

**CITY OF MIRAMAR
PROPOSED CITY COMMISSION AGENDA ITEM**

First Reading Date: May 20, 2020

Second Reading Date: June 17, 2020

Presenter's Name and Title: Alicia Ayum, Procurement Director

Prepared By: Natalie Richmond, Procurement Administrator

Temp. Ord. Number: 1748

Item Description: **FIRST READING** of Temp. Ord. # 1748 AMENDING THE CODE OF ORDINANCES BY AMENDING PORTIONS OF ARTICLE XII, PROCUREMENT, SECTION 2-405, DEFINITIONS, SECTION 2-407, AUTHORIZATION FOR THE USE OF ELECTRONIC TRANSMISSIONS, SECTION 2-412(a), AWARD AUTHORITY, CITY COMMISSION APPROVAL, SECTION 2-413, PROCUREMENT AUTHORITY EXEMPTIONS, SECTION 2-420, BID THRESHOLDS, SECTION 2-421(e), COMPETITIVE SEALED BIDDING; SECTION 2-422(f), COMPETITIVE SEALED PROPOSALS, SECTION 2-423, SMALL PURCHASES, SECTION 2-426, OTHER PROCUREMENTS, SECTION 2-436(c), CONTRACT CLAUSES AND THEIR ADMINISTRATION, SECTION 2-454, DEFINITIONS OF TERMS USED IN THIS DIVISION, PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING THAT OFFICIALS ARE AUTHORIZED TO TAKE ACTION; PROVIDING FOR CODIFICATION (Alicia Ayum, Procurement Director).

Consent ☐ Resolution ☐ Ordinance ☒ Quasi-Judicial ☐ Public Hearing ☐

Instructions for the Office of the City Clerk:

Public Notice – As required by the Sec. _____ of the City Code and/or Sec. _____, Florida Statutes, public notice for this item was provided as follows: on _____ in a _____ ad in the _____; by the posting the property on _____ and/or by sending mailed notice to property owners within _____ feet of the property on _____ (fill in all that apply)

Special Voting Requirement – As required by Sec. _____, of the City Code and/or Sec. _____, Florida Statutes, approval of this item requires a _____ (unanimous, 4/5ths etc.) vote by the City Commission.

Fiscal Impact: Yes ☐ No ☒

REMARKS: [Click or tap here to enter text.](#)

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**CITY OF MIRAMAR
INTEROFFICE MEMORANDUM**

V. Hargray
TO: Mayor, Vice Mayor, & City Commissioners
FROM: Vernon E. Hargray, City Manager *V. Hargray*
BY: Alicia Ayum, Procurement Director amendment
DATE: May 14, 2020
RE: **FIRST READING** of Temp. Ord. No. 1748, amending portions of Article XII, entitled 'Procurement', of the City Code

RECOMMENDATION: The City Manager recommends approval of Temp. Ord. No. 1748, amending the City Code of Ordinances by amending portions of Article XII, *Procurement*, Sections 2-405, 2-407, 2-412(a), 2-413, 2-420, 2-421(e), 2-436 (c) and 2-454 to further enhance how procurement matters are handled, evaluated and awarded.

ISSUE: City Commission approval is required to amend the City Code.

BACKGROUND: Article XII of the Code of Ordinances provides for how procurement matters are handled, evaluated and awarded. It is necessary from time to time that the code be revisited and revised to ensure that procurements for the City's goods, services and construction are consistent with new trends and the City's growth.

In November 2011, Article XII of the City Code was revised significantly and last updated in August 2018. This ordinance seeks to revise and update Article XII as follows:

- Section 2-405 – *Definitions* - Add the term *Best and Final Offer* and update the term *Local Business*.
- Section 2-407 – *Authorization for the use of electronic transmission* – updating this section for the allowance of the use of electronic signatures.
- Section 2-412(a) – *Award Authority, City Commission Approval* – updating requirements for approval of the City Commission for purchases that exceed the City Manager's authority.
- Section 2-413, *Procurement Authority Exemptions* - updating and extending the list on non-competitive methods of procurements.

- Section 2-420 – *Bid Thresholds* – increase bid threshold table for up to \$5000 for small dollar purchases.
- Section 2-421 – *Competitive Sealed Bidding* - updating Cone of Silence requirements and procedure.
- Section 2-422 – *Competitive Sealed Proposals* - clarifying the use of a Best and Final Offer (BAFO).
- Section 2-423 – *Small Purchases* - updating threshold for up to \$5,000 for small dollar purchases and \$7,500 for purchases from local businesses.
- Section 2-426 – *Other Procurements* - revising the term "Special Procurement" and adding Unsolicited Proposal as a method of procurement.
- Section 2-436 – *Contract clauses and their administration* - adding requirements for Change Orders and Contract Extension.
- Section 2-454 – *Definitions of terms used in this division* - update and clarify requirements for disadvantage businesses and local businesses.

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**CITY OF MIRAMAR
MIRAMAR, FLORIDA**

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING PORTIONS OF ARTICLE XII, PROCUREMENT, SECTION 2-405, DEFINITIONS, SECTION 2-407, AUTHORIZATION FOR THE USE OF ELECTRONIC TRANSMISSIONS, SECTION 2-412(a), AWARD AUTHORITY, CITY COMMISSION APPROVAL, SECTION 2-413, PROCUREMENT AUTHORITY EXEMPTIONS, SECTION 2-420, BID THRESHOLDS, SECTION 2-421(e), COMPETITIVE SEALED BIDDING; SECTION 2-422(f), COMPETITIVE SEALED PROPOSALS, SECTION 2-423, SMALL PURCHASES, 2-426, OTHER PROCUREMENTS, SECTION 2-436(c), CONTRACT CLAUSES AND THEIR ADMINISTRATION, SECTION 2-454, DEFINITIONS OF TERMS USED IN THIS DIVISION, PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING THAT OFFICIALS ARE AUTHORIZED TO TAKE ACTION; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article XII of the Code of Ordinances provides for how procurement matters are handled, evaluated and awarded; and

WHEREAS, it is necessary from time to time that the code be revisited and revised to ensure that procurements of the City's goods, services and construction are consistent with new trends and City growth; and

WHEREAS, in November 2011, Article XII of the City Code was revised significantly and last updated in August 2018; and

WHEREAS, this ordinance seeks to revise and update Article XII; and

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WHEREAS, words with a single underline shall constitute additions to the original text, ~~strike-through~~ text shall constitute deletions to the original text, asterisks indicate omitted and unchanged material; and

WHEREAS, approval of the City Commission is required to amend the City Code; and

WHEREAS, the City Manager recommends approval to amend the code of ordinances Article XII, Division 1, Sections 2-405 and 2-407, Division 2, Sections 2-412(a) and 2-413, Division 3, Sections 2-420, 2-421(e), 2-421(e)(1) and (2), 2-422(f), and 2-423, Division 6, 2-436, and Division 10, 2-454; and

WHEREAS, the City Commission deems it to be in the best interest of the citizens and residents of the City of Miramar to approve amendment of the City Code of Ordinances Article XII, Division 1, Sections 2-405 and 2-407, Division 2, Sections 2-412(a) and 2-413, Division 3, Sections 2-420, 2-421(e), 2-421e(1) and (2), 2-422(f), and 2-423, Division 6, 2-436, and Division 10, Section 2-454.

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**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF
MIRAMAR, AS FOLLOWS:**

Section 1. That the foregoing “**WHEREAS**” clauses are hereby adopted as legislative findings of the City of Miramar Commission and are hereby ratified and confirmed as being true and correct and are made a specific part of this Ordinance upon adoption.

Section 2. Section 2-405 of Article XII, Division 1, is amended to add the following definition as noted:

Sec. 2-405. – Definitions.

The words defined in this division shall have the meanings set forth below unless: the context in which they are used clearly requires a different meaning; or a different definition is prescribed for a particular division or provision.

Best and Final Offer (BAFO): A responsive proposal that contains a proposer’s most favorable terms for price, services, and products to be delivered.

Local business means a contractor who has a business location within Miramar, ~~Florida, is in compliance with all City licensing requirements, and is current on all City taxes. a current occupational license and business tax receipt issued by the city, or owned by a resident of the city, wherever located.~~ The contractor shall have the burden of demonstrating that it meets this definition.

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Section 3. Section 2-407 of Article XII, Division 1, is amended as follows:

Sec. 2-407. – Authorization for the use of electronic transmissions signatures and transactions.

For the purposes of this division only, the use of electronic media, including acceptance of electronic signatures, is authorized consistent with the state's Electronic Signature Act and Uniform Electronic Transaction Act, applicable statutory, regulatory or other guidance for use of such media, so long as such guidance provides for:

- (1) Appropriate security to prevent unauthorized access to the bidding, approval, and award processes;
- (2) Accurate retrieval or conversion of electronic forms of such information into a medium which permits inspection and copying; and
- ~~(3) Is not applicable to the execution of contracts by the city manager; and~~
- (4 3) Does not conflict with any provision of the City Charter.

(Ord. No. 12-03, § 5(2-107), 11-15-11)

Section 4. Section 2-412 of Article XII, Division 2, is amended as follows:

Sec. 2-412. - Award authority.

(a) *City Commission approval.*

- (1) An acquisition of, or a contract for, commodities or services where the expenditure by a single city department exceeding the aggregate sum of the City is estimated to be seventy-five thousand dollars (\$75,000.00) or greater from the same person or entity during the course of a fiscal year shall require the approval of the City Commission, regardless of whether the competitive bidding or competitive proposal procedures were followed. However, emergency purchases as described in section 2-425 shall not require advanced City Commission approval when an unforeseen or unanticipated urgent threat to life, health, safety or the welfare of the community or public properties occurs where immediate action is required and a quorum of the City Commission for an Emergency special meeting cannot be obtained before the deadline for action. In such Emergency situations, the City Manager may approve the purchase or contract, subject to ratification by the City Commission.

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- (2) Acquisitions of, or contracts for, commodities or services from the same person or entity by multiple city departments exceeding the aggregate sum of one hundred fifty thousand dollars (\$150,000.00) shall not be permitted from the same person or entity during the course of any fiscal year unless such purchases are first authorized by the City Commission. This provision shall not apply to purchases of utilities or to ongoing contracts.
- (b) *City Manager delegation of authority.* The City Manager has the discretion to authorize any member of his or her senior executive staff to approve and execute contracts for the purchase of commodities or services in the amounts amount described in sections 2-412(a)(1) and (2).~~in seventy-five thousand dollars (\$75,000.00) or less.~~

Section 5. Section 2-413 of Article XII, Division 2, is amended as follows:

Sec. 2-413. - Procurement authority exemptions.

- (6) *Utilization of other governmental agencies' contracts.* Commodities or services that are the subject of contracts with the state, its political subdivisions or other state governmental entities ~~in the State of Florida,~~ or with the United States government, are exempt from this section; provided, however, that this subsection shall apply only if (i) the commodities or services are the subject of a negotiated price schedule ~~negotiated by the State of Florida,~~ or (ii) the commodities or services are the subject of a contract with the United States government or another governmental entity ~~in the State of Florida~~ that is based strictly on competitive bids or competitive proposals and not on any preference. Such utilization of other government agencies' contracts shall only be valid during the term of that contract.

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(87) *Best interest of city.* Purchases of and contracts for commodities or services are exempt from this section of the Code when the city commission declares by a four-fifths (4/5) affirmative vote that the process of competitive bidding and competitive proposals is not in the best interest of the city. The city commission shall make specific factual findings that support its determination, and such contracts shall not be placed on the city commission consent agenda.

(8) Owner direct purchase. The purchase of supplies or materials without competition where such supplies or materials are being procured by the City as an owner direct purchase for incorporation into a city construction project, the contract for which was previously awarded by the City, which prior award included the cost of such supplies and materials. In such event, the City shall procure the supplies or materials in accordance with Florida Statutes and regulations related to owner direct purchases by governmental entities.

(9) Job order contracting (JOC). The City may procure services by means of job order contracting. The job order contracting procurement process shall be further delineated by the Chief Procurement Officer in the city's Procurement Manual.

(10) *Other exceptions.* With the approval of the City Manager, the following supplies and services may be procured without competition, subject to the requirements of this Code:

- a. Servicing or warranty work on equipment by an authorized dealer or representative when work by another party would void a warranty or guaranty;
- b. Purchase of additional extended warranties;
- c. Renewal of software licenses and maintenance and licensing agreements to support continued, on-going use of proprietary software applications;
- d. Used equipment and machinery;

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- e. Advertising in newspapers, periodicals and related publications, television, radio, ~~and~~ billboards, kiosks and/or other signage assets, professional organizations, trade shows and any other related media;
- f. Commodities available from the federal government, the State of Florida or Florida local governments;
- g. ~~Fees, including M~~medical, physician, and veterinarian fees, and health services involving examination, diagnosis, treatment, prevention, medical consultation or administration;
- h. Freight, storage charges, and demurrage;
- i. Licenses;
- j. Membership in professional, trade and other similar associations;
- k. Shipping services, including postage, overnight delivery, and other courier services; ~~Postage;~~
- l. Published books, manuals, maps, periodicals, films, technical pamphlets, and copyrighted educational aids for use in libraries and for other informational and instructional purposes in instances in which other applicable law does not provide a restrictive means for the acquisition of them;
- m. Real property and real estate transaction-related costs, including closing/processing fees, abstract of titles, and title insurance and services of professionals to assist in the identification, inspection, due diligence investigation and appraisal of properties for potential acquisition, and maintenance of the properties after acquisition or such other services as may be necessary or desirable in connection with the Property Acquisition Program, provided for in Section 2-262.;
- n. Services of visiting speakers, lecturers, training for staff for continuing education, and performing artists;
- o. Utility services, the rates for which are subject to regulation by a state or federal regulatory agency;
- p. Works of art for museum and public display; ~~and~~

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- q. Goods purchased for resale to the general public in a retail sale location operated and owned by the City;
- r. Persons or entities retained as expert consultants or private investigators and work place investigators to assist the City in litigation, or in threatened or anticipated litigation and sensitive human resource or workplace matters;
- s. Entertainment and entertainment related expenses for city sponsored events;
- t. Travel on city business, including hotel accommodations and services; Services of professionals to assist in the identification, inspection, due diligence investigation and appraisal of properties for potential acquisition, and maintenance of the properties after acquisition or such other services as may be necessary or desirable in connection with the Property Acquisition Program, provided for in Section 2-262.
- u. Services provided by, or in partnership with, institutions of higher learning, not-for-profit organizations, state sponsored institutions, and other governmental and public agencies.

Section 6. Section 2-420 of Article XII, Division 3, is amended as follows:

The bid thresholds for city procurements are:

\$0.00— \$2,500.00 <u>\$5,000.00</u>	No competition required
\$2,500.01 <u>\$5,000.01</u> —\$10,000.00	A minimum of 3 oral or written quotations required
\$10,000.01—\$75,000.00	A minimum of 3 written quotations required
\$75,000.01 +	Formal advertised bids or proposals required

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Section 7. Section 2-421 of Article XII, Division 3, is amended as follows:

Sec. 2-421. - Competitive sealed bidding.

- (e) *Cone of silence.* Unless waived by the City Commission, all contracts for the provision of goods and services other than professional services contracts in excess of seventy-five thousand dollars (\$75,000) shall be subject to a "cone of silence".

(1) *Definition.*

Cone of silence is hereby defined to mean a prohibition on: (i) any communication regarding a particular request for proposals ("RFP"), request for qualifications ("RFQ"), request for letters of interest ("RLOI"), or invitation for bid ("IFB") between a potential contractor, service provider, bidder, proposer, offeror, lobbyist, or consultant and the city's personnel including but not limited to the City Manager, ~~or~~ any member of the city's professional staff; (ii) any communication regarding a particular RFP, RFQ, RLOI, or IFB between a potential contractor, service provider, bidder, proposer, offeror, lobbyist, or consultant and any member of the selection committee therefore. Notwithstanding the foregoing, the cone of silence shall not apply to: (i) communications with the City Attorney and his or her staff; (ii) communications between a potential contractor, service provider, bidder, proposer, offeror, consultant or lobbyist and employees of the procurement department; (iii) duly noticed site visits to determine the competency of bidders, proposers, or offerors regarding a particular solicitation during the time period between the opening of bids, proposals, or offers, and the time the City Manager or his or her designee makes his or her written recommendation; or (iv) any emergency purchase of goods or services pursuant to section 2-425.

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- (2) *Procedure.* A cone of silence shall be imposed upon each RFP, RFQ, RLOI or IFB at the time of short listing by the selection team for responses for the RFP, RLOI, RFQ, or IFB is advertised, and for procurements when a short listing is not created, such as a bid, then at the bid opening or at the time responses are received. At the time of imposition of the cone of silence, the Chief Procurement Officer shall provide public notice of the cone of silence by posting notice at City Hall. The Chief Procurement Officer shall issue a written notice thereof to affected departments, file a copy of such notice with the City Clerk and the Mayor, Vice Mayor and each City Commissioner. Any advertisement and public solicitation for goods and services shall contain a statement disclosing the requirements of this subsection. The provisions of the cone of silence set forth in this section as it pertains to the prohibition of any communications shall be included in each RFP, RFQ, RLOI, or IFB solicitation. Notwithstanding any other provision of this section, the imposition of a cone of silence on a particular RFP, RFQ, RLOI, or IFB shall not preclude staff from obtaining industry comment or performing market research therefore, provided all communications between a potential contractor, service provider, bidder, proposer, offeror, lobbyist, or consultant and any member of the City's professional staff including, but not limited to, the City Manager and his or her staff are in writing or such communications are made at a duly noticed public meeting. The potential contractor, service provider, bidder, proposer, offeror, lobbyist, or consultant shall file a copy of any written communication with the office of the City Clerk. The office of the City Clerk shall make copies available to any person upon request.

The cone of silence shall terminate at the time the City Manager or his or her designee makes his or her written recommendation to the City Commission.

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Section 8. Section 2-422 of Article XII, Division 3, is amended as follows:

Sec. 2-422. - Competitive sealed proposals.

(f) Best and Final Offer (BAFO). Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of offers and such revisions may be permitted after submissions and prior to award for the purpose of obtaining a proposer's most favorable terms for price, services, and products to be delivered.

Section 9. Section 2-423 of Article XII, Division 3, is amended as follows:

Sec. 2-423. - Small purchases.

A purchase of, or contract for, commodities or services that is estimated by the Chief Procurement Officer to cost seventy-five thousand dollars (\$75,000) or less may be purchased either in the open market, without newspaper advertisement and without observing the procedures prescribed in the competitive bid or proposal section of this division, or by the procedures set out in the competitive bid or proposal section of this division as deemed appropriate by the Chief Procurement Officer, except as otherwise provided by law.

Purchases up to ~~two thousand five hundred dollars (\$2,500)~~ five thousand dollars (\$5,000), or a lower dollar threshold set by the City Manager, do not require competition. Any purchases from a local vendor, as defined in Section 2-454(b), shall not require competition for purchases up to seven thousand five hundred dollars (\$7,500). However, City staff should strive to obtain goods and services in as economic a manner as possible, and is encouraged to procure such goods and services from a local vendor when economically viable. City staff is prohibited from dividing purchases to avoid the dollar threshold for competitive bidding or proposals required by the City's code.

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Section 10. Section 2-426 of Article XII, Division 3, is amended as follows:

2-426. – ~~Special~~ Other procurements.

Notwithstanding any other provision of this Code, the Chief Procurement Officer may, with prior public notice, initiate procurement above the small purchase amount specified in [section 2-423](#) where the he or she determines that an unusual or unique situation exists that makes the application of all requirements of competitive sealed bidding or competitive sealed proposals contrary to the public interest. Any other procurement under this section shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the procurement and for the selection of the particular contractor shall be included by the Chief Procurement Officer in the contract file, and a report shall be made publicly available at least annually describing all such interpretations made subsequent to the prior report.

Other procurement methods authorized herein but not limited to include:

(1) *Request for letters of interest (RLOI)*. A written solicitation for offers with the title, date and hour of the submission deadline designated. An RLOI shall include but is not limited to general information and submission deadline. The City shall engage in competitive negotiations with responsible offerors determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of and conformance to the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion.

(2) *Request for qualifications (RFQ)*. A written solicitation for competitive sealed offers with the title, date and hour of the public opening designated. An RFQ shall include but is not limited to general information, functional or general specifications, statement of work, and instructions for offer and evaluation criteria. All RFQs shall state the relative importance of the evaluation criteria. The City may engage in competitive negotiations with responsible offerors determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of and conformance to the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of offers and such revisions may be permitted after submissions and prior to award for the purpose of obtaining the best and final offer.

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(3) *Reverse auction*. An online auction in which sellers bid against each other to win a buyer's business. It is typically used to purchase commodities from multiple pre-qualified providers.

(4) Unsolicited Proposals:

(a) The City hereby adopts F.S. § 287.05712, "Public-private partnerships", and expressly incorporates it by reference into the city procurement ordinance, as such may be modified.

(b) Definitions. For purposes of this section, the following words shall have the same meanings ascribed to them as in F.S. § 287.05712:

(1) "Qualifying project";

(2) "Private entity";

(c) Conditions for use. The City may receive unsolicited proposals for a qualifying project and may thereafter enter into an agreement with a private entity, or a consortium of private entities, for said qualifying project, subject to the procedures and conditions set forth herein. Any unsolicited proposal shall include sufficient detail and information for the City to evaluate the proposal in an objective and timely manner.

(d) Application fee. Any private entity or consortium of private entities desiring to submit an unsolicited proposal for a qualifying project shall submit to the City an application fee of up to \$15,000 payable to the City in the form of a money order or cashier's check at the time of unsolicited proposal submittal. If the cost of evaluating the unsolicited proposal exceeds \$15,000 the application fee shall be increased to a reasonable fee to pay the costs of evaluating the unsolicited proposal. The proposer will be notified and will promptly pay the balance of the application fee needed to pay the costs of evaluating the unsolicited proposal. As provided for in F.S. § 287.05712(4)(a), the purpose of this application fee is to pay the costs of evaluating the unsolicited proposal. The City may need to engage the services of a private consultant 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 direct costs associated with evaluating the proposal.

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(e) Public notice. If the City receives an unsolicited proposal for a qualifying project pursuant to this section, and desires to enter into an agreement with the private entity or consortium of private entities submitting same, the City shall first notify the commission of the receipt of said unsolicited proposal by placement of a discussion item on the next available commission meeting agenda. Upon the Commission's approval to proceed with said unsolicited proposal project, the City shall publish public notice in the Florida Administrative Register and a newspaper of general circulation at least once a week for two weeks stating that the City has received an unsolicited proposal and that the City will accept other proposals for the same qualifying project. The City shall set forth in each such request for proposals the criteria to be evaluated and how such private partner shall be selected from the proposals submitted. The entity submitting the original unsolicited proposal may submit a more detailed proposal in response to the City's notice. The timeframe for allowing other proposals shall be no fewer than 21 days but no more than 120 days after the initial date of publication. A copy of the notice must be mailed to each local government in the affected area of the qualifying project which shall mean Broward County and/or any municipality and/or special district in which all or a portion of the qualifying project is located.

(f) Receipt of proposals. Sealed proposals must be received by the City Clerk no later than the time and date specified for submission in the publication. The name of each proposer shall be recorded by the City Clerk or his or her designee, and the record and each proposal, to the extent consistent with applicable state law, shall be open to public inspection.

(g) Proposal evaluation. An evaluation committee shall be appointed by the city manager for the purpose of evaluating and ranking the proposals based upon factors that include, but are not limited to: professional qualifications and experience, general business terms, innovative design techniques or cost-reduction terms, and finance plans. Proposers may be invited to make oral presentations regarding their proposals. The recommendations of the evaluation committee shall be submitted to the City Manager.

In the event only one proposal is received, the evaluation committee may proceed with the evaluation, or request the City Manager to reject the proposal, whichever is in the best interest of the City.

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- (1) After reviewing the evaluation committee's recommendation, the City Manager may:
- a. Approve the recommendation of the evaluation committee, written notice of which shall be provided to all proposers, and the City Manager shall then submit his or her recommendation to the city commission;
 - b. Reject the evaluation committee's recommendation and instruct the evaluation committee to re-evaluate and make further recommendations;
 - c. Reject all proposals; or
 - d. Recommend that the City Commission reject all proposals.
- (h) Award. For agreements that involve long-term financing wherein the city would incur a debt obligation, the city manager's award recommendation shall be reviewed and approved by the City's finance director before being submitted for consideration by the city commission. Award shall be made to the highest-ranked responsive responsible proposer whose proposal is most advantageous to the City as determined by the city commission in accordance with the criteria the evaluation committee used in evaluating and ranking the proposals.
- (1) After reviewing the City Manager's recommendation, the City Commission may:
- a. Approve the City Manager's recommendation and authorize contract negotiations;
 - b. Reject all proposals;
- (2) The decision of the City Commission shall be final. Written notice of the award shall be given to the successful proposer.

Unsolicited proposals may only be awarded by the City Commission subject to the procedures set forth herein. Awards made by the City Commission shall include authority for all subsequent options of renewal, if any. The aforementioned options of renewal shall be exercised at the option of the city commission if, after review of past performance under the contract, the City Manager determines in his/her sole discretion that exercise of the option of renewal is in the best interest of the city. All agreements shall be in a form acceptable to the City Manager, as applicable, and subject to approval as to legal sufficiency by the city attorney. The finance director or his/her designee shall review all finance plans and documents related to the private entity's performance, payment of subcontractors and similar responsibilities. The City's Risk Manager shall review all insurance and related requirements.

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(5) *Other procurements.* The utilization of any procurement method not otherwise described in this Code shall require prior approval by the city commission.

Section 11. Section 2-436 of Article XII, Division 6, is amended as follows:

Sec. 2-436. - Contract clauses and their administration.

- (a) *Contract clauses.* The Chief Procurement Officer or the City Attorney may promulgate policies permitting or requiring the inclusion of clauses providing for adjustments in prices, time of performance, or other contract provisions as appropriate covering the following subjects:
- (1) The unilateral right of the City to order in writing:
 - a. Changes in the work within the scope of the contract; and
 - b. Temporary stopping of the work or delaying performance;
and
 - (2) Variations occurring between estimated quantities of work in a contract and actual quantities.
- (b) *Modification of clauses.* The Chief Procurement Officer or the City Attorney may vary the clauses promulgated by the Chief Procurement Officer or the city attorney under subsection (a) of this section for inclusion in any particular city contract provided that any variations are supported by a written determination that states the circumstances justifying such variation and provided that notice of any such material variation be stated in the IFB or RFP.
- (c) *Change Orders.* The City Manager or his or her designee may approve and execute change orders and contract modifications and price adjustments for supplies, services and construction within the scope of an existing award when the original contract did not require approval of the City Commission and the aggregate total of change orders and/or contract modifications does not increase the total value of the contract to an amount which would have required approval by the Commission of the original contract in accordance with Sec. 2-412. Award Authority
- (d) *Extension.* No City contract shall be extended beyond the expiration date permitted in such contract without the City Commission's approval.

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Section 12. Section 2-454 of Article XII, Division 10, is amended as follows:

Sec. 2-454. - Definitions of terms used in this division.

(a) *Disadvantaged business* shall either:

- (1) Be certified by the Broward County Office of Economic and Small Business Development, as a "Small Business Enterprise" ("SBE") and has a ~~an occupational license~~ Business Tax Receipt, is located in, and doing business in Broward County, or
- (2) Be certified by the Broward County Office of Economic and Small Business Development, as a "County Business Enterprise" ("CBE") and has a Business Tax Receipt, is located in, and doing business in Broward County; and
- ~~(3) Be fifty-one (51) percent owned, managed and controlled by: African-American, Hispanic-American, Asian-American, Native-American, American Woman or Service-Disabled Veteran (minimum ten (10) percent disability) who are citizens of the United States and permanent residents of Florida; and~~
- (3) Be engaged in commercial transactions; and
- ~~(54)~~ Operate a business in Florida; and
- (5) Be certified by the Broward County Office of Economic and Small Business Development, and provide proof of such certification to the city as part of any solicitation response; or
- (6) Be Certified by the State of Florida Unified Certification Program (UC) or the State of Florida Office of Supplier Diversity as a Florida Certified Business Enterprise, and provide proof of such certification to the City as part of any solicitation process.

(b) *Local business* shall:

- (1) Be located within the City of Miramar city limits.
- (2) Comply with all City of Miramar licensing requirements and be current on all city taxes.
- ~~(3) If in business for less than one year, provide evidence of a previous business ownership within the City of Miramar within the past three (3) years~~

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Section 13. REPEALER: That all sections or parts of sections of the City Code, all ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 14. SEVERABILITY: That should any section or provision of this Ordinance, or any paragraph, section or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof, as a whole or part hereof, other than the part declared to be invalid.

Section 15. INCLUSION IN THE CODE: That it is the intention of the City Commission of the City of Miramar that the provisions of this Ordinance shall become and be made part of the Code of the City of Miramar, and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter", "Section", "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed.

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Section 16. EFFECTIVE DATE: That this Ordinance shall take effect immediately upon
adoption on second reading.

PASSED FIRST READING: _____

PASSED AND ADOPTED ON SECOND READING: _____

Mayor, Wayne M. Messam

Vice Mayor, Maxwell B. Chambers

ATTEST:

City Clerk, Denise A. Gibbs

I HEREBY CERTIFY that I have approved
this ORDINANCE as to form:

City Attorney,
Austin Pamies Norris Weeks Powell, PLLC

Requested by Administration

Commissioner Winston F. Barnes
Vice Mayor Maxwell B. Chambers
Commissioner Yvette Colbourne
Commissioner Alexandra P. Davis
Mayor Wayne M. Messam

Voted

