



City of North Port

ORDINANCE NO. 2024-10

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING SECTION 2-420 OF THE CODE OF THE CITY OF NORTH PORT, FLORIDA, REGARDING PUBLIC-PRIVATE PARTNERSHIPS (P3); PROVIDING FOR FINDINGS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 2-420 of the Code of the City of North Port, Florida (“City Code”) establishes local procedures related to procurements for public-private partnerships; and

WHEREAS, Florida Statutes Section 255.065 governs procurements related to public-private partnerships; and

WHEREAS, Florida Statutes Section 255.065(15) previously provided an exemption from open government requirements for specified unsolicited proposals received by a responsible public entity; and

WHEREAS, Florida Statutes Section 255.065(15) was repealed pursuant to its own terms, effective October 2, 2021 and the repeal was further memorialized in Laws of Florida Chapter 2022-5; and

WHEREAS, these amendments delete references to the repealed subsection from the City Code; and

WHEREAS, Laws of Florida Chapter 2024-96 amended Florida Statutes Section 255.065(3) to revise procedures for consideration of unsolicited proposals; and

WHEREAS, these amendments revise the City Code to align it with the new statutory provisions governing consideration of unsolicited proposals; and

WHEREAS, the City Commission finds that these amendments serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1 – FINDINGS

1.01 The above recitals are true and correct and are incorporated in this ordinance by reference.

- 1.02 Pursuant to Florida Statutes Section 166.041(4)(c), a business impact estimate was not required because this ordinance is required for compliance with federal or state law or regulation.

SECTION 2 – ADOPTION

- 2.01 Chapter 2 of the Code of the City of North Port, Florida is hereby amended as follows:

“Chapter 2 – ADMINISTRATION

...

ARTICLE VIII. – PROCUREMENT

...

Sec. 2-420. – Public-private partnerships (P3).

...

(c) *Unsolicited P3 detailed proposals.*

- (1) A private entity seeking review of an unsolicited P3 detailed proposal must submit the proposal to the city's finance department. The finance department will forward the proposal to the city manager's office. The city manager will place the proposal on a meeting agenda for the city commission's preliminary determination as to whether: (i) to deem the proposed project a P3 qualifying project; and (ii) to negotiate directly with the proposer in lieu of competitive review. At the meeting, the city manager will present the unsolicited proposal and affected public entities and members of the public will have an opportunity to provide comment. Upon ~~such determination by~~ the city commission's determination, the city manager will analyze whether the city will further pursue the proposal under the P3 statute. The city is not obligated to pursue a project under the P3 statute, even if the project satisfies the statutory definition of a qualifying project.

...

- (5) Within 120 business days after receipt of the unsolicited P3 detailed proposal, the city will notify the private entity in writing of the city's decision either: (i) to reject the P3 detailed proposal; or (ii) to accept the P3 detailed proposal for competitive review or direct negotiation. During this period, the city may meet with the private entity to gain a deeper understanding of the P3 detailed proposal, and the city may request that the private entity submit additional information. These meetings will be preliminary in nature and will not include or constitute substantive negotiations of agreement terms.

...

- (7) In deciding whether to accept the unsolicited P3 detailed proposal for competitive review or direct negotiation, the city manager will consider and determine all reasonable factors, including but not limited to:

...

- (10) If the city intends to accept an unsolicited P3 detailed proposal for direct negotiation in lieu of competitive review, before engaging in the negotiation the city will take the following steps.

- a. The city manager will place the unsolicited P3 detailed proposal on a second meeting agenda for the city commission to consider whether the

proposal is in the public's interest. The agenda item will include a city statement addressing any public comments submitted at the initial meeting and explaining why the proposal should or should not proceed. In making the public interest determination, the city commission will consider the following factors:

- i. The benefits to the public;
- ii. The financial structure of and the economic efficiencies achieved by the proposal;
- iii. The qualifications and experience of the private entity that submitted the proposal and the entity's ability to perform the project;
- iv. The project's compatibility with regional infrastructure plans; and
- v. Public comments.

b. After the second city commission meeting, if the city decides not to proceed with direct negotiation, the city may reject the unsolicited P3 detailed proposal or it may proceed with the competitive review process. If the city decides to proceed with direct negotiation, the city will publish in the Florida Administrative Register for 7 days a report that includes the following:

- i. The public interest determination made at the second city commission meeting;
- ii. The factors considered in making the public interest determination; and
- iii. The city's findings based on each considered factor.

c. Direct negotiation of an unsolicited P3 detailed proposal is governed by the negotiation provisions of Section 2-420(e).

(110) If an unsolicited P3 detailed proposal involves architecture, engineering, or landscape architecture, the city will engage licensed professionals for review and evaluation of the initial and any subsequent proposals, in accordance with F.S. § 255.065(3)(a)5.

...
(e) *Competitive review and negotiation of P3 detailed proposals.*

...
(2) The negotiation team meetings are temporarily exempt from Florida's Sunshine Law as provided in F.S. § 286.0113(2) and ~~F.S. § 255.065(15)~~. The city will record

and preserve as required by law any exempt portion of a negotiation team meeting.

...
(8)

In deciding whether to enter into a comprehensive agreement, the city commission will consider and determine all reasonable factors, including but not limited to:

- a. Whether the proposed project is a P3 qualifying project;
- b. Whether the P3 qualifying project is in the public's best interest [including for unsolicited P3 detailed proposals, consideration of the factors outlined in Section 2-420(c)(10)a];
- c. Whether the P3 qualifying project involves a facility owned by the city or a facility for which ownership will be conveyed to the city (for unsolicited P3 detailed proposals, if ownership will not be conveyed to the city within 10 years after initial public operation begins, the city will describe public benefits apart from ownership in its public interest determination);
- ...
f. For solicited P3 detailed proposals, whether the P3 qualifying project will be owned by the city upon completion or termination of the project and payment of amounts financed;

...
(f) *Public records.*

- (1) Information made or received by the city in connection with the transaction of the city's official business is subject to the Florida Public Records Law. ~~P3 unsolicited proposals received by the city are temporarily exempt from the public records law as provided in F.S. § 255.065(15).~~

...”

SECTION 3 – CONFLICTS

3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance, in whole or in part, the provisions of this ordinance will prevail to the extent of the conflict.

SECTION 4 – SEVERABILITY

4.01 If a court of competent jurisdiction finds that any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason invalid or unconstitutional, that provision will be deemed a separate, distinct, and independent provision and will not affect the validity of the remaining portions of the ordinance.

SECTION 5 – CODIFICATION

5.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. Any additional codification information and notations appear in *italics*. These editorial notations are not intended to appear in the codified text.

SECTION 6 – EFFECTIVE DATE

6.01 This ordinance takes effect immediately upon adoption.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida, in public session on October 22, 2024.

ADOPTED by the City Commission of the City of North Port, Florida, on the second and final reading in public session on November 12, 2024.

CITY OF NORTH PORT, FLORIDA

ALICE WHITE
MAYOR

ATTEST

HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

MICHAEL GOLEN, CPM
INTERIM CITY ATTORNEY