RESOLUTION NO. 25-044

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, DIRECTING THE CITY MANAGER TO ACCEPT AND REVIEW AN UNSOLICITED PROPOSAL AND APPLICATION FEE RECEIVED FROM FORTRESS SECURITY FOR THE DEVELOPMENT, FINANCING AND CONSTRUCTION OF A NEW FIRE STATION #3 AND TO PROVIDE FINDINGS; PROVIDING FOR ANY NECESSARY BUDGET TRANSFERS OR ADJUSTMENTS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, an unsolicited proposal was presented to the City by Fortress Security on February 5, 2025 for construction of a new fire station, to replace Fire Station 3 in Key West, which has passed its useful life; and

WHEREAS, Florida Statutes Section 255-065, enacted in 2024, and City of Key West's sets forth certain criteria for public entities to evaluate unsolicited proposals, and establish public-private partnerships related to publicly owned buildings, and in compliance with this statute, Fortress Security provided a proposal and an application fee in the amount of $25,000.00 to cover the city's costs to evaluate the unsolicited proposal; and

WHEREAS, upon consideration, the City Commission finds it would be in the best interests of the City to substantively review the detailed proposal submitted by Fortress Security for the development, construction and financing of Fire Station #3.

WHEREAS, upon completion of the City's substantive review of

the detailed proposal submitted by Fortress Security for the development, construction and financing of Fire Station #3, the City Manager will return to the City Commission for further direction.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the City Manager is directed to undertake a substantive review and consideration of the unsolicited detailed proposal submitted by Fortress Security for the development, financing and construction of Fire Station #3, and to accept the application fee for this service, and to provide findings.

Section 2: That any budget transfers or adjustments are hereby authorized to accept and allocate the application fee, as necessary.

Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 4th day of March, 2025.

Authenticated by the Presiding Officer and Clerk of the Commission on 4th day of March, 2025.

Filed with the Clerk on March 4, 2025.

Mayor Danise Henriquez	Yes
Vice Mayor Lissette Carey	Yes
Commissioner Aaron Castillo	Yes
Commissioner Monica Haskell	Yes
Commissioner Mary Lou Hoover	Absent
Commissioner Sam Kaufman	Yes
Commissioner Donald "Donie" Lee	Yes

DANISE HENRIQUEZ, MAYOR

ATTEST:

KERI O'BRIEN, CITY CLERK

#25 25.3426

MEMORANDUM

Date:	March 4, 2025
To:	Honorable Mayor and Commissioners
Via:	Brian L. Barroso City Manager
CC:	Christina Bervaldi Director of Finance
From:	Lucas Torres-Bull Procurement Manager
Subject:	**File ID 25-3426 – Recommendation for City Staff to Review Fortress Security's P3 Proposal for Fire Station #3 Construction**

Introduction

Staff recommends that the Mayor and Commission authorize the City of Key West staff to proceed with the review of the unsolicited detailed proposal submitted by Fortress Security for the development, construction, and financing of Fire Station #3 within the City of Key West. This proposal has been accompanied by a proposal review fee in the amount of $25,000.00, which is required for the City to initiate the substantive evaluation process, if approved.

Please be advised that as part of the terms and conditions of this proposal, the submitted review fee of $25,000.00 is nonrefundable once the review process has commenced. The nonrefundable nature of this fee reflects the significant resources and effort that will be expended by City staff in carefully assessing and analyzing the technical, financial, and legal aspects of the proposal to ensure it meets the City's needs, standards, and compliance requirements.

By approving this recommendation, the Mayor and Commission will enable City staff to move forward with the necessary steps to evaluate the proposal in detail, ensuring that any potential partnership aligns with the City's goals and the broader framework set forth by both local and state regulations. This review process will provide the Mayor and Commission with the information necessary to make informed decisions regarding the proposed project. Once a substantial review has been completed by City staff, the City Manager will provide findings to the City Commission in order to move forward in the most advantageous path.

Background

As discussed during the January and February City Commission meetings, Ordinance 25-02, was instituted to facilitate the City of Key West to accept both conceptual and detailed proposals—whether solicited or unsolicited—from private entities interested in undertaking projects under the Public-Private Partnership (P3) model for qualifying city projects.

This ordinance follows the recent passage of House Bill 781, which amends section 255.065, Florida Statutes, providing new statutory guidelines for the use of P3s in Florida. The passage of this bill ensures that the City is in alignment with state law while establishing a comprehensive framework for facilitating and managing P3 projects within the City of Key West. This ordinance will ensure compliance with these new statutory guidelines, promoting effective collaboration between the public and private sectors.

In alignment with this newly passed ordinance, the City of Key West has received an unsolicited detailed proposal from Fortress Security. This proposal includes the development, construction, and financing of a fully functional Fire Station #3, with a proposal review fee of $25,000.

Cost

This measure does not create any costs for the city.

Options

1) Reject the unsolicited detailed proposal, return the proposal review fee,

2) Accept the unsolicited detailed proposal for substantive review.

Recommendation

City staff recommends that the Mayor and City Commission approve a resolution authorizing City staff to undertake a substantive review of the unsolicited detailed proposal submitted by Fortress Security for the development, construction, and financing of Fire Station #3 within the City of Key West.

Attachments:
Resolution
Ordinance 25-02

ORDINANCE NO. 25-02

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES, TITLED "ADMINISTRATION", BY AMENDING ARTICLE VII TITLED "FINANCIAL MATTERS"; BY AMENDING DIVISION 3 TITLED "PERSONAL PROPERTY PURCHASING AND PROCUREMENT"; BY CREATING THE PUBLIC/PRIVATE PARTNERSHIP (P3) ORDINANCE IN SEC. 2-774; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission for the City of Key West, Florida, has established a purchasing code for the fair and equitable method of administering purchases of goods and services in order to maximize the purchasing value of public funds; and

WHEREAS, in 2013, the Florida Legislature enacted Chapter 2013-223, Laws of Florida, section 2 of which governs public-private partnerships, as codified in Section 255.065, Florida Statutes; and

WHEREAS, in 2016, the Florida Legislature enacted Chapters 2016-153 and 2016-154, Laws of Florida, amending Section 255.065, Florida Statutes (the "P3 Statute" as amended from time to time); and

WHEREAS, public-private partnerships ("P3"), while not defined in the P3 Statute, are commonly recognized as contractual agreements between a public body and the private sector that allow for greater private sector participation in the delivery

of public projects; and

WHEREAS, as recognized by legislative findings and intent of the Florida Legislature in the P3 Statute, there is a public need for timely and cost-effective delivery of projects serving a public purpose, and this need may not be wholly satisfied by existing methods of procurement; and

WHEREAS, P3's have demonstrated that they can meet the needs of the public by improving the schedule for project delivery, lowering project costs, and providing other benefits to the public that traditional procurement methods may not achieve; and

WHEREAS, the City of Key West wishes to encourage investment in the City by private entities, to facilitate funding sources for the development of public projects, and to provide for the greatest possible flexibility in contracting for public projects under the P3 Statute; and

WHEREAS, the City of Key West is a "responsible public entity" as defined in the P3 Statute, authorized to follow the processes described in the P3 Statute to establish a P3 for a "qualifying project" as defined in the P3 Statute; and

WHEREAS, the P3 Statute recognizes the authority of local governments to create procurement processes for qualifying projects, and does not limit a local government's existing authority to enter into agreements with the private sector,

including authority from existing home rule powers; and

WHEREAS, the procedures for a P3 project will not apply when the City of Key West procures stand-alone professional services, as defined in section 287.055, Florida Statutes, or when it procures professional services for a design-build project outside the context of a P3 project, both of which will continue to be procured pursuant to section 287.055, Florida Statutes; and

WHEREAS, to promote the efficient and effective use of the P3 method of project delivery, the City Commission finds it necessary to adopt uniform procedures to be used by both the City and private entities for the procurement of such projects.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Sec. 2-774 of the Code of Ordinances is hereby created as follows*:

Public/Private Partnership: *Purpose and scope; applicability.*

(a) (1) This section creates a uniform process for private entities and the City to engage in a public-private partnership (P3) consistent with Chapter 2013-223, Laws

*(Coding: Added language is underlined; deleted language is struck through at first reading. Added language is double underlined and double struck through at second reading.)

of Florida, section 2, as amended by Chapters 2016-153 and 2016-154, Laws of Florida.

(2) When considering a public project, the City may elect to (1) follow this P3 process if consistent with Chapter 2013-223, Laws of Florida, as amended by Chapters 2016-153 and 2016-154, Laws of Florida, (2) follow any other legally available project delivery process, or not pursue the project.

(3) The procurement of P3 agreements by the City shall follow the provisions of this section. Requirements of other sections or articles of this Code shall not apply to procurements under this section unless such requirement is expressly included or incorporated by reference in the procurement documents. The City shall ensure that generally accepted business practices for exemptions provided by this section are part of the procurement process or are included in the P3 comprehensive agreement.

(4) The City may develop and maintain a separate P3 policy containing more detailed procedures and requirements for entering into P3 agreements, consistent with this section.

(5) When the City procures stand-alone professional services, as defined in the Consultants' Competitive Negotiation Act, codified at section 287.055, Florida Statutes (2014), or when it procures professional services in the context of a design-build project, the City will not follow the P3 process, but will instead continue to comply with section 287.055, Florida Statutes.

(b) *Definitions.*

(1) *City* means the City of Key West, Florida.

(2) *Conceptual Proposal* means an Unsolicited Proposal that includes conceptual information sufficient for the City to determine whether the proposed ideas are attractive enough to justify investment of City resources to undertake a process that may lead to formation of a contract to implement the ideas.

(3) *Detailed Proposal* means a proposal (solicited or unsolicited) that contains detail beyond a conceptual level sufficient for the City to compare the proposal competitively to others.

(4) P3 means a Public-Private Partnership, which is an agreement between the City and a Private Entity that allows

for greater private sector participation in the delivery of a City Qualifying Project.

(5) P3 *Statute* means Chapter 2013-223, Laws of Florida, section 2, as codified in Florida Statutes, as amended by Chapters 2016-153 and 2016-154, Laws of Florida.

(6) *Private Entity* means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other private business entity.

(7) *Proposal Review Fee* means the fee paid by the Private Entity submitting an Unsolicited Proposal or by the Private Entity submitting a Detailed Proposal that competes with an Unsolicited Proposal.

(8) *Qualifying Project* means a facility or project that serves a public purpose, or a facility or infrastructure that is used or will be used by the public or in support of a public purpose or activity, as defined in the P3 Statute.

(9) *Solicitation* means a City-initiated procurement process seeking offers (bids, proposals, or otherwise) for City projects.

(10) *Unsolicited Proposal* means a Conceptual Proposal or a Detailed Proposal that a Private Entity submits to the City on its own initiative, and not in response to Solicitation.

(c) *Conceptual proposal.*

(1) A Private Entity may submit a Conceptual Proposal to the City, to gauge the City's potential interest in pursuing the proposed project as a P3. A Conceptual Proposal is not required. A Private Entity may forego submitting a Conceptual Proposal and submit an unsolicited Detailed Proposal.

(2) A Private Entity must tender a Proposal Review Fee of $5,000.00 with its Conceptual Proposal. The City will not review a Conceptual Proposal that is not accompanied by the payment of this fee. Payment must be made by cash, cashier's check, or other noncancelable instrument. Personal or business checks will not be accepted.

(3) A Conceptual Proposal must contain sufficient information to inform the City about

(i) The overall character of the proposed Qualifying Project,

(ii) The general experience of the Private Entity, and

(iii) The general strategies to ensure successful project delivery.

(4) Within ten (10) business days after receipt of the Conceptual Proposal, the City will either (1) summarily reject the Conceptual Proposal and return the Proposal Review Fee or (2) accept the Conceptual Proposal for substantive review and notify the Private Entity of the anticipated time required for the City to complete the review of the Conceptual Proposal.

(5) If the City decides to accept the Conceptual Proposal for substantive review, the City will preliminarily assess whether:

(i) The proposed project is a Qualifying Project;

(ii) The proposed project delivery model offers advantages over traditional models, for example, lower cost, shorter schedule, increased investment, etc.;

(iii) The proposed project is reasonably likely to satisfy the criteria established by the P3 Statute.

(6) Upon completion of review of the Conceptual Proposal, the City will notify the Private Entity in writing of the City's position regarding the proposed project. The City may:

a. Decide not to pursue the proposed project;

b. Decide to pursue the proposed project, or a similar project, using other procurement methods (in which, if open to private companies, the Private Entity may compete if otherwise qualified); or

c. Decide to continue considering the proposed project under the P3 Statute and request the Private Entity to submit a Detailed Proposal (which request shall not constitute a formal Solicitation).

(7) The City's disposition of a Conceptual Proposal does not limit its discretion or authority with respect to future projects, whether solicited or unsolicited.

(d) *Unsolicited detailed proposals.*

(1) A private entity may submit an unsolicited detailed proposal to the City to initiate the City's consideration of whether to deem the proposed project as a qualifying project and whether to pursue it further as a P3 project. The City is not obligated to pursue a project as a P3 project, even if the project satisfies the definition of a qualifying project. The City Manager may seek input and direction from the City Commission whether to undertake a

review of an unsolicited detailed proposal pursuant to this section.

(2) A private entity must tender a proposal review fee of $25,000.00 with its detailed proposal, unless the private entity has already paid a fee for review of a substantially similar conceptual proposal, in which case the proposal review fee is $20,000.00. The City will not review an unsolicited detailed proposal that is not accompanied by the payment of this fee. Within 30 business days after receipt of the unsolicited detailed proposal and proposal review fee, the City, through the City Manager or designee, will either summarily reject the unsolicited detailed proposal and return the proposal review fee or accept the unsolicited detailed proposal for substantive review. Unless the City chooses to summarily reject an unsolicited detailed proposal prior to conducting a substantive review, the proposal review fee is non-refundable. Payment must be made by cash, cashier's check, or other noncancelable instrument. Personal or business checks will not be accepted.

(3) If the initial proposal review fee is insufficient to cover the City's costs to evaluate the proposal, the City will request, in writing, the additional amounts required.

As permitted by the P3 Statute, the City's evaluation costs include, but are not limited to, reasonable attorney's fees and fees for financial and technical advisors or consultants, and for other necessary advisors or consultants. If the private entity does not tender the additional requested amount with 30 days of the written request, the City may, in its sole discretion, stop its review of the proposal.

(4) An unsolicited detailed proposal must contain information sufficient to inform the City about: the detailed quality and character of the proposed qualifying project; the detailed experience and capacity of the private entity; and the detailed financial and implementation strategies to ensure successful project delivery. This information should include the following:

(i) A description of the private entity, including name, address, type of organization, and legal structure.

(ii) Name and complete contact information of the primary point of contact for the unsolicited detailed proposal.

(iii) Names and experience of proposed key project personnel.

(iv) Type of support needed, if any, from the City, for example, facilities, equipment, materials, personnel, financial resources, etc.

(v) Identification of any proprietary data used and the manner in which it is used.

(vi) Identification of any outside entities or professionals the private entity has or intends to consult with respect to the project.

(vii) The names of any other federal, state, or local agencies receiving a similar proposal from the private entity.

(viii) A complete discussion of the objective of the project, the method of approach, the nature of the anticipated results, and the characteristics that make it a qualifying project worthy of pursuit by the City.

(vix) A detailed overview of the proposed business arrangements, including the plan for the development, financing, and operation of the project.

(x) A preliminary project schedule.

(xi) A detailed financial analysis of the proposed project.

(xii) Specification as to when the pricing or terms of the proposal will expire.

(5) In considering an unsolicited detailed proposal, the City may require from the private entity a technical study, such as a financial analysis or feasibility study, prepared by a nationally recognized expert with experience in preparing such analyses and studies for bond rating agencies. In evaluating the technical study, the City may rely upon internal staff reports prepared by personnel familiar with the operation of similar facilities or the advice of external advisors or consultants who have relevant experience.

(6) Within 90 business days after receipt of the unsolicited detailed proposal, the City will notify the private entity in writing of the City's decision either to reject the unsolicited detailed proposal, proceed with the unsolicited detailed proposal for competitive review or proceed with the unsolicited detailed proposal, unless this timeframe is extended as described below. During this period, the City may meet with the private entity to gain a deeper understanding of the unsolicited 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 negotiation of agreement terms. In considering whether to accept the unsolicited detailed proposal for competitive review, the City will assess whether: the proposed project is a qualifying project; the proposed project delivery model offers advantages over traditional models, for example, lower cost, shorter schedule, increased investment, etc.; the proposed project is reasonably likely to satisfy the criteria established by the City for P3 projects. The City may determine that it requires more than 90 business days to complete its review of the unsolicited detailed proposal and this assessment, in which case it will notify the private entity in writing of how much time will be required. The City Manager may seek input and direction from City Commission whether to reject an unsolicited detailed proposal or proceed with an unsolicited detailed proposal as set forth in this article.

(7) An unsolicited detailed proposal may be rejected by the City at any time. The City has complete discretion and authority to reject any unsolicited proposal it receives.

(8) If an unsolicited 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 the P3 Statute.

(e) *Solicited detailed proposals.*

(1) The City may on its own initiative determine to issue a Solicitation inviting Private Entities to submit Detailed Proposals for any opportunity that the City has identified as a Qualifying Project.

(2) Any Solicitation that the City issues under the authority of the P3 Statute will identify the P3 Statute and the City's related Code sections as the governing procurement process. The Solicitation documents will specify information necessary for interested parties to understand and respond to the Solicitation.

(3) If a Solicitation under the P3 Statute includes design work, the Solicitation will include a design criteria package prepared by a licensed architect, landscape architect, or engineer engaged by the City in accordance with section 255.065(3)(c), Florida Statutes.

(4) The City is not obligated to proceed under the P3 Statute when soliciting proposals, and may follow any legally available procurement process, regardless of whether the project qualifies as a Qualifying Project and

regardless of whether the ultimate transaction may be characterized as a P3.

(f) *Competitive review of detailed proposals.*

(1) If the City Commission gives directions to proceed with an unsolicited detailed proposal for competitive review, the City will advertise the potential opportunity and receive competing detailed proposals.

(i) The advertisement will include: a general description of the qualifying project; an invitation to submit a competing detailed proposal for the qualifying project, which may propose the identical project, a functionally equivalent project, or an alternative project that achieves the same purpose or uses the same City resources as the proposed project; information about how to obtain more detailed information; and a due date for responding, which ordinarily will be 45 days after initial publication, but which may be up to 120 days as the circumstances warrant.

(ii) The City will advertise the potential opportunity in the Florida Administrative Register at least once a week for two consecutive weeks; in a newspaper of general circulation within the City at least once a week for two weeks, the first of which shall be published at least 21 days prior to the due date for competing proposals; on the

City's website and in the same manner as competitive solicitations; and at City Hall in the same manner as other public notices issued by the City.

(2) Whether received in response to a solicitation under the P3 Statute and this article, or in response to a competitive review advertisement concerning an unsolicited detailed proposal, within 30 days after the receipt of all competing detailed proposals the City Manager, with the assistance of staff, will undertake review of the proposals and coordinate negotiations concerning the qualifying project. The City Manager may rely on subject matter experts and staff for information gathering and administrative work, but the City Manager alone will possess and exercise authority for all recommendations to City Commission concerning the detailed proposals.

(3) The City Manager, with the assistance of staff, will review the detailed proposals and determine whether to allow initial oral presentations, interviews, or discussions for the purpose of gaining deeper understanding of the detailed proposals. The City Manager is not required to entertain initial oral presentations, interviews, or discussions with a private entity. Any oral presentations, interviews, or discussions will be limited to reviewing and

discussing information contained in the detailed proposals, and will not include or constitute substantive negotiations related to any detailed proposal or the qualifying project.

(4) Within 90 days after receipt of proposals, or after the final oral presentation, interviews or discussions, whichever is later, the City Manager will rank the detailed proposals in order of preference. The City Manager may use any reasonable method to rank the detailed proposals and is not required to numerically score them. In ranking the detailed proposals, the City Manager will consider the private entity team members' professional qualifications and experience, the proposed general business terms, innovative project delivery terms (including finance, design, construction, maintenance, and operation, as applicable to the particular circumstance), and any other factors indicated in the advertisement or solicitation.

(5) Following the ranking of detailed proposals, the City Manager will present the highest-ranking proposal to City Commission for further consideration.

(g) *Additional procedures for unsolicited proposals*

The City may also choose to proceed with a detailed unsolicited proposal without engaging in the competitive review process set forth above, by following the steps as set forth herein:

(1) The City shall hold a duly noticed public meeting at which the unsolicited proposal is presented and affected public entities and members of the public will be able to provide comment on the unsolicited proposal. For an unsolicited proposal that City Commission chooses to undergo a competitive review process, this first public meeting shall occur after the competing proposals are submitted, reviewed, and ranked by the City Manager, and direction is given by;

(2) After the first public meeting, the City shall hold a second duly noticed public hearing for City Commission to determine whether the unsolicited proposal is in the public's interest. In making this determination, the City must consider all of 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 such entity's ability to perform the project;

(iv) The proposed project's compatibility with regional infrastructure plans;

(v) Public comments submitted at the prior meeting, including a statement of findings explaining why the proposal should proceed and addressing the public's comments.

(3) If the City chooses to proceed with an unsolicited detailed proposal pursuant to this section and does not undergo the competitive advertising and review process, the City shall publish in the Florida Administrative Register for at least seven days a report that includes all of the following:

(i) The public interest determination required by subsection (2) above;

(ii) The factors considered in making such public interest determination; and

(iii) The City's findings based on each considered factor.

(f) *Negotiation and approval of agreements*

(1) Whether in response to a solicitation under the P3 Statute and this article, or once City Commission has undergone the first public hearing for an unsolicited proposal, following direction to proceed by City Commission, the City Manager, with the assistance of staff, may commence negotiations with the private entity responsible for the selected proposal in accordance with

the P3 Statute and this article. The City Manager may seek City Commission input and direction on whether to commence negotiations with the private entity responsible for the selected proposal.

(2) The City Manager may recommend to City Commission that the City and the private entity enter into an interim agreement as described in the P3 Statute.

(3) The City Manager may recommend to City Commission that the City and the private entity enter into a comprehensive agreement as described in the P3 Statute.

(4) In deciding whether to enter into a comprehensive agreement, the City Commission will consider and determine all reasonable factors, including but not limited to:

(i) Whether the proposed project is a qualifying project.

(ii) Whether the qualifying project is in the public's best interest for an unsolicited proposal.

(iii) Whether the qualifying project involves a facility that is owned by the City or for a facility for which ownership will be conveyed to the City. For an unsolicited proposal where ownership will not be conveyed to the City within ten years after initial public operation begins, the

public benefits apart from ownership must be identified and stated by the City in the public interest determination.

(iv) Whether the comprehensive agreement has adequate safeguards in place to ensure that additional costs or service disruptions are not imposed on the public in the event of material default by the private entity or cancellation of the qualifying project by the City.

(v) Whether the comprehensive agreement has adequate safeguards in place to ensure that the City or the private entity has the opportunity to add capacity to the qualifying project or other facilities serving similar predominantly public purposes.

(vi) For a solicited proposal, whether the qualifying project will be owned by the City upon completion or termination of the project and payment of amounts financed.

(vii) Whether there is a public need for or benefit derived from the qualifying project.

(viii) Whether the estimated cost of the qualifying project is reasonable in relation to similar facilities.

(ix) Whether the comprehensive agreement will result in the timely acquisition, design, construction, improvement,

renovation, expansion, equipping, maintenance, or operation of the qualifying project.

Before entering into a comprehensive agreement, the City shall have considered the finance plan, the qualifying project cost, revenues by sources, available financing, major assumptions, internal rate of return on private investments, if governmental funds are assumed in order to deliver a cost-feasible, and a total cash-flow analysis beginnings with the implementation of the project and extending for the term of the comprehensive agreement, and any other matters which are set forth in the P3 Statute.

(h) *Public records*

If a private entity believes that any information it submits to the City is exempt from the public records law under any additional statutory exemptions, the private entity must expressly identify the statutory basis of the claimed exemption and segregate the exempt information.

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable

therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding officer and the Clerk of the Commission.

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Read and passed on first reading at a regular meeting held this 7th day of January, 2025.

Read and passed on final reading at a regular meeting held this 4th day of February, 2025.

Authenticated by the presiding officer and Clerk of the Commission on 5th day of February, 2025.

Filed with the Clerk February 5, 2025.

Mayor Danise Henriquez	Yes
Vice Mayor Lissette Carey	Yes
Commissioner Aaron Castillo	Yes
Commissioner Monica Haskell	Yes
Commissioner Mary Lou Hoover	Yes
Commissioner Sam Kaufman	Yes
Commissioner Donald "Donie" Lee	Yes

DANISE HENRIQUEZ, MAYOR

ATTEST:

KERI O'BRIEN, CITY CLERK

#29

MEMORANDUM

Date:	January 07, 2025
To:	Honorable Mayor and Commissioners
CC:	Christina Bervaldi Director of Finance
From:	Lucas Torres-Bull Procurement Manager
Sponsor:	Todd Stoughton Interim City Manager
Subject:	**File ID 25-3242 - Proposed New Ordinance to Define and Add a Procurement Procedure for Public-Private Partnership (P3) Procurements.**

Introduction

This memorandum is to inform the Mayor and City Commissioners of a proposed ordinance for the City of Key West that has been developed in response to the recent passage of House Bill 781, amending s. 255.065, F.S. which provides new statutory guidelines for the use of Public-Private Partnerships (P3) in Florida. This ordinance will establish a framework for facilitating and managing P3 projects within our city, ensuring compliance with the enacted state law while also promoting effective collaboration between the public and private sectors.

Background

House Bill 781, which was approved by the Governor on April 16, 2024, provides local governments with enhanced authority and guidance to enter public-private partnerships for projects involving infrastructure, facilities, and services. The new law requires municipalities to adopt local ordinances that align with the state's revised procedures and requirements for P3 agreements.

Cost

This measure does not create any costs for the City.

Options

1. To approve the proposed ordinance which defines public-private procurement and establishes procedures in which the City shall follow.
2. To deny the proposed ordinance.

Procurement

Unsolicited proposals for Public-Private Partnerships; Authorizes, rather than requires, responsible public entity to publish notice of unsolicited proposal for qualifying project in specified manner & that other proposals for same project will be accepted; authorizes responsible public entity to proceed with unsolicited proposal for qualifying project without public bidding process if responsible public entity holds public meeting that meets certain requirements & holds a subsequent public meeting at which responsible public entity makes certain determination; requires responsible public entity to consider certain factors; requires responsible public entity to publish certain report in Florida Administrative Register for certain period in certain circumstances; revises certain determinations that responsible public entity must make before approving comprehensive agreement.

Recommendation

Staff recommend the Mayor and Commission approve a resolution authorizing the passage of the new City of Key West Ordinance that derives from the passage of House Bill 781, amending s. 255.065, F.S.

Attachments:
Ordinance
Cover Memo

THE CITY OF KEY WEST
1300 WHITE ST.
KEY WEST, FL 33040

BUSINESS IMPACT ESTIMATE
PURSUANT TO F.S. 166.041(4)

Meeting Date: January 7, 2025, and February 4, 2025
Ordinance Number: Legistar # 25-3242
Posted To Webpage: January 21, 2025

This Business Impact Estimate is given as it relates to the proposed ordinance titled:

An Ordinance of the City of Key West, Florida, amending Chapter 2 of the Code of Ordinances, titled "Administration", by amending Article VII titled "Financial Matters"; by Amending Division 3 titled "Personal Property Purchasing and Procurement"; by Creating the Public/Private Partnership (P3) Ordinance in Sec. 2-774; Providing for severability; Providing for repeal of inconsistent provisions; Providing for an effective date.

The sections below are not required to be completed if the ordinance involves any one of the following types of regulations. Please check if applicable:

__ 1. Ordinances required for compliance with federal or state law or regulation;

__ 2. Ordinances relating to the issuance or refinancing of debt;

__ 3. Ordinances relating to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

__ 4. Ordinances required to implement a contract or an agreement, including, but not limited to, any federal, state, local, or private grant, or other financial assistance accepted by a municipal government;

__ 5. Emergency ordinances;

X 6. Ordinances relating to procurement; or

__ 7. Ordinances enacted to implement the following:

__ a. Part II of chapter 163, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements, and development permits;

__ b. Sections 190.005 and 190.046;

__ c. Section 553.73, relating to the Florida Building Code; or

__ d. Section 633.202, relating to the Florida Fire Prevention Code.

Part I.
Summary of the proposed ordinance and statement of public purpose:
(Address the public purpose to be served by the proposed ordinance, such as serving the public health, safety, morals, and welfare of the City of Key West.)

Part II.
Estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City of Key West: *(fill out subsections a-c as applicable, if not applicable write "not applicable")*

(a) Estimate of direct compliance costs that businesses may reasonably incur if the proposed ordinance is enacted:

(b) Identification of any new charges or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible; and

(c) An estimate of the City of Key West's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs.

Part III.
Good faith estimate of the number of businesses likely to be impacted by the ordinance:

Part IV. Additional Information (if any):