

PROPOSED
ORDINANCE NO. 2020-

1
2 AN ORDINANCE OF THE BOARD OF COUNTY
3 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
4 PERTAINING TO THE BUSINESS OPPORTUNITY ACT
5 AND COUNTY BUSINESS ENTERPRISE (“CBE”) AND
6 SMALL BUSINESS ENTERPRISE (“SBE”) ELIGIBILITY
7 REQUIREMENTS; AMENDING SECTION 1-81.2 OF THE
8 BROWARD COUNTY CODE OF ORDINANCES (“CODE”)
9 ADDRESSING ELIGIBILITY REQUIREMENTS FOR
10 CERTIFICATION AS A CBE OR SBE; AND PROVIDING
11 FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN
12 EFFECTIVE DATE.

(Sponsored by Mayor Dale V.C. Holness)

9 WHEREAS, the Broward County Business Opportunity Act of 2012 establishes
10 certain requirements that entities must meet to be eligible for and maintain County
11 Business Enterprise (“CBE”) or Small Business Enterprise (“SBE”) certification;

12 WHEREAS, continued certification as a CBE or SBE is subject to limitations on the
13 gross revenues of the CBE or SBE, the calculation of which may include revenue that is
14 purely passed through the CBE or SBE and fully paid to nonaffiliated subcontractors or
15 other entities for work done by that nonaffiliated entity pursuant to a subcontract resulting
16 from an agreement between the CBE or SBE and Broward County;

17 WHEREAS, revenue that is purely passed through a CBE or SBE and fully paid to
18 a nonaffiliated subcontractor, subconsultant, or other entity for work done by that
19 nonaffiliated entity pursuant to a subcontract resulting from an agreement between a CBE
20 or SBE and Broward County may prevent a CBE or SBE from meeting its continuing
21 eligibility criteria although the CBE or SBE’s actual retained revenue would otherwise
22 meet the CBE or SBE eligibility criteria; and

23 WHEREAS, the Broward County Board of County Commissioners finds that the
24 eligibility requirements for continued CBE or SBE certification should closely reflect an

1 entity's actual revenue and not include amounts purely passed through to a nonaffiliated
2 subcontractor, subconsultant, or other entity,

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4 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
5 BROWARD COUNTY, FLORIDA:

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7 Section 1. Section 1-81.2 of the Broward County Code of Ordinances is hereby
8 amended to read as follows:

9 **Sec. 1-81.2. Certification standards.**

10 (a) The Program Director shall determine whether an entity is eligible for CBE
11 or SBE certification.

12 (b) *CBE Eligibility Requirements.* An entity is eligible for certification as a CBE
13 if it meets the following criteria:

- 14 (1) The entity shall, when combined with any and all Affiliates, have annual
15 average gross ~~receipts~~ revenue no greater than Five Million Dollars
16 (\$5,000,000), excluding all pass-through amounts paid by the entity to a
17 nonaffiliated Subcontractor, nonaffiliated subconsultant, or other
18 nonaffiliated entity pursuant to a subcontract resulting from an agreement
19 between the entity and the County, calculated over the previous three (3)
20 calendar years, unless that entity is a construction firm or an entity offering
21 to sell commodities to the County; a A construction firm (when combined
22 with any and all Affiliates) shall have annual average gross ~~receipts~~ revenue
23 no greater than Nine Million Dollars (\$9,000,000), excluding all
24 pass-through amounts paid by the entity to a nonaffiliated Subcontractor,

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1 nonaffiliated subconsultant, or other nonaffiliated entity pursuant to a
2 subcontract resulting from an agreement between the entity and the County,
3 calculated over the previous three (3) calendar years; To be eligible for
4 certification, an entity offering to sell commodities to the County (when
5 combined with any and all Affiliates) must employ twenty-five (25) or fewer
6 permanent full-time employees but is not subject to any limitation with
7 regard to gross revenue for certification as a commodities firm;

8 . . .

9 (c) *SBE Eligibility Requirements.* An entity is eligible for certification as an SBE
10 if it meets the following criteria:

- 11 (1) The entity shall employ fifteen (15) or fewer permanent full-time employees.
12 In addition, eligibility is subject to the following gross revenue limitations:
13 Professional consultants, when combined with any and all Affiliates, shall
14 have less than Five Hundred Thousand Dollars (\$500,000) in average
15 annual gross revenue, excluding all pass-through amounts paid by the
16 entity to a nonaffiliated Subcontractor, nonaffiliated subconsultant, or other
17 nonaffiliated entity pursuant to a subcontract resulting from an agreement
18 between the entity and the County, calculated over the previous three (3)
19 calendar years. Entities providing construction services shall, when
20 combined with any and all Affiliates, have less than Three Million Dollars
21 (\$3,000,000) in average annual gross revenue, excluding all pass-through
22 amounts paid by the entity to a nonaffiliated Subcontractor, nonaffiliated
23 subconsultant, or other nonaffiliated entity pursuant to a subcontract
24 resulting from an agreement between the entity and the County, calculated

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1 over the previous three (3) calendar years. Entities providing services other
2 than professional consulting or construction shall, when combined with any
3 and all Affiliates, have less than One Million Dollars (\$1,000,000) in average
4 annual gross revenue, excluding all pass-through amounts paid by the
5 entity to a nonaffiliated Subcontractor, nonaffiliated subconsultant, or other
6 nonaffiliated entity pursuant to a subcontract resulting from an agreement
7 between the entity and the County, calculated over the previous three (3)
8 calendar years. Entities offering to sell commodities to the County shall be
9 subject to the employee limitation above but are not subject to any gross
10 revenue limitation with regard to certification as a commodities firm;

11 . . .

12
13 Section 2. Severability.

14 If any portion of this Ordinance is determined by any court to be invalid, the invalid
15 portion will be stricken, and such striking will not affect the validity of the remainder of this
16 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
17 legally applied to any individual, group, entity, property, or circumstance, such
18 determination will not affect the applicability of this Ordinance to any other individual,
19 group, entity, property, or circumstance.

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21 Section 3. Inclusion in the Broward County Code of Ordinances.

22 It is the intention of the Board of County Commissioners that the provisions of this
23 Ordinance become part of the Broward County Code of Ordinances as of the effective
24 date. The sections of this Ordinance may be renumbered or relettered and the word

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1 "ordinance" may be changed to "section," "article," or such other appropriate word or
2 phrase to the extent necessary in order to accomplish such intention.

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Section 4. Effective Date.

This Ordinance is effective as of the date provided by law.

PROPOSED

ENACTED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By /s/ Sandy Steed 09/28/2020
Sandy Steed (date)
Assistant County Attorney

By /s/ Annika E. Ashton 09/28/2020
Annika E. Ashton (date)
Deputy County Attorney

SS/jc
CBE Eligibility Ord.doc
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