

EXHIBIT 1
ORDINANCE NO. 2021-

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF
THE CITY OF HALLANDALE BEACH, FLORIDA, AMENDING
CHAPTER 23, PROCUREMENT CODE, SECTIONS 23-3 TO
STRIKE THE COMMUNITY BENEFIT PLAN,
PROVIDING FOR CONFLICT; PROVIDING FOR
SEVERABILITY; PROVIDING FOR CODIFICATION; AND
PROVIDING AN EFFECTIVE DATE.

WHEREAS, the previous City Manager issued a memorandum dated June 5, 2017,
addressing concerns relating to the Community Benefit Program, outlining interim steps to
evaluate the program and proposing to bring back recommendations to the commission for how
to proceed by the first budget hearing; and

WHEREAS, by way of Resolution 2017-76, the City Commission authorized and
approved suspension of the program pending a review and restructuring; and

WHEREAS, there have been numerous administrative changes since the 2017 decision
of the City Commission and the review and revision of the plan is still pending; and

WHEREAS, the current City Administration recommends rescinding the codified code
provisions and a future Community Benefit Program will be developed and brought back for City
Commission consideration; and

WHEREAS, the Mayor and City Commission find that the City Administration's
recommendation are in the best interests of residents and the City of Hallandale Beach.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF HALLANDALE
BEACH, FLORIDA:**

SECTION 1. The foregoing "Whereas" clauses are confirmed as true and
incorporated herein.

SECTION 2. Chapter 23 Procurement Code, Article I. In General, of the City's Code of Ordinances is amended to read as follows.

Sec. 23-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Addenda means additional directions, modifications and alternations to solicitation which is issued as separate document prior to the time of receipt of bids or proposals.

Amendment means the method of changing the terms and conditions or requirements of a contract or agreement after its execution. All amendments must be approved in writing and signed by the city manager and contractor. Amendment must include all changes in terms and /or conditions including total amount of the amended contract.

Award means the acceptance of a bid, offer or proposal by the proper authorized designee. The city commission must approve all awards over the authority of the city manager, with the exception of emergency purchases.

Bids means a written offer submitted to the city by a prospective offeror to furnish specific services, supplies, or construction services in response to an invitation for bid.

Bid bond means a sum of money, which could be in the form of a cashier's check, irrevocable letter of credit, money order or a bond issued by a surety, deposited with a bid or proposal guaranteeing the bidder or offeror will not withdraw the bid or proposal for a specific period of time, will furnish bonds as required, and will accept a contract, if awarded, or forfeit the bid bond.

Bid performance bond means a sum which is issued usually by a surety assuring the city that once the contract is awarded, the contractor will meet its obligations under the contract.

Bid waiver means a process, whereby supplies or services may be procured without formal competitive bidding process when determined to be in the best interest of the city.

Blanket purchase order means a purchase order under which a party agrees to provide supplies or services to the city on a demand basis, acceptance of which constitutes a contract.

Boycott means to blacklist, divest from, or otherwise refuse to deal with a nation or country, or to blacklist or otherwise refuse to deal with a person or entity when the action is based on race, color, national origin, religion, sex, gender identity, sexual orientation, marital or familial status, age, or disability in a discriminatory manner. The term boycott does not include a

69 decision based upon business or economic reasons, or boycotts, embargoes, trade
70 restrictions, or divestments that are specifically authorized or required by federal law or state
71 law.

72 *Business* means any sole proprietorship, organization, association, corporation, limited liability
73 partnership, limited liability company, or other entity or business association, including wholly-
74 owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those
75 entities or business associations awarded a contract pursuant to this chapter.

76 *Certificate of insurance* means a certificate issued by a reputable insurance company
77 evidencing that the company has the appropriate insurance.

78 *Change order* means a written alteration to a formal contract or purchase order entered in
79 accordance with the terms of the contract or in accordance with the solicitation.

80 *City* means the City of Hallandale Beach, Florida.

81 *City manager* means the city manager of the City of Hallandale Beach, Florida, and/or
82 authorized designee.

83 *Commission* means the mayor and city commission of the City of Hallandale Beach, Florida.

84 ~~*Community benefit plan* means a plan that may be required for capital construction projects if~~
85 ~~it meets the feasibility threshold as established by policy. When a solicitation requires it~~
86 ~~proposers must demonstrate and provide a proposed community benefit plan which has~~
87 ~~identifiable and observable community benefits for the community surrounding the project and~~
88 ~~the city. The benefits should include the approach for ensuring that both prime and~~
89 ~~subcontractors utilize local residents in every phase of the project of the city, community~~
90 ~~outreach, mentoring, training, apprenticeships, or any other types of identifiable ancillary~~
91 ~~benefits for the community. The city manager may only waive this requirement if the highly~~
92 ~~technical nature of the work makes the community benefit component unfeasible.~~

93 *Consultant* means one who provides professional advice or services including, but not limited
94 to: attorneys, architects, engineers, surveyors and accountants.

95 *Consultants' Competitive Negotiation Act* means F.S. § 287.055, as periodically amended.

96 *Contract* means all types of binding documents for the procurement and disposal of supplies,
97 services and construction, including purchase orders,

98 *Contract administrator* means city manager duly authorized designee requesting items and/or
99 services and the designated city contact for the particular contract.

100 *Contractor* means any person or entity having a contract with the city.

101 *Contractual services* includes, without limitation, printing; gas; fuel; cleaning services;
102 purchase, installation, rental, repair and maintenance of equipment; machinery; construction
103 and consultant contracts and other personal property; lease of real property and office space
104 by the city as lessee; and all other contractual supplies, materials equipment and services not
105 specifically excluded from these procedures.

106 *Construction* means the process building, altering, repairing, improving, or demolishing any
107 structure or building or roadway or utility or other improvements of any kind to any real
108 property owned or under the control of the city. It does not generally include the routine
109 operation, repair, or maintenance of existing structures, buildings, or other real property. F.S.
110 § 255.20.

111 *Construction of utilities* means all such reservoirs, sewerage systems, trunk sewers,
112 intercepting sewers, pumping stations, wells, intakes, pipelines, distribution systems,
113 purification works, collecting systems, treatment and disposal works, airports, hospitals, jails
114 and golf courses, and gas plants and distribution systems.

115 *Contracts* means every contract, unless otherwise exempt as per the section below, shall
116 contain language that obligates the contractor to comply with the applicable provisions of this
117 section. The contract shall include provisions for the following:

118 (1) The contractor certifies and represents that it will comply with this section during
119 the entire term of the contract.

120 (2) The failure of the contractor to comply with this section shall be deemed to be a
121 material breach of the contract, entitling the city to pursue any remedy stated below or
122 any remedy provided under applicable law.

123 (3) The city may terminate the contract if the contractor fails to comply with this section.

124 (4) The city may retain all monies due or to become due until the contractor complies
125 with this section.

126 *Cooperative purchasing* means the procurement conducted by or on behalf of more than one
127 public procurement unit. The combining of requirements of two or more public procurement
128 units, in order to obtain the benefits of volume purchases and/or reduction in administrative
129 expenses.

130 *Debarment* means the exclusion of a person or business from participating in a procurement
131 activity for an extended period of time, as specified by law, because of an illegal or
132 irresponsible action.

133 *Design-build contract* means a single contract with a design-build firm for the design, and
134 construction of a public construction project.

135 *Design-build firm* means a partnership, corporation, or other legal entity that:

136 (1) Is certified under F.S. § 489.119, to engage in contracting through a certified or registered
137 general contractor or a certified or registered building contractor as the qualifying agent; or

138 (2) Is certified under F.S. § 471.023, to practice or to offer to practice engineering; certified
139 under F.S. § 481.219, to practice or to offer to practice architecture; or certified under F.S. §
140 481.319, to practice or to offer to practice landscape architecture.

141 *Design criteria package* means performance oriented drawings or specifications of the public
142 construction project. The design criteria package must furnish sufficient information to permit
143 design-build firms to prepare a bid or a response to the city's request for proposal, or to permit
144 the city to enter into a negotiated design-build contract.

145 *Design criteria professional* means a firm which holds a current certificate or registration under
146 F.S. ch. 481, to practice architecture or landscape architecture or a firm which holds a current
147 certificate as a registered engineer under F.S. ch. 471, to practice engineering and who is
148 employed by or under contract by the city to provide professional architect services,
149 landscape architect services, or engineering services in connection with the preparation of the
150 design criteria package.

151 *Designee* means a duly authorized representative.

152 *Director of procurement* means the person holding the position established by the City's
153 Charter article VI, section 6.05, powers and duties.

154 *Discount from list contracts* means those contracts whereby price is determined by applying a
155 percentage discount from an established catalog or list price.

156 *Domestic partner* shall mean any two adults of the same or opposite sex, who have registered
157 as domestic partners with the county pursuant to state or local law authorizing such
158 registration, or with an internal registry maintained by the employer of at least one of the
159 domestic partners. A contractor may institute an internal registry to allow for the provision of
160 equal benefits to employees with a domestic partner who does not register their partnerships
161 pursuant to a governmental body authorizing such registration, or who are located in a
162 jurisdiction where no such governmental domestic partnership registry exists. A contractor
163 that institutes such registry shall not impose criteria for registration that are more stringent
164 than those required for domestic partnership registration by the county.

165 *Domestic partner benefits requirement* means a requirement for the city contractors to provide
166 equal benefits for domestic partners. Contractors with five or more employees contracting
167 with the city, in an amount valued over \$50,000.00, provide benefits to employees' spouses
168 and the children of spouses. The requirement will be included in solicitations.

169 *Emergency* means a situation or occurrence of a serious nature involving urgent and extreme
170 matters of public health, safety, and welfare, or which requires the safeguarding of city assets.

171 *Employee* means an individual employed by the city drawing a salary or wages from the city.

172 *Equal benefits* means the equality of benefits between employees with spouses and/or
173 dependents of spouses and employees with domestic partners and/or dependents of domestic
174 partners, and/or between spouses of employees and/or dependents of spouses and domestic
175 partners of employees and/or dependents of domestic partners.

176 *Equal benefits requirements.* As part of the competitive solicitation and procurement process a
177 contractor seeking a contract shall certify by providing the domestic partnership certification
178 form, that upon award of a contract it will provide benefits to domestic partners of its
179 employees on the same basis as it provides benefits to employees' spouses. The domestic
180 partnership certification form shall be signed by an authorized officer of the contractor and
181 submitted with the solicitation response. Failure to provide the domestic partnership
182 certification form shall result in a contractor being deemed non-responsive.

183 *Exception and waiver.* The provision of this section shall not apply where:

184 (1) The contractor provides benefits neither to employees' spouses nor spouse's dependents.

185 (2) The contractor is a religious organization, association, society or any non-profit charitable
186 or educational institution or organization operated, supervised or controlled by or in
187 conjunction with a religious organization, association or society.

188 (3) The contractor is a governmental entity.

189 (4) The contract is for the sale or lease of property.

190 (5) The covered contract is necessary to respond to an emergency.

191 (6) The provision of this section would violate grant requirements, the laws, rules or
192 regulations of federal or state law.

193 (7) The city commission waives compliance of this section in the best interests of the city,
194 including but not limited to, the following circumstances:

195 a. Where only one solicitation response is received.

196 b. Where more than one solicitation response is received, but the solicitation
197 demonstrates that none of the proposed solicitations can comply with the requirements of this
198 section.

199 *Evaluation committee* means a group of three or more persons selected by the city manager
200 to review proposals received in response to an RFP. The evaluation committee may include
201 persons who are not employed by the city.

202 *Evaluation sheet* means the forms used by the evaluators to evaluate proposals. Each
203 evaluator shall sign and date his or her evaluation sheet. The factors included in the
204 evaluation sheet are factors related to management capability, technical capability, manner of

205 meeting performance requirements, cost and other important considerations which were
206 incorporated.

207 *Field purchase order (FPO)* means a document which encumbers the funds and must be
208 approved using the same steps as a requisition. FPO's are used in situations when a
209 purchase order is not required and a direct check is requested.

210 *Grant* means the furnishing by the city or a city authorized not-for-profit provider of assistance,
211 whether financial or otherwise, to any person to support a program or activity, or the furnishing
212 to the city of such assistance by another person or federal or state agency.

213 *GSA Federal General Services Administration* establishes long-term government-wide
214 contracts. Local government entities may only purchase goods and services related to
215 information technology from GSA schedule 70, information technology, consolidated (formerly
216 corporate contracts) schedule contracts containing IT special item number (SIN) and disaster
217 recovery purchasing to recover from a major disaster. GSA government-wide acquisition
218 contracts (GWACs) are not authorized for use by local government entities under section 211
219 of the E-Government Act of 2002.

220 *Informal bids* means process utilized to obtain prices for goods and supplies for all purchases
221 up to \$50,000.00. The acceptable methods are faxed, emailed or mailed written price
222 quotations.

223 *Lobbyist regulations* stipulates that all persons, firms, organizations and corporations seeking
224 procurement from the city or the award of funds for goods and services must submit a
225 completed and notarized lobbyist registration form/oath to the city clerk's office prior to
226 contacting a member or members of the city commission regarding the city procurement. The
227 lobbyist registration must disclose each party, person, principal, and/or client represented on
228 city matters.

229 *Local city vendor.*

230 A tier 1 "local city vendor" shall mean a resident which has a valid homestead from the county
231 property appraiser's in the city's limits and the resident owns a business within the city limits
232 with a valid business tax license issued by the city that authorizes the business to do business
233 in the city and that authorizes the business to provide the goods, services or construction to
234 be purchased. The valid business tax license shall have been issued by the city at least one
235 year prior to the bid or proposal due date. The business must have a physical address located
236 within the city limits. Post office boxes shall not be utilized for the purpose of establishing said
237 physical address. Proof of business tax license must be submitted with response to the
238 solicitation. Proof of the homestead must be submitted with the response to the solicitation.
239 The homestead shall have been issued by the county at least one year prior to the bid or
240 proposal due date,

241 A tier 2 "local city vendor" shall mean a business within the city limits that has a valid business
242 tax license issued by the city that authorizes the business to do business in the city and that

243 authorizes the business to provide the goods, services or construction to be purchased. The
244 valid business tax license shall have been issued by the city at least one year prior to the bid
245 or proposal due date. The business must have a physical address located within the city
246 limits. Post office boxes shall not be utilized for the purpose of establishing said physical
247 address. Proof of business tax license must be submitted with response to the solicitation.

248 A tier 3 "local city vendor" shall mean a resident which has a valid homestead from the county
249 property appraiser's in the city's limits at least one year prior to the bid or proposal due date.
250 Proof of homestead must be submitted with the response to the solicitation. Additionally, the
251 resident owns a business outside of the city limits. The valid business tax license shall have
252 been issued at least one year prior to the bid or proposal due date. Post office boxes shall not
253 be utilized for the purpose of establishing said physical address. Proof of the business tax
254 license must be submitted with response to the solicitation.

255 *Lowest responsible bid or lowest responsible quotation* means the lowest bid or quotation
256 received that best responds in quality, fitness and capacity to the requirements of the
257 proposed work or usage, as specified, from a vendor deemed responsible and responsive to
258 the invitation to bid or solicitation for a quotation. In determining the lowest responsible bid or
259 quotation, the following shall be considered, in addition to price:

260 (1) The quality of commodities or services offered;

261 (2) The ability, capacity, and skill of the vendor to perform the contract or provide the
262 commodities or services required;

263 (3) Whether the vendor can perform the contract or provide the commodities or services
264 promptly, or within the time specified, without delay or interference;

265 (4) The sufficiency of the vendor's financial resources and the effect thereof on the vendor's
266 ability to perform the contract or provide the commodities or services;

267 (5) The character, integrity, reputation, judgment, experience, and efficiency of the vendor;

268 (6) The quality of vendor's performance on previous orders or contracts for the city;

269 (7) Litigation by the vendor on previous orders or contracts with the city;

270 (8) Compliance by the vendor with federal, state and local laws and ordinances relating to the
271 subject of the purchase or contract;

272 (9) The ability of the vendor to provide future maintenance and service where such
273 maintenance and service is essential;

274 (10) Internal cost of vendor's proposal, including any additional expenditure required by the
275 city to complete the project or purchase; and

276 (11) Life cycle costs, including costs of purchase, maintenance, and disposal, less residual
 277 value over the expected life of the product.

278 *Payment bond* means a promise of a surety assuring payment to all persons supplying labor
 279 or materials in the work provided for in a contract. The city has the discretion of requesting a
 280 payment bond when the construction contract is \$250,000.00 or less.

281 *Person* means any business, corporation, partnership, individual, union, agency, committee,
 282 club, organization, or group of individuals.

283 *Performance bond* means a promise of a surety, sometimes referred to as "completion bond,"
 284 assuring the city that once the contract is awarded, the contractor will perform its obligations
 285 under the contract.

286 *Procurement* buying, purchasing, renting, leasing, or otherwise acquiring any supplies,
 287 services and construction. It also includes all functions that pertain to the obtaining of any
 288 supplies, service, and construction, including description of requirements, selection and
 289 solicitation of sources, preparation and award of contracts and all phases of contract
 290 administration.

291 *Professional services* means any services where the city is obtaining advice, instruction, or
 292 specialized work from an individual, firm or agency specifically qualified in a particular area.
 293 Professional services may include a report, or written advice which may be lengthy; however,
 294 the main thrust of the service is not considered labor, but the exercise of intellectual ability.

295 *Protest* means a written complaint presented to the director of procurement in reference to the
 296 award of a contract which resulted from an RFP, RFQ, or bid.

297 *Public Bid Disclosure Act* (Florida Statutes § 218.80). When a department wishes to release a
 298 construction bid or RFP, all of the city's permits or fees, including, but not limited to, all license
 299 fees, permit fees, impact fees, or inspection fees, payable by the contractor to the city must be
 300 disclosed. If the RFP does not require the response to include a final fixed price, the city is not
 301 required to disclose any fees or assessments in the RFP. However, at least ten days prior to
 302 requiring the contractor to submit a final fixed price for the project, the city shall make the
 303 disclosures required by F.S. § 218.80.

304 *Public records* means those records as defined in F.S. ch. 119.

305 *Purchase* means the words used in a solicitation to describe the supplies, services, and
 306 construction to be purchased, and includes specifications attached to, or made a part of the
 307 solicitation.

308 *Purchase order* means a purchaser's document to formalize a purchase transaction with a
 309 vendor, conveying acceptance of a vendor's proposal. The purchase order should contain
 310 statements as to quantity, description, and price of the supplies, services, or construction
 311 ordered, and applicable terms as to payment, discounts, date of performance, transportation,

312 and other factors or suitable references pertinent to the purchase and its execution by the
313 vendor. A purchase order binds the vendor in a contractual relationship with the city.

314 *Request for proposal* means a solicitation for proposal to provide a solution to a problem or a
315 course of action or a determination of data findings useful to the city. An RFP is characterized
316 by description of the desired results and a scale of how the proposals will be evaluated to
317 obtain the results. Negotiation on any part of the RFP is permissible. The RFP includes all
318 documents, whether attached or incorporated by reference, utilized for soliciting proposals.
319 Compensation paid to a proposer is negotiated once the top rated proposer has been
320 determined.

321 *Request for quotation* is an informal request for prices normally used for procurement below
322 the formal contract threshold. The request for quotation includes all documents whether
323 attached or incorporated by reference, included in a solicitation for quotations.

324 *Request for qualifications* (prequalification of bidders) is the screening of potential vendors in
325 such factors as financial capability, reputation, professional expertise and management in
326 order to develop a list of qualified vendors. Once the list of pre-qualified vendors is created, a
327 bid or RFP is created and released to the pre-qualified list.

328 *Responsible bidder* means a person who has the capability in all respects to perform fully the
329 contract requirements, and the integrity and reliability which will assure good faith
330 performance.

331 *Responsive bidder* means a person who has submitted a bid which conforms in all material
332 respects to a solicitation. A bid or proposal of a responsive bidder must be submitted on the
333 required forms, which contain all required information, signatures, notarizations, insurance,
334 bonding, security, or other mandated requirements required by the bid documents to be
335 submitted at the time of bid opening.

336 *Services* mean the furnishing of labor, time, specifications and technical assistance by a
337 contractor. This term shall not include employment agreements or collective bargaining
338 agreements, but shall include both professional and general services.

339 *Sole source* means the only source known to be able to perform a contract, or the one source
340 that among others that, for justifiable reason, is found to be the most advantageous for the
341 purpose of contract award.

342 *Specifications* mean any description of the physical or functional characteristics or of the
343 nature of a supply, service and construction item. It may include a description of any
344 requirement for inspecting, testing or preparing a supply, service and construction item for
345 delivery. Specifications may also contain provisions for inclusion of factors which will lead to
346 the ultimate calculation of lowest total cost. All specifications shall seek to promote overall
347 economy for the purposes intended, and encourage competition in satisfying the city's needs
348 and shall not be unduly restrictive.

349 *Supplies* shall mean and include all supplies, materials, and equipment.

350 *Sunbiz* means the website maintained by the department of state, division of corporation
351 listing all companies incorporated in the state, including registered fictitious names and foreign
352 corporations.

353 *Surplus property* means city-owned which is no longer needed for public use.

354 *Tax savings direct purchases.* The city is recognized by the state as being exempt from state
355 sales tax and use tax and is therefore, qualified for an exemption from Florida and all other
356 state sales taxes on the purchase of tangible personal property if certain criteria are met. The
357 city may realize savings of sales tax on selected material and equipment needed for use in
358 public works contracts. Public works contracts are projects for public use or enjoyment,
359 financed and owned by the city, in which private firms install tangible property that becomes
360 part of a city facility. See rule 12A-1.094 and F.S. § 212.08(6). The city will implement the
361 DPTSP for projects of \$1,000,000.00 or above.

362 *Unit price* mean the cost per unit of a product or service.

363 *Using agency* is any department, agency, commission, bureau or other unit to the city
364 government using supplies or procuring contractual services.

365 *Vendor* means an actual or potential supplier of an item, service, and construction.

366 *Vendor performance* means an action or inaction taken by a vendor under a contract,
367 purchase order, or other binding agreement with the city. Nonperformance, which is an action
368 or inaction, which does not comply with the specifications, and/or terms and conditions of a
369 contract or purchase order.

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371 **SECTION 3. Conflict.** All ordinances or portions of the Code of Ordinances of the City of
372 Hallandale Beach in conflict with the provisions of this ordinance shall be repealed to the extent
373 of such conflict.

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375 **SECTION 4. Severability.** Should any provision of this ordinance be declared by a court of
376 competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a
377 whole, or any part thereof, other than the part declared to be invalid.

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379 **SECTION 5. Codification.** It is the intention of the Mayor and City Commission that the provisions
380 of this ordinance be incorporated into the Code of Ordinances; to effect such intention the words
381 “ordinance” or “section” may be changed to other appropriate words.

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SECTION 6. Effective Date: This Ordinance shall take effect immediately upon adoption on second reading.

PASSED AND ADOPTED on 1st reading on _____, 2021.
PASSED AND ADOPTED on 2nd reading on _____, 2021.

JOY F. COOPER
MAYOR

SPONSORED BY: CITY ADMINISTRATION

ATTEST:

JENORGEN M. GUILLEN, CMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY
AND FORM

JENNIFER MERINO
CITY ATTORNEY