

ORDINANCE NO. 2024-064

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, AMENDING CHAPTER 2, ENTITLED "ADMINISTRATION", ARTICLE IV, ENTITLED "PURCHASING AND COMPETITIVE BIDDING", DIVISION 2. ENTITLED "COMPETITIVE BIDDING PROCEDURE" AS FOLLOWS: BY AMENDMENT TO SECTION 2-812 TO PRESCRIBE CURRENT "MINIMUM BID" AMOUNTS AS SET FORTH HEREIN; BY ENACTMENT OF A NEW SECTION 2-812.1 ENTITLED "SMALL PURCHASES" PRESCRIBING PROCUREMENT PROCEDURES FOR PURCHASES UNDER \$65,000.00 (GENERAL) AND \$100,000.00 (CONSTRUCTION); ENACTMENT OF A NEW SECTION 2-812.2 ENTITLED "UNAUTHORIZED PURCHASES"; ENACTMENT OF NEW SECTION 2-812.3 ENTITLED "EMERGENCY PURCHASE PROCEDURES" PRESCRIBING PROCEDURES FOR SUCH PURCHASES; AMENDING SECTION 2-817 ENTITLED "EXCEPTIONS TO BID" BY ADDING ADDITIONAL EXCEPTIONS; AND THE ENACTMENT OF A NEW SECTION 2-826 ENTITLED "PUBLIC-PRIVATE PARTNERSHIPS; UNSOLICITED PROPOSALS" SETTING FORTH DEFINITIONS AND PROCEDURES FOR PUBLIC-PRIVATE PARTNERSHIPS ("P3S") AND UNSOLICITED PROPOSALS; PROVIDING FOR NO PROTESTS; PROVIDING FOR A LIMITED BID/PUBLICATION WAIVER IN CERTAIN INSTANCES; PROVIDING FOR INTENDED INCLUDED AND EXCLUDED PROJECTS; PROVIDING FOR APPLICABILITY PERIOD; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR A PENALTY; PROVIDING FOR CODIFICATION IN THE CITY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Hialeah ("City") laws requiring competitive bidding have a very low threshold of \$25,000.00 which dates to the 20th Century, and is much lower than the current "minimum bid" amounts used by local governments; and

WHEREAS, continuous improvement of the City's procurement system will create a more streamlined process experience; and

WHEREAS, it is necessary for an effective and responsive modern procurement system that the minimum bid amount be raised to \$65,000.00 in general and \$100,000.00 for construction while still maintaining a competitive small purchase procedure as prescribed herein for contracts under these amounts which will be called "Small Purchases"; and

WHEREAS, the City Council will continue to consider, review, and approve all expenditures of more than \$25,000.00 as prescribed by the City Charter; and

WHEREAS, it is in the best interests of the City and the community to enact new procurement Code Sections for small purchases, and other new Sections governing unauthorized purchases; and procedures to be followed for emergency purchases; and

WHEREAS, these revisions to the City Procurement Code will provide clarity and

uniformity in setting forth prescribed procedures, and will put the City in line with current governmental procurement practices; and

WHEREAS, there are needed exceptions such as works of art, artistic services, groceries, and utilities among others that do not lend themselves to procurement and are being expressly exempted as they do not adhere in actuality to procurement because they are unique in nature; and

WHEREAS, currently, the City does not have any specific legislation providing any procedures for public-private partnerships (“P3s”) or unsolicited proposals; and

WHEREAS, the City has received unsolicited proposals, and there is no established process, procedure, or protocol in place to handle them; and

WHEREAS, several local governments in South Florida have enacted legislation or regulations governing public-private partnerships and unsolicited proposals and developed structured processes; and

WHEREAS, enacting a City Code Section with certain definitions and procedures is intended to bring uniformity, transparency, equality, and neutrality by having established and known procedures concerning the submission of P3s and/or unsolicited proposals; and

WHEREAS, in the interests of transparency, uniformity and fairness this Code Section shall apply to all unsolicited proposals not approved by the City Council at the time of its passage; and

WHEREAS, it is in the best interests of the City and the community to enact this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA THAT:

Section 1: The recitals set forth above are deemed as being incorporated by reference herein. Chapter 2, entitled “Administration”, Article IV entitled “Purchasing and Competitive Bidding”, Division 2. entitled “Competitive Bidding Procedure” is amended as follows: by the amendment of Section 2-812 entitled “Competitive Bidding Required”; by the enactment of a new Section 2-812.1 entitled “Small Purchases”; by the enactment of a new Section 2-812.2 entitled “Unauthorized Purchases”; by the enactment of a new Section 2-812.3 entitled “Emergency Purchase Procedures”; by the amendment of Section 2-817 entitled “Exceptions to Bid”; by the enactment of a new City Code Section 2-826 entitled “Public-private partnerships; unsolicited proposals” specifically as follows:

Chapter 2

ADMINISTRATION

* * *

ARTICLE IV. - PURCHASING AND COMPETITIVE BIDDING

* * *

DIVISION 2. ENTITLED COMPETITIVE BIDDING PROCEDURE

* * *

Sec. 2-812. - Competitive bidding required.

All contracts for public improvements and purchases of supplies, materials or services, including design-build and design-build-operate contracts, requiring council approval, shall be awarded to the lowest responsible and responsive bidder after competitive bidding and advertisement or to the responsive offeror whose proposal is determined to provide the best value to the city considering the relative importance of price and other evaluation factors included in the request for proposals. For contracts for public improvement and purchases of supplies, materials or services that do not require council approval, the mayor or the purchasing agent director, at the request of the mayor, shall provide a minimum of three price quotations in the absence of competitive bidding and advertisement prior to contract or purchase. Council approval of expenditures are as prescribed by section 1.04 of the City Charter. City threshold amounts for competitive bidding or competitive solicitations, as applicable, are established at \$65,000.00 for goods, supplies, equipment, materials and/or services; and at \$100,000.00 for construction, including, without limitation public works and street improvement contract(s). Purchases under these prescribed amounts will nevertheless follow the procures for small purchases prescribed in section 2-812.1 of the City Code.

Sec. 2-812.1. - Small purchases.

Conditions for use. All purchases of goods, supplies, equipment, materials and/or services, the estimated cost of which does not exceed \$65,000.00 or construction services, including without limitation public works and street improvement contracts which do not exceed \$100,000.00 should be made using the simplified small-purchase procedures prescribed in this section of the Code.

(a) Division of requirements. Purchasing requirements shall not be artificially divided or split so as to permit use of small-purchase procedures described in this section instead of the methods otherwise applicable.

(b) Soliciting quotations. Goods, supplies, equipment, contractual and/or construction services.

(1) Small purchases of more than \$25,000.00. At least three quotations shall be sought via the City's e-procurement platform. Any award shall be made on the basis of competitive bidding via the City's e-procurement portal. The names of the offerors submitting the electronic quotations and the date and amount of each quotation shall be recorded and maintained by the purchasing director as a public record.

(2) Small purchases up to \$25,000.00. At least three quotations shall be sought by the user department. Award shall be made on the basis of informal bidding. The names of offerors submitting written, electronic or facsimile quotations and the date and amount of each quotation shall be recorded and maintained as a public record.

(3) Small purchases up to \$5,000.00. The purchasing director shall adopt operational procedures for making small purchases up to \$5,000.00. Such procedures shall provide for obtaining adequate and reasonable competition for the goods and services being purchased and shall require the maintenance of adequate written records to document the purchasing decision. Such records shall be recorded and maintained as a public record.

(c) Award.

(1) Goods, supplies, equipment, contractual and/or construction services. Small purchases up to \$25,000.00 shall be approved by the purchasing director on the basis of competitive bidding methods. The purchasing director shall have the authority to reject any or all informal bids.

(2) Professional and personal services. Except for the performance of legal or other exempt services, whenever the total cost for a contract for professional or personal services is \$25,000.00 or less, one written proposal shall be sought, and the award shall be made by the purchasing director.

Sec. 2-812.2. - Unauthorized purchases.

(1) It shall be unlawful for any city officer or employee to order the purchase of any goods and services or make any contract within the purview of this section other than through the purchasing director. Any purchase, order, or contract made contrary to the provisions of this Article shall not be approved, and the city shall not be bound thereby.

Sec. 2-812.3. - Emergency purchase procedures.

Emergency purchases are exempt from express city procurement requirements. Nevertheless,

in the interests of transparency and competitiveness, the city shall follow the procedures in this section for emergency purchases.

In case of emergency, such as a hurricane, storm, fire, flood, or other unanticipated natural event for which no person is responsible, it is not advantageous or practicable for the city to use competitive bidding methods. Therefore, the city may purchase directly those goods or services whose immediate procurement is essential to the life, health, welfare, safety, or convenience of the city. Such emergency purchases shall nevertheless be made with such competition as may be practicable under the circumstances.

- (1) In seeking the purchasing director's approval for emergency purchases that do not exceed \$25,000.00, the head of the using department or office shall submit to the purchasing director, in writing, a full explanation of the circumstances of the emergency and the reasons for selection of a particular business, along with a list of others which may have been solicited, with an approved requisition by the director of the requesting department or office.
- (2) In seeking approval for emergency procurements exceeding \$25,000.00, the head of the using department or office shall submit to the purchasing director and the mayor, in writing, a full explanation of the circumstances of the emergency and the reasons for selection of a particular business, along with a list of others which may have been solicited, and certification of fund availability from the director of the department of management and budget. The mayor may then approve the requirements of the emergency purchase after making a written finding, supported by reasons, that an emergency exists. Such finding shall be ratified by a simple majority vote of the city council.

All emergency awards shall be filed and maintained by the purchasing division as a permanent and public record of the purchase.

Sec. 2-817. - Exceptions to bid.

In addition to the monetary threshold provided in section 2-812, competitive bidding is excepted for professional services in the nature of consultants, accountants, and attorneys; sole source providers; emergencies based on objective facts; credit facilities; procurement of dues and memberships in professional organizations; registration fees for trade and career fairs; subscriptions for electronic or printed periodicals; postage and mailing; water, sewer, electrical and gas utility services; job-related seminars, courses and/or training; artistic services including, but not limited to, works of art or all performing, fine and/or written works of art; entertainment services for city events; fireworks and/or fireworks services for city events; maintenance and/or licensing agreements and/or upgrades to support continued, on-going use of proprietary software; all legal support services including, but not limited to, special counsel, paralegal, expert witness, jury consultant, legal research, court reporter and/or stenographer; matching fund grant agreements to the city, inclusive of any city agency or instrumentality.

*

*

*

Sec. 2- 826. - Public-private partnerships; unsolicited proposals.

- (a) **Policy and intent.** The city council hereby fully adopts for the best interests of the city, and for the benefit of residents and businesses in the city and of the community, the legislative findings and intent set forth in section 255.065, Florida Statutes, entitled “Public-private partnerships”, as amended, as such statute relates to public-private partnerships (“P3s”), unsolicited proposals, public records and public meetings exceptions, and other matters set forth in this statute. This Code section is cumulative and supplemental to this Statute, and other authority and power as vested in the City of Hialeah by section 166.011, et. seq., Florida Statutes the “Municipal Home Rule Powers Act”, the City Charter and Code of Ordinances of the City of Hialeah. This section, whenever applicable, provides an alternative method of contracting and will not be deemed to limit the power and authority of the mayor and the city council to procure, finance, operate or maintain any public improvements, goods, or services. It is the city’s intent that the public records and meetings exception, as applicable and as amended will apply to such records and meetings as allowed by Florida law. The city will use reasonable efforts to protect the confidentiality of documents exempted by general law from disclosure to the extent provided by law. The mayor or designee may develop specifications, processes, and/or procedures for training involved city staff to give effect to this section.
- (b) **Definitions.** Except as otherwise specifically set herein the city adopts the definitions set forth in section 255.065, Florida Statutes, as amended. For the purposes of this section, the following definitions shall apply to the city:
- (1) “Authorizing Resolution” means a Resolution passed by the city council on its own initiative or upon recommendation of the mayor to treat an unsolicited proposal or a qualifying Project as a P3 Qualifying Project when such project meets the statutory definition of a P3 Qualifying Project.
 - (2) “City Mayor” whenever used in this section shall include the mayor or the mayor’s designee(s) under this section. If the mayor does not name another designee, the designee will be the purchasing director. The purchasing director will serve as the mayor’s designee for all procurement, technical, and/or related submittal issues.
 - (3) “Non-P3 Qualifying Project” are those projects approved for publication via the unsolicited proposal process set forth in this section and section 255.065, Florida Statutes, as amended, but are not deemed a P3 Qualifying Project via an authorizing resolution.
 - (4) “P3” is a contractual arrangement between the city and a private entity to design, build, finance, operate, and/or maintain an improvement by the private entity

with the public improvement remaining in city ownership or reverting to city ownership and control at the end of the contract term.

- (5) “P3 Qualifying Project” is a Qualifying Project as that term is defined in section 255.065, Florida Statutes, as amended, which the council has determined is appropriate in the authorizing resolution, or instead, if in lieu of the competitive solicitation process, the city council holds two (2) public meetings making the required public interest determinations as required by referenced Florida Statute.
- (6) “Private Entity” is the private business entity however incorporated that submits the unsolicited proposal.
- (7) “Public Meetings” are two duly noticed public meetings required to be held by the city council at which the unsolicited proposal for a P3 Qualifying Project is presented, and affected public entities and members of the public are able to provide comment, and a second duly noticed public hearing where the city council determines that the proposal is in the public’s interest per the factors set forth in section 255.065, Florida Statutes, as amended. Such public meetings are required before the city may proceed with a qualifying project without engaging a public bidding process. Non-P3 qualifying projects do not have this option.
- (8) Purchasing Director is the mayor’s designee under this section (unless someone else is expressly named) and is the head of the city’s purchasing division.
- (9) “Responsible public entity” means the city, inclusive of all of its departments, agencies, and instrumentalities.
- (10) “Value for Money Analysis” or “VFM Analysis” is a process used to compare the financial impacts of a P3 method of delivery with the financial impacts for the traditional public delivery alternative. In general, the VFM Analysis should estimate the present value of the life-cycle cost of a project where the city finances, designs, builds, maintains and/or operates such project through the procurement process commonly used by the city for the procurement of similar goods and services versus the present value of payments to be made to a private entity for undertaking the same project on behalf of the city. A VFM Analysis may also assess the value of any risks retained by the city, opportunity costs, and ancillary costs borne by the city using a P3. A VFM Analysis is encouraged and useful in every instance and is beneficial in evaluating the P3. A “Value for Money Analysis” is not mandatory for submittals having a cost of less than fifty million (\$50,000,000) dollars. Submittals having a cost of fifty million (\$50,000,000) or more shall require a VFM Analysis which in all such instances is mandatory.

- (c) **Procurement Procedures.** This section shall govern both: (i) Unsolicited Proposals which are to be treated as Non-P3 Qualifying Projects and procured through the procedures set forth herein; and (ii) all P3 Qualifying Projects, whether originating via an unsolicited proposal or initiated by the City.

- (1) Unsolicited Proposals, Submittal. A private entity may submit an unsolicited proposal to the city at any time. The unsolicited proposal should be professionally formatted and such proposal should be submitted to the following individuals:

To: City Mayor
501 Palm Ave, 4th Floor
Hialeah, FL. 33010

With a copy to:
501 Palm Ave., 4th Floor
Hialeah, FL. 33010

- (2) Unsolicited Proposals, Minimum Contents. At minimum, the Unsolicited Proposal shall include the following information and shall be signed by an authorized representative of the Proposer: (i) A cover letter should include all the information in this subsection; (ii) A statement that the unsolicited proposal is submitted in accordance with section 255.065, Florida Statutes, as amended; (iii) Identify all private entities and the entity's principals, who will be directly involved in the Proposed Project. Include the scope of each entity's engagement, relevant experience, business address, email address, and telephone number; and (iv) Identify key contact person(s) and contact information for purposes of the unsolicited proposal.
- (3) Proposed Project Information. Proposed project information should, at minimum, include the following: (i) Detailed overview of the proposed project that illustrates the location, size, and context of the Proposed Project, including (as applicable) design concept renderings, site plan, elevations, and preliminary or initial programming of facilities inclusive of mix of uses, square footage, total parking spaces, parking allocations shared or exclusive; (ii) any known or suspected synergies or incompatibilities, as applicable, between the proposed project and any other existing, planned, or contemplated public facility and how the proposer anticipates addressing them; (iii) proposed term of agreement; (iv) material terms or conditions in the negotiation process; (v) method by which proposer will secure any needed property interests for the proposed project; (vi) any known or anticipated financing including names of financing sources; (vii) details of comprehensive plan or code amendments; and (viii) code variances and exceptions or the permits that may be needed for the project.
- (4) Financial Terms. Clearly state the proposed financial terms, including proposed revenue, payments, or other remuneration to the city over the proposed term.
- (5) Community Impact. Identify known community stakeholders and anticipated benefits. Describe how Proposer will manage community outreach and input, and communications with stakeholders.

(6) Application Fee. An initial application fee in the amount of \$25,000.00 is to be paid by cash, cashier's check, or other non-cancelable instrument to the city. Personal checks will not be accepted. This will offset the costs of processing and initial review of the proposal and will be spent within the city's discretion. If the costs of evaluating the unsolicited proposal exceed \$25,000.00, the city's administration shall increase the application fee to pay the costs of evaluating the unsolicited proposal; the proposer shall be notified, comply, and promptly pay the balance needed to pay the costs of evaluating the unsolicited proposal. The application fee will be used as provided in section 255.065, Florida Statutes and this section, as amended. The city may need to engage the services of private consultant(s) to assist in the evaluation of the unsolicited proposal. The city shall refund any portion of the initial application fee paid in excess of its costs associated with evaluating the proposal. The private entity must submit the additional cost within thirty (30) days of receipt of the additional amount or the mayor or designee shall stop the review of the unsolicited proposal and recommend its rejection to the council. At the completion of the unsolicited proposal review, the mayor or designee shall refund any portion of the application fee or additional cost which exceeded the costs associated with evaluating the unsolicited proposal.

(d) Public notice. If the mayor or designee receives an unsolicited proposal for a qualifying project pursuant to this section and the city desires to enter into an agreement with the private entity, the mayor or designee shall notify the city council of the receipt of the unsolicited proposal by the placement of an item on the next available city council agenda. Conversely, if the mayor or designee decides not to evaluate an unsolicited proposal, this determination shall be placed on the next available agenda of the city council. Upon a majority vote of the council members present, the council may direct the mayor or designee to proceed with the evaluation of the unsolicited proposal by the mayor or designee, inclusive of any consultant(s). In such case, any returned application fee must be resubmitted, and the unsolicited proposal has to meet the requirements of this section. The same process as set forth in this section for a qualifying P3 Project will be followed for a nonqualifying P3 Project except that there will be no public meeting alternative for a nonqualifying P3 Project. A nonqualifying project must be advertised as provided by section 255.065, Florida Statutes, as amended.

(e) Publication. If the unsolicited proposal is a qualifying or nonqualifying P3 project pursuant to this section and section 255.065, Florida Statutes, as amended. The city will publish a notice in the Florida Administrative Register and a newspaper of general circulation for at least once a week for 2 weeks stating that the city has received a proposal and will accept other proposals for the same project. The time frame shall be determined by the mayor and city

council on a project-by-project basis; however, the timeframe for allowing proposals must be at least twenty (21) days but no more than one-hundred and twenty days (120) days. A copy of the notice must be mailed to each local government in the affected area which will include Miami-Dade County and any municipality, public school, and/or special district in which all or a portion of the qualifying or nonqualifying project is located.

- (f) **Public Meeting Alternative for P3 Qualifying Project.** Alternatively to the publication process set forth above, the city council may elect to proceed with the unsolicited proposal for a P3 qualifying project under section 255.065, Florida Statutes, as amended, without engaging in public bidding if the city holds a duly noticed public meeting at which the proposal is presented, and affected public entities and members of the public are able to provide comment, and at a second duly noticed public meeting determines that the proposal for a qualifying project is in the public interest. In making the public interest determination, the mayor and city council must consider all of the following factors: (i) the benefits to the public; (ii) the financial structure of and efficiencies achieved by the proposal; (iii) the qualifications and experience of the private entity that submitted the proposal and such entity's ability to perform the project; and (iv) the project's compatibility with regional infrastructure plans and any public comments provided at the meeting. The city must provide a statement that explains why the unsolicited proposal should proceed and address any such public comments. If the city decides to proceed with the unsolicited proposal without engaging in a public bidding process, the city must publish in the Florida Administrative Register for at least seven (7) days a report that includes all of the following: (i) the public interest determination as set forth in this section; (ii) the factors considered in making such public interest determination; and (iii) the city's findings based on each public interest factor.
- (g) **Receipt of Proposals.** Sealed proposals shall be submitted through the city's e-procurement platform no later than the time and date specified. The legal name of each proposer (private entity) shall be recorded on the e-procurement platform, and the record of each proposal, to the extent consistent with applicable Florida statutes, will be open to public inspection as allowed by law. Any information exempt from public disclosure by state law shall be redacted.
- (h) **Proposal evaluation.** An evaluation committee will be appointed by the mayor for the purpose of evaluating and ranking the proposals based upon factors that include, but not limited to, professional qualifications, general business terms, innovative techniques or cost-reduction plans, and finance plans. Proposers may be invited to make presentations regarding their proposals. Proposals will be ranked in order of preference. The recommendation committee may include partially or wholly city staff, subject matter experts, and/or a consultant. The

recommendations of the evaluation committee shall be submitted to the mayor. In the event only one proposal is received, the evaluation committee or city staff, at the option of the mayor, may proceed or request the mayor recommend to the city council that the proposal be rejected, whichever is in the best interests of the city.

- (i) **Award.** Award for qualifying P3 projects that involve long-term financing. The mayor's recommendation shall consider the fiscal limitations on contracts involving the expenditure of city funds set forth in section 1.04 of the city charter. In such instances the recommendation shall be reviewed and approved by the city's chief accountant and/or an independent certified public accountant (CPA), selected and engaged by the city and funded by the private entity who is the applicant. If an award is made by the city council, it shall be to the highest-ranked responsive and responsible proposer (private entity) determined by the city council in accordance with the criteria used in evaluating and ranking the proposals. After reviewing the mayor's and/or evaluation committee recommendation(s), as applicable, the city council may: (i) Approve the mayor's recommendation and authorize contract negotiations with the highest ranked firm. If the city is not satisfied with the negotiation results, the city may terminate the negotiations with the proposer and negotiate with the second-ranked or subsequent-ranked firms. The finalized contract will then be brought back before the city council for their review, consideration, approval, or denial, or (ii) reject the proposal or all proposals if more than one proposal. Any awards under this section may only be awarded by the city council. The city council may include authority for all subsequent options of renewal, if any. Any options for renewal shall be exercised at the option of the mayor, subject to confirmation by the city council, if after reviewing past performance of the agreement the city council determines it is in the best interests of the city. All agreements will be in a form acceptable to the city and are subject to the approval of the city attorney. The chief accountant or designee shall review all finance plans and documents related to the private entity's performance, payment of contractors, subcontractors and other responsibilities. The risk manager or designee will review insurance, bonding, and related requirements. All agreements under this section, require approval of the city council.
- (j) **Rejection of proposals.** Notwithstanding this Code section, the city expressly reserves the right to reject any or all proposals at any point in the process prior to full execution of an interim agreement (if an interim agreement is decided upon) or a comprehensive agreement with a private entity. The rejection may be made by the city council on the mayor's recommendation or upon the council's own initiative.

- (k) Waiver of a competitive bidding process for a P3 Qualifying project. If recommended by the mayor or designee, the city council may waive competitive bidding for a P3 Qualifying Project as allowed by section 2-816 of the City Code, when not inconsistent with state law, including the requirements of section 255.065, Florida Statutes, as amended.
- (l) No bid protests. No recommendations, actions or decisions can be protested under this section to the city. section 2-815.1, entitled "Protest," is not applicable or available for public-private partnerships or unsolicited proposals.
- (m) Applicability; non-applicability, authority to administratively reject.
- (i) Applicability. This section is intended to apply when such qualifying factors are present: when there is a unique or specialized offering that is difficult to realize through competition such as when a proposer offers real estate that the proposer owns and is uniquely suitable for a project because it involves real estate abutting, proximate, or adjacent to city property; or, when the city has been attempting competitive procurement and has been unsuccessful, including when the time involved to complete the procurement process has resulted in an emergency; or when the benefits to the city and city residents from an expeditious contract outweigh any benefits to be had from competition. This list is illustrative yet not exclusive.
- (ii) Non- applicability. This section will not apply to the following kinds of unsolicited proposals: (i) when a project or matter is already being competitively solicited by the city, and the competitively solicited and unsolicited proposal cannot co-exist; or (ii) when another unsolicited proposal for the same, substantially the same or related project is under review, consideration, and evaluation so that the two unsolicited proposals cannot coexist. Separate and apart from the city's ability to reject any or all proposals, the city will administratively reject, through the mayor or designee, any projects that fall within this non-applicability category. The city will not retain the application fee when the proposal has been administratively rejected prior to evaluation under this non-applicability category.

This section, once enacted, will apply to any Public-Private Partnerships and/or Unsolicited Proposals that have not been affirmatively voted on by the City Council to proceed with the procedures set forth by section 255.065, Florida Statutes, as amended.

Section 2: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such

invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

Section 3: Repeal of Ordinances in Conflict.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Inclusion in Code.


The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this Ordinance shall be renumbered, as appropriate, to conform to the uniform numbering system of the Code. The City Clerk shall transmit a true and correct copy of this Ordinance to the publisher of the City Code.

Section 6: Effective Date.

This Ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

[Signature Page to Follow]

PASSED AND ADOPTED this 11 day of June, 2024.



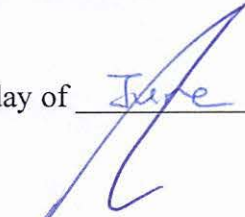
Jesus Tundidor
Council President

Attest:



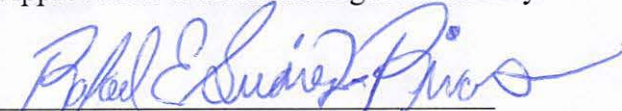
Marbelys Fatjo, City Clerk

Approved on this 12 day of June, 2024.



Mayor Esteban Bovo, Jr.

Approved as to form and legal sufficiency:



Rafael E. Suarez-Rivas, City Attorney

~~Strikethrough~~ indicates deletion of existing text. Underline indicates addition of new text.

Ordinance was adopted 6-0-1 with Council President Tundidor, Council Vice President Garcia-Roves, Council Members Calvo, Pacheco, Rodriguez and Zogby voting "Yes", and Council Member Perez absent.