining seventy percent (70%) of the Owners within the proposed USAA as provided in Section 25-129.4(F), each unit shall be considered and counted as one Parcel. The total number of Parcels in a proposed USAA shall be determined by the PWD. One Owner shall be counted for each Parcel. A determination shall be made by the PWD in the event of a dispute.

"Person" means any individual, partnership, firm, organization, corporation, association, or any other legal entity, whether singular or plural, masculine or feminine, as the context may require.

~~"Petition" means the petition prepared by the PWD, mailed to Owners within a proposed USAA in order to determine a level of approval within an area to implement a UULF.~~

"Plans and Specifications" or "Plans" mean the final graphic illustrations of the Contract Documents depicting the design, location and dimensions of the Work, generally including drawings, elevations, sections, details, schedules and diagrams.

"Preliminary Plans" mean the Plans normally provided at a 30%, 60% and 90% completion level for review and comment.

"Property Appraiser" means the Broward County Property Appraiser.

"Public Works Director" or "PWD" means the director of the City's Public Works Department or his designee.

"Qualified Area" means an area considered for the undergrounding of overhead utility lines that meets the FPL Tariff providing for a 25% Contribution In Aid of Construction ("CIAC") for municipalities as evidenced by FP&L in writing.

"Reimbursement Resolution" means a Resolution approving 1) preparation of plans and specifications 2) securing the services of a Coordinating Consultant to facilitate the process to approve an UULA as provided in this Division 3) authorization to expend City funds in an identified amount necessary to prepare the Plans 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 Assessment 4) providing for the reimbursement for these costs and fees from special assessments revenues collected in the event the City approves a UULA for the proposed USAA in accordance with this Division all as more further provided in Section 25-129.4(G).

"Representative" means one natural person who has been authorized by an Association to apply to the City to participate in the installation of UULF and to represent the Association with respect to the Application (hereinafter "Representative").

"Study" means a report prepared by a qualified licensed and registered engineer or Property Appraiser, or both, regarding the special benefit to the Parcels located in a proposed USAA; the amount of benefit; a fair and equitable apportionment of the total cost to the individual Parcels within a proposed USAA; a certification that the assessment proposed to be imposed on

Parcels within a proposed USAA would be less than the benefit to the Parcels to be assessed, such Study to be presented to the City Commission at the time a Declaration Resolution is considered and placed on file with the City Clerk.

"Tax Collector" means the Department of Finance and Administrative Services as described in Article IV of the Broward County Charter.

"Tax Roll" means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes. When this Division requires the names and addresses of Owners in accordance with the Tax Roll it shall mean the most current tax roll in effect prior to the date when the names and addresses of the Owners are provided to the Public Works Director in accordance with Section 25-129.4(E).

"ULDR" means the Unified Land Development Regulations, the land development regulations for the City of Fort Lauderdale.

"Underground Special Assessment Area" or "USAA" means the area that includes the Parcels designated by the City to receive the benefit of and be assessed for Underground Utility Line Facilities in accordance with the provisions of this Division and has been designated a Qualified Area by FP&L.

"Underground Utility Line Assessment" or "UULA" means a special assessment lawfully imposed by the City Commission against Assessed Property to fund all or any portion of the cost of the provision of Underground Utility Line Facilities providing a special benefit to Parcels within the USAA as a consequence of possessing a logical relationship to the value, use, or characteristics of the Assessed Property.

"Underground Utility Line Assessed Cost" or "UULAC" means the amount determined by the City Commission to be assessed to fund all or any portion of the cost of the provision of Underground Utility Line Facilities which provide a special benefit to Assessed Property, and shall include, but not be limited to, the following components: (A) the cost of all informational materials, marketing, promotion and advocacy within the USAA (B) the cost incurred in any required acquisition or purchase; (C) the cost of taking down existing overhead utility line facilities and constructing new Underground Utility Line Facilities including but not limited to the cost of relocating existing underground facilities which must be moved in order to accommodate the relocation of the overhead lines; (D) the cost of all lands, property, rights, easements, and franchises acquired; (E) the cost of all labor, materials, machinery, and equipment; (F) financing charges, interest prior to and during construction and for 1 year after completion of construction;

(G) costs and fees associated with the issuance and sale of special assessment bonds (H) the cost of fuel, parts, supplies, maintenance, repairs, and utilities; (I) the cost of computer services, data processing, and communications; (J) the cost of physical construction, reconstruction, restoration of right-of-way,, Parcels or both, or completion of any required facility or improvement; (K) the cost of any indemnity or surety bonds and premiums for insurance; (L) the cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits; (M) the cost of disconnecting from overhead utility facilities and connecting to UULF from the overhead utility facilities to the meter on a Parcel; (N) cost of Plans and Specifications preliminary and final for both design and construction; (O) surveys and estimates of costs and of revenues; (P) the cost of the Study and the fee for a Coordinating Consultant; (Q) the cost of engineering, financial, legal, and other professional services including outside consultants and staff working for the City; (R) the costs of compliance with any contracts or agreements entered into by the City to provide Underground Utility Line Facilities; (S) all costs associated with the structure, implementation, collection, and enforcement of the Underground Utility Line Assessments, including any service charges of the Tax Collector, or Property Appraiser and amounts necessary to off-set discounts received for early payment of Underground Utility Line Assessments pursuant to the Uniform Assessment Collection Act or for early payment of Underground Utility Line Assessments collected pursuant to Section 25-131.2 herein; (T) all other costs and expenses necessary or incidental to the acquisition, provision, or construction of Underground Utility Line Facilities and such other expenses as may be necessary or incidental to any related financing authorized by the City Commission by subsequent resolution; (U) a reasonable amount for contingency and anticipated delinquencies and uncollectible Underground Utility Line Assessments; and (V) reimbursement to the City or any other natural Person for any moneys advanced for any costs incurred by the City or such natural Person in connection with any of the foregoing components of Underground Utility Line Assessed Cost.

"Underground Utility Line Facilities" or "UULF" means the equipment, poles lines and other appurtenant facilities associated with the provision of electrical, telephone, internet, cable television or other services provided through a similar line. The term shall also include any accessory or appurtenant facilities whether above or below ground associated with or appurtenant to the Underground Utility Line Facilities including but not limited to transition poles.

"Underground Utility Line Facilities Program" or "Program" means the City approved program for the implementation of UULF in a USAA as defined herein, the cost of said UULF to be paid for through special assessments as described in this Section 25-129.

"Uniform Assessment Collection Act" means Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments



on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder as the same may be amended from time to time.

“Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations.

**SECTION 2.** That City of Fort Lauderdale Code of Ordinances Sec. 25-129.1(B), entitled “Findings and Support for Underground Utility Line Assessment” is hereby amended to read as follows:

**Sec. 25-129.1. FINDINGS AND SUPPORT FOR UNDERGROUND UTILITY LINE ASSESSMENT.**

(A) The propriety of the Underground Utility Line Assessment and all declarations of special benefit, methods of apportionment shall be based on the findings of provided in this Division and facts provided for a proposed USAA in the Study.

(B) Certain residential communities have expressed to the City their desire and support for the establishment of a Program to permit conversion of above-ground utility facilities to Below Ground utility facility lines and the funding of such conversion through the imposition of a special assessment. ~~A demonstration of support for a proposed UULA will be required as evidenced by a petition signed by at least seventy percent (70%) of the Owners of Parcels within a proposed USAA.~~ As a condition precedent to proceeding further toward imposition of a special assessment at least seventy percent (70%) of those signed Ballots timely returned to the City Clerk in accordance with the procedures set forth in Sec. 25-129.4 must elect IN FAVOR of the proposed Underground Utility Line Assessment project within the proposed USAA.

**SECTION 3.** That City of Fort Lauderdale Code of Ordinances Sec. 25-129.4, entitled “Initiation of Process” is hereby amended to read 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:

- (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").

(C) The Public Works Director shall submit the Application to FP&L for its determination whether the proposed USAA is a Qualified Area and to request FP&L to provide to the Public Works Director a Nonbinding Ball Park Estimate of the cost to implement the undergrounding of FP&L utility lines within the proposed USAA.

(D) When FP&L advises the PWD that the proposed area is a Qualified Area and provides its Nonbinding Ball Park Estimate of the cost of implementing the undergrounding of FP&L utility lines within the proposed USAA, 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.

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.

- (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:

- 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.
- ii. Estimated construction cost.
- 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.
- 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,.
- 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.
- 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.

(2.1)

- i. Upon receipt of all the estimated costs set forth in subsection (2) above, the City Commission shall proceed to authorize the expenditure of City funds in an identified amount necessary to prepare the Plans & 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.

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 the conduit has been laid.

(3) When the Coordinating Consultant has provided Preliminary Plans with a 90% completion, then a A Ballot Petition for signature by an Owner of a Parcel within a proposed USAA shall be prepared by the PWD. The Ballot Petition shall include the following:

i. That that a UULA is being considered for an area where the Owner's Parcel is located- ;

ii. Identification identification of the preliminary estimate of the total UULAC as identified in subsection (D) (2) of this Section 25-129. The preliminary estimate shall include the estimate if the 25% Contribution in Aid of Construction is applied by FP&L and the estimate without the 25% Contribution in Aid of Construction is applied- ;

iii. That 100% of the Parcels must be converted to the UULF within 6 months of completion of the UULF in order for the 25% discount to apply.

That if 100% of the Parcels are not converted within this time period, the Parcels shall be assessed for the total cost without the 25% discount; ;

iv. That that the preliminary estimates are subject to change when final Plans are prepared. Further, the estimates for work on a Parcel will be a ballpark estimate and subject to verification on a Parcel by Parcel review by the Coordinating Consultant; ;

v. Drawings depicting the 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 (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 born 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) The Ballot Petition shall include a statement that by signing this Ballot Petition, the Owner requests and agrees to:

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 Petition that the Parcel Owner will pay a special assessment in the estimated amount identified in the Ballot Petition, 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 10'x 10' or greater on the ground on the Owner's Parcel may be needed for placement of a utility box measuring approximately feet by 3 feet and 30 to 48 inches high.

iv. The Ballot Petition shall be mailed by the City Clerk to all Parcel Owners ~~by the PWD~~ with a postage paid, return envelope. The Ballot Petition must be returned to the City Clerk within thirty (30) days ~~six (6) months of PWD-mailing~~.

- (5) The Ballot Petition 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 Petition shall be delivered to the City Clerk PWD, along with a copy of the Tax Roll to verify that the names of the Owners on the Ballots Petition correspond with the Owners on the most current Tax Roll. The City Clerk PWD 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, the Representative must submit Ballots Petition 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 § 25-129.4, at least 70% must have voted IN FAVOR of the proposed Underground Utility Line Assessment signed by at least seventy percent (70%) of the Owners within the proposed USAA. For purposes of calculation the percentage, each Parcel shall be counted as one Owner.

(G) Upon receipt of Ballot Petition verified as provided in (E), 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 preparation 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) ~~authorization to expend City funds in an identified amount necessary to prepare the Plans 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.~~
- (4 5) reimbursement for the costs and fees described in this subsection (G) 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 adoption of a Reimbursement Resolution, an agreement with the Coordinating Consultant to perform the services as provided in this Section shall take effect. 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 on each Parcel and the cost to restore each Parcel after the conduit has been laid.~~

(H I) 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 25% CIAC discount, and one without the 25% CIAC discount.

(I J) 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 4. That City of Fort Lauderdale Code of Ordinances Sec. 25-129.5, entitled "Initial Proceedings" is hereby amended to read as follows:

**Sec. 25-129.5. INITIAL PROCEEDINGS.** Upon City's receipt of the final estimates of the total cost and the Ballots Petitions required by Section 25-129, the initial proceeding for the imposition of a Underground Utility Line Assessment shall be by the adoption of a Resolution by the City Commission declaring the intent to install Underground Utility Line Facilities ("Declaration Resolution"). The Declaration Resolution shall include the following: (1) a brief and general description of the Underground Utility Line Facilities proposed to be provided and a legal description of the property subject to the special assessment (2) identifying the boundaries of the USAA and the street or streets where the existing utility lines are located and the location for the proposed Underground Utility Line Facilities (3) the total estimated Underground Utility Line Assessed Cost; (4) the portion of the total cost to be paid with an Underground Utility Line Assessment (5) the method of apportioning the Underground Utility Line Assessed Cost and the computation of the Underground Utility Line Assessment for each Parcel, (6) the manner in which the special assessment shall be made (7) when the assessments are to be paid (8) what if any part shall be apportioned to be paid from general improvement fund of the municipality;



(9) directing the City Manager to (a) prepare the Initial Assessment Roll, (b) publish the notice, and (c) mail the notice all as required by Section 25-129 using information then available from the Tax Roll.

SECTION 5. That City of Fort Lauderdale Code of Ordinances Sec. 25-129.13, entitled "Effect of Final Assessment Resolution" is hereby amended to read as follows:

**Sec. 25-129.13. EFFECT OF FINAL ASSESSMENT RESOLUTION.**

(A) The Underground Utility Line Assessments shall be established upon adoption of the Final Assessment Resolution. The adoption of the Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property; the method of apportionment and assessment; the rate of assessment; the Assessment Roll; and the levy and lien of the Underground Utility Line Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the City Commission action on the Final Assessment Resolution. The Assessment Roll, as approved by the Final Assessment Resolution, shall be delivered to the Tax Collector, as required by the Uniform Assessment Collection Act, or if the alternative method described in Section 25-131.2 hereof is used to collect the Underground Utility Line Assessments, such other official as the City Commission by resolution shall designate.

(B) Upon adoption of the final assessment resolution, the City shall secure proposals ~~bids~~ pursuant to the procedures set forth in Section 2-194, entitled "Competitive negotiations," from contractors for the construction of the UULF. The proposals ~~bids~~ submitted shall be compared with the final estimate submitted by FPL and other utilities, and the public works director shall seek City Commission approval for an agreement between the City and the responsible offeror whose proposal is determined in writing to be the most advantageous of the City taking into consideration price and the evaluation factors set forth in the request for proposals ~~lowest responsible bidder~~ and the construction contract between the City and the contractor shall take effect. Upon completion of the UULF, notice shall be provided to owners to convert to the UULF within the time set out in the notice. In the event all owners convert their service within the time required, the City Commission shall consider a resolution acknowledging that the UULF are complete, that the twenty-five (25) percent CIAC discount applies and the final special assessment shall be modified to reflect the UULF at the discounted amount. If the twenty-five (25) percent CIAC discount does not apply, the final special assessment shall be accepted at the non-discounted amount. In either case, upon completion of the UULF, the City


shall credit to each of the assessments the difference in the assessment originally made, approved and confirmed, and the proportionate part of the actual cost of the UULF to be paid by special assessments as finally determined upon the completion of the UULF, but in no event shall the final assessments exceed the amount of the benefits originally assessed.


SECTION 6. SEVERABILITY. The provisions of this Division are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Division shall not be affected thereby.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED FIRST READING this 18th day of September, 2012.  
PASSED SECOND READING this 2nd day of October, 2012.

ATTEST:

  
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Mayor  
JOHN P. "JACK" SEILER

  
\_\_\_\_\_  
City Clerk  
JONDA K. JOSEPH

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