

**PROPOSED**

RESOLUTION NO.

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE BROWARD COUNTY PROCUREMENT CODE; AMENDING VARIOUS SECTIONS OF CHAPTER 21 OF THE BROWARD COUNTY ADMINISTRATIVE CODE (“PROCUREMENT CODE”); AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE BROWARD COUNTY ADMINISTRATIVE CODE, AND AN EFFECTIVE DATE.

WHEREAS, on February 23, 2021, the Broward County Board of County Commissioners (“Board”) adopted Resolution No. 2021-085, which repealed and replaced Chapter 21 of the Broward County Administrative Code (“Procurement Code”) resulting in a comprehensive rewrite of the Procurement Code;

WHEREAS, the goals of the revised Procurement Code were to simplify and clarify the Procurement Code, codify certain practices, and reflect best practices; and

WHEREAS, the County’s revised Procurement Code was effective May 1, 2021, and the first nine (9) months of application have revealed several minor areas that would benefit from further clarification, NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Section 21.5 of the Broward County Administrative Code is hereby amended to read as follows:

**21.5. Exemptions from the Procurement Code.**

...

(b) Procurements of the goods and services listed below are exempt from the requirements of this Code, but such goods and services may be purchased by the Director

1 of Purchasing, either competitively or noncompetitively, up to the Director of Purchasing's  
2 award authority, if the Director of Purchasing determines that the purchase is in the best  
3 interest of the County. The Director of Purchasing may also delegate the authority to  
4 make such purchases to Directors of County Agencies. Any purchase that would exceed  
5 the Director of Purchasing's award authority must be approved by the Board. The  
6 exempted goods and services are:

7 . . .

8 (6) Services provided directly to individual persons or families pursuant to  
9 County-administered or County-designated programs ~~directly to individual~~  
10 ~~persons~~ (such as behavior health programs or veterans services by the  
11 Human Services Department; or housing finance, minor home repair, or  
12 affordable housing services or programs by the Housing Finance Division);

13 . . .

- 14 (14) Services provided by nonprofit entities up to the Mandatory Bid Amount;
- 15 (15) Services provided by nonprofit public universities or colleges;
- 16 ~~(14)~~ (16) Continuing education events, programs, courses, and training for Broward  
17 County employees;
- 18 ~~(15)~~ (17) Lobbying services before governmental agencies or legislative bodies; and
- 19 ~~(16)~~ (18) Services for the County Administrator or the County Auditor to be used in  
20 investigations or special projects of limited duration.

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1 Section 2. Section 21.7 of the Broward County Administrative Code is hereby  
2 amended to read as follows:

3 **21.7. Direct Procurement Authority.**

4 (a) Upon recommendation of the County Administrator as set forth in  
5 Section 21.7(b) of this Code, the Board may elect to waive some or all of the provisions  
6 of this Code and serve as the direct procurement authority for the procurement of  
7 specified goods or services. In the role of direct procurement authority, the Board  
8 performs the role that would otherwise be performed by an Evaluation Committee.

9 . . .

10 (c) ~~Unless otherwise expressly approved by the Board, upon election by the~~  
11 ~~Board to serve as the direct procurement authority, the following provisions shall~~  
12 ~~automatically apply:~~

13 (1) ~~The Cone of Silence, Section 1-266 of the Broward County Code of~~  
14 ~~Ordinances, shall apply with an effective commencement date for County~~  
15 ~~Commissioners and all office personnel of any County Commissioner~~  
16 ~~immediately upon approval of the solicitation, notwithstanding anything to~~  
17 ~~the contrary in Section 1-266(c)(1).~~

18 (2) ~~No County Commissioner and no staff or office personnel of any County~~  
19 ~~Commissioner may initiate contact with a vendor or a vendor's~~  
20 ~~representative while the Cone of Silence is in effect. However, nothing shall~~  
21 ~~prohibit a County Commissioner, the staff or office personnel of any County~~  
22 ~~Commissioner, or any affected persons subject to the Cone of Silence from~~  
23 ~~communicating with the Director of Purchasing, the Chief Financial Officer,~~  
24 ~~the Office of the County Attorney, or the person designated in the solicitation~~

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1 as the contact person for the solicitation, for the purpose of obtaining  
2 information or clarification with respect to the solicitation.

3 ~~(3) The Code of Silence shall remain in effect until the agreement resulting from~~  
4 ~~the solicitation is awarded or the Board takes other action that ends the~~  
5 ~~solicitation.~~

6 ~~(d)~~ All solicitation documents and vendor communications related to a  
7 solicitation under this section shall be promptly posted on the Purchasing Division  
8 website, unless precluded by applicable law, to ensure complete transparency of the  
9 solicitation process.

10 Section 3. Section 21.25 of the Broward County Administrative Code is hereby  
11 amended to read as follows:

12 **21.25. Sole Source Procurement.**

13 (a) The Director of Purchasing may conduct a Sole Source procurement upon  
14 determining there is only one source or one reasonable source for the specific goods or  
15 services required by the County, ~~and~~ provided such procurement would not be  
16 inconsistent with applicable law, including, but not limited to, Sections 255.20 and  
17 287.055, Florida Statutes, and further provided that nonstandardized Sole Source  
18 procurements above the award authority of the Director of Purchasing must be approved  
19 by the Board. Sole Source procurements may be conducted through any method  
20 authorized by this Code or by contracting directly with the sole source vendor, as the  
21 Director of Purchasing determines to be in the best interest of the County. Sole Source  
22 procurements shall be exempt from all County preferences, including, but not limited to,  
23 those under Section 21.23(d), (e), (h), and (i).

24 . . .

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1 Section 4. Section 21.26 of the Broward County Administrative Code is hereby  
2 amended to read as follows:

3 **21.26. Sole Brand Procurement.**

4 (a) The Director of Purchasing may conduct a Sole Brand procurement upon  
5 determining there is only one known brand or only one brand reasonably capable of  
6 fulfilling a particular procurement need of the County, ~~and further provided that~~ such  
7 procurement would not be inconsistent with applicable law, including, but not limited to,  
8 Sections 255.20 and 287.055, Florida Statutes, and further provided that nonstandardized  
9 Sole Brand procurements above the award authority of the Director of Purchasing must  
10 be approved by the Board. Sole Brand procurements may be conducted through any  
11 procurement method authorized by this Code that the Director of Purchasing determines  
12 to be in the best interest of the County.

13 . . .

14 Section 5. Section 21.42 of the Broward County Administrative Code is hereby  
15 amended to read as follows:

16 **21.42. Procedures for RFPs, RLIs, and RFQs.**

17 . . .

18 (k) *Negotiations.* ~~Once~~ After a ranking is ~~deemed final~~ posted on the  
19 Purchasing Division website, the County shall commence contract negotiations with the  
20 top-ranked vendor (or, if provided in the solicitation, with multiple top-ranked vendors  
21 simultaneously). If the negotiation does not result in mutually satisfactory contract terms  
22 within a reasonable time, as determined by the Director of Purchasing, then the Director  
23 of Purchasing may terminate negotiations with the applicable vendor and commence (or  
24 continue, if the solicitation provided for negotiation with multiple top-ranked vendors)

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1 negotiations with the next-ranked vendor(s) or issue a new solicitation, as the Director of  
2 Purchasing determines to be in the best interest of the County.

3 . . .

4 Section 6. Section 21.47 of the Broward County Administrative Code is hereby  
5 amended to read as follows:

6 **21.47. Award and Execution Authority.**

7 . . .

8 (b) *Director of Purchasing.* In addition to any express delegation of authority by  
9 the Board in connection with a particular procurement, express delegation in a contract  
10 approved by the Board, or other express delegations in this Code, the Director of  
11 Purchasing is authorized to award solicitations, and execute ~~the associated~~ contracts  
12 (and including agreements, amendments, work authorizations, change orders, and  
13 extensions, and renewals thereof), subject to the following and any other applicable  
14 limitations stated in this Code:

15 . . .

16 (3) The ~~Director of Purchasing may execute contract amendments, work~~  
17 ~~authorizations, change orders, extensions, or renewals, provided that the~~  
18 cumulative exercise of the Director of Purchasing's authority with respect to  
19 ~~that~~ any contract ~~does~~ shall not exceed \$500,000; provided, however, that  
20 the Board may specifically approve in connection with any consideration of  
21 an amendment, extension, or renewal of the contract that the full amount of  
22 the Director of Purchasing's authority (i.e., \$500,000) be restored with  
23 respect to that contract; and

24 . . .

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1 Section 7. Section 21.94 of the Broward County Administrative Code is hereby  
2 amended as follows:

3 **21.94. Definitions.**

4 The words used in this Code shall have the meanings set forth below, unless the  
5 context in which they are used clearly requires a different meaning or a different definition  
6 is prescribed in the applicable part or section. These words may or may not be capitalized  
7 in this Code but shall have the same meaning whether or not capitalized.

8 . . .

9 *Mandatory Bid Amount* means the dollar amount above which a Competitive  
10 Solicitation is required, unless an exemption is provided in this Code. The Mandatory Bid  
11 Amount is \$100,000 for the full duration of the contract, inclusive of any renewals or  
12 extensions.

13 . . .

14 Section 8. Severability.

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

22 Section 9. Inclusion in the Broward County Administrative Code.

23 It is the intention of the Board of County Commissioners that the provisions of this  
24 Administrative Code Resolution become part of the Broward County Administrative Code

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1 as of the effective date. The sections of this Administrative Code Resolution may be  
2 renumbered or relettered and the word "resolution" may be changed to "section," "article,"  
3 or such other appropriate word or phrase to the extent necessary in order to accomplish  
4 such intention.

5 Section 10. Effective Date.

6 This Administrative Code Resolution is effective as of April 1, 2022.

7  
8 ADOPTED this day of , 2022. **PROPOSED**

9  
10 Approved as to form and legal sufficiency:  
11 Andrew J. Meyers, County Attorney

12 By /s/ Fernando Amuchastegui 01/12/2022  
13 Fernando Amuchastegui (date)  
14 Senior Assistant County Attorney

15 By /s/ René D. Harrod 01/12/2022  
16 René D. Harrod (date)  
17 Chief Deputy County Attorney

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