

ORDINANCE NO. 230-06-115

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAUDERHILL AMENDING THE CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE III, DEPARTMENTS OF CITY GOVERNMENT, DIVISION 8, DIVISION OF PURCHASING, SECTION 2-137, COMPETITIVE BIDDING REQUIRED; CREATING SECTION 2-137.7, UNSOLICITED PROPOSALS; ADOPTING FLORIDA STATUTES, SECTION 255.065; AUTHORIZING THE UNSOLICITED PROPOSAL METHOD OF PROCUREMENT, PROCEDURES AND FEES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY CITY MANAGER, DESORAE GILES-SMITH)

BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA THAT:

Section 1: That the Code of Ordinances, Chapter 2, Administration, Article IV, City Commission, Section 2-137.7, Unsolicited Proposals, is hereby created to read as follows:

Sec. 2-137.7 Unsolicited Proposals.

- (a) *Policy and Intent.* The City of Lauderhill hereby adopts, for the City and for the benefit of the residents of the City, the legislative findings and intent set forth in section 255.065, Florida Statutes, as may be amended from time to time, relating to unsolicited proposals. In line with the City's process to evaluate proposals, the City may publicize its needs and encourage interested parties to submit unsolicited proposals. If proposals are received without issuance of a Solicitation, the proposals may be treated as an unsolicited proposal and may be evaluated as a public-private partnership. This section of the Code is cumulative and supplemental to all other authority and power vested in the City by Charter, the laws of the State of Florida and the Code of Ordinances. This section of the Code provides an alternative method of contracting and shall not be deemed to limit the power or authority of the City Commission, the City Manager, or the Purchasing Officer to procure, finance, operate, or maintain any public improvement or services. The City shall protect the confidentiality of documents exempt from disclosure to the maximum extent provided by law.
- (b) *Definitions.* Except as otherwise specifically set forth herein, the City adopts the definitions set forth in section 255.065, Florida Statutes, as may be amended from time to time which include, but are not limited to, the following:
 - 1) "Proposal" means a plan for a qualifying project with detail beyond a conceptual level for which terms such as fixing costs, payment schedules, financing, deliverables, and project schedule are defined.

- 2) "Qualifying Project" means a facility or project that serves a public purpose, including, but not limited to, any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity.
- (c) Unsolicited Proposal Procedures. A private entity may submit an unsolicited proposal to the City for a Qualifying Project at any time.
- 1) The unsolicited proposal must include:
- a. An initial application fee in an amount of \$25,000.00 paid by cash, cashier`s check, or other non-cancelable instrument. Personal checks may not be accepted.
- b. All material and information set forth in section 255.065(4), Florida Statutes. Additionally, the private entity must provide a listing of all proposed obligations and requirements of the City and any other governmental agencies, including but not limited to, contributions to project financing, staffing, and permitting.
- 2) Within thirty (30) days of receipt of any unsolicited proposal, the City Manager may elect to not evaluate the unsolicited proposal, in which case the City must return the application fee. On an as-needed basis, the City Manager shall submit a report to the Board of all unsolicited proposals the City Manager has elected not to evaluate. Upon a majority vote of the Commissioner members present, the Board may direct the City Manager to evaluate an unsolicited proposal the City Manager elected not to evaluate provided the application fee is resubmitted and the unsolicited proposal otherwise meets the requirements of this section.
- 3) If the City Manager elects to evaluate an unsolicited proposal, the City Manager may seek the advice of City staff, outside advisors, or consultants with relevant experience in determining whether to accept the unsolicited proposal for publication of a solicitation for the same project purpose and/or whether to enter into an agreement with the private entity or any competing proposer. The City Commission or the City Manager may require the private entity to provide a technical study as set forth in section 255.065(3)(f), Florida Statutes. In determining whether to recommend the unsolicited proposal for publication of a solicitation for the same project purpose as either a P3 Qualifying Project or as a Non-P3 Qualifying Project, the City Commission may take into consideration such factors as: whether the proposed project is in the public's best interest; the costs of the proposed project and its funding sources and its financial viability;

whether the proposed project may be accomplished through the use of City resources; the need for the proposed project; the scientific, technical or socioeconomic merits of the unsolicited proposal; the contribution of the proposal to the City's goals and objectives; the cost, if any, to the City to proceed with implementation of the proposed project; and any other information the City deems appropriate for such evaluation.

- 4) If the initial application fee does not cover the City's costs to evaluate the unsolicited proposal, the City must request in writing the additional amounts the City deems reasonably necessary to fully evaluate the unsolicited proposal. The private entity must remit the requested additional amounts within 30 days of receipt of the request for additional fees or the City shall stop the review of the unsolicited proposal and recommend its rejection to the Commission. At the completion of the review of the unsolicited proposal, the City shall refund any portion of the application fee paid which in the discretion of the City Manager exceeded the costs associated with evaluating the unsolicited proposal.
- 5) If the City Manager or Commission elects to evaluate an unsolicited proposal that has been submitted with the application fee and all of the information and materials required pursuant to this section, the City shall have ninety (90) days to evaluate the unsolicited proposal. In the event that 90 days is insufficient to complete an evaluation, the City Manager may request an extension of this time from the Commission. At the completion of the ninety (90) day review period, unless extended by the Commission, the City Manager shall submit an item to the City Clerk for placement on the appropriate agenda of the Commission containing a recommendation to: (1) either reject the unsolicited proposal; (2) publish a solicitation for a P3 Qualifying Project for the same project purpose as the unsolicited proposal as set forth herein; (3) publish a solicitation for a Non-P3 Qualifying Project for the same project purpose as the unsolicited proposal in accordance with the City's general procurement rules; or (4) to take any other such action as may be appropriate.
- 6) The City may request a proposal from private entities for a qualifying project or, if the responsible City receives an unsolicited proposal for a qualifying project and the City intends to enter into a comprehensive agreement for the project described in the unsolicited proposal, the City shall publish notice in the Florida Administrative Register and a newspaper of general circulation at least once a week for two (2) weeks stating that the City has received a proposal and will accept other proposals for the same project. The timeframe within which the City may accept other proposals shall be determined by the City on a project-by-project basis based upon the complexity of the qualifying project and the public benefit to be gained by allowing a longer or shorter period of time within which other proposals may be received; however, the timeframe for allowing

other proposals must be at least twenty-one (21) days, but no more than one hundred and twenty (120) days, after the initial date of publication. If approved by a majority vote of the City Commission, the City may alter the timeframe for accepting proposals to more adequately suit the needs of the qualifying project. A copy of the notice must be mailed to each local government in the affected area.

- 7) The City shall have sole discretion to determine whether it accepts and awards the unsolicited proposal, or any other proposal(s), in whole or in part, received in response to the publication. The city also has the option to decide not to award the proposal to anyone if it deems it is in the best interests of the city. The City Commission must approve any award by a majority vote.

Section 2: Should this ordinance or any part thereof be declared invalid by a Court of competent jurisdiction, the invalidity of any part of this ordinance shall not otherwise affect the validity of the remaining provisions of this ordinance, which shall be deemed to have been enacted without the invalid provision.

Section 3: All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: This provision of this ordinance shall become effective as of the date of passage.

DATED this ____ day of _____, 2023.

PASSED on first reading this ____ day of _____, 2023.

PASSED AND ADOPTED on second reading this ____ day of _____, 2023.

PRESIDING OFFICER

ATTEST:

CITY CLERK

	FIRST READING	SECOND READING
MOTION	_____	_____
SECOND	_____	_____
M. DUNN	_____	_____
D. GRANT	_____	_____
L. MARTIN	_____	_____
S. MARTIN	_____	_____
K. THURSTON	_____	_____