

PROPOSED

ORDINANCE NO.

1 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD
2 COUNTY, FLORIDA, PERTAINING TO THE BROWARD COUNTY PROMPT PAYMENT
3 POLICY; AMENDING SECTION 1-51.6 OF THE BROWARD COUNTY CODE OF
4 ORDINANCES ("CODE"); AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE
5 CODE, AND AN EFFECTIVE DATE.

6 (Sponsored by the Board of County Commissioners)
7

8 WHEREAS, Section 1-51.6 of the Broward County Code of Ordinances sets forth
9 the Broward County Prompt Payment Policy, which sets the standards for paying vendors
10 for the purchase of goods or services; and

11 WHEREAS, the Board of County Commissioners finds it appropriate at this time
12 to modify certain portions of the County's Prompt Payment Policy,

13 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
14 BROWARD COUNTY, FLORIDA:

15 Section 1. Section 1-51.6 of the Broward County Code of Ordinances is hereby
16 amended to read as follows:

17 **Sec.1-51.6. Prompt payment policy.**

18 (a) *Generally:*

19 (1) The "Florida Local Government Prompt Payment Act," (~~Ch. 89-297, § 4,~~
20 ~~Laws of Fla.) and Sections 218.70 through 218.80, Florida Statutes, as it~~

may in the future be amended, is hereby incorporated into herein and is made a part of this section.

(2) There is hereby established a prompt payment policy and standard of the Broward County ~~b~~Board of eCounty eCommissioners ("Board"). This self-imposed payment standard shall be more exacting than the standard established by the ~~Florida~~ Local Government Prompt Payment Act. The policy and its standard shall be as follows: ~~Where Broward County government purchases goods, services, or personal property, or leases personal or real property, t~~The time at which payment shall be due from Broward County government to the vendor for the purchase of goods or services other than construction services shall be thirty (30) calendar days from after the dates specified in Section 218.73 of the ~~Florida~~ Local Government Prompt Payment Act, and, for construction services, shall be the date specified in Section 218.735 of the Local Government Prompt Payment Act.

(3) There is hereby established a procedure and process for deciding promptness of payment disputes between vendors and Broward County ~~government~~. The dispute resolution procedure shall be in furtherance of and in accordance with the ~~Florida~~ Local Government Prompt Payment Act.

(4) The ~~administration of Broward County government~~ Administrator or written designee shall be responsible for execution of the prompt payment policy. ~~The administration and~~ shall adopt procedures for the execution of the

prompt payment policy. As required by the Florida Local Government
Prompt Payment Act, the ~~administration also~~ Broward County Administrator
or written designee shall establish procedures whereby all invoices received
by Broward County ~~government shall be marked as having been received~~
~~on the date on which they are first delivered into the hands of~~ are date-
stamped upon first delivery to an authorized eCounty employee or, agent,
~~or on the date they are first delivered to a county office, or facility, and~~
marked as officially received on that date. Any disputes regarding the
payment of an invoice or payment request shall be resolved by the County
Administrator or written designee in accordance with this policy, the Local
Government Prompt Payment Act, and the applicable contract and/or
purchase order.

- (5) ~~The administration of Broward County government~~ If the total interest paid
during any fiscal year exceeds the threshold established in Section 218.78
of the Local Government Prompt Payment Act, the County Administrator
shall provide ~~an annual~~ report to the ~~b~~Board of county commissioners. ~~The~~
~~report shall be submitted in December of every~~ the following fiscal year.
The report shall set forth the number of interest payments and the total
dollar amount of interest payments that were paid during the preceding
fiscal year ~~to vendors because of~~ pursuant to the Florida Local
Government Prompt Payment Act and or this policy.

- (b) *Hearing Officer;*

- (1) ~~There shall be, and there is hereby created,~~ In the event of a dispute between Broward County and a vendor regarding Broward County's promptness in paying an invoice, the County Administrator shall appoint a prompt payment hearing officer ("hearing officer") in accordance with the restrictions outlined in this policy. ~~The board of county commissioners by this section establishes the authority and responsibility of the hearing officer. The responsibility and purpose of the hearing officer is to~~ will be responsible for reviewing the dispute and rendering a final ~~decisions, either in favor of Broward County government or in favor of vendors. The H~~ hearing officer's ~~decisions shall be rendered exclusively for, and limited to, disputes that directly related to the promptness of payment by Broward County government to vendors. All determinations regarding the promptness of payment shall be made in accordance with the timelines set forth in Sections 218.73 and 218.735, as applicable, of the Local Government Prompt Payment Act.~~ The nature of the hearing officer's proceedings shall be quasi-judicial, and not advisory.
- (2) ~~The name of the position created by this section shall be the prompt payment hearing officer.~~
- (3) ~~No current or former Broward County government regularly compensated officer or employee shall be eligible for selection as a hearing officer. However, concurrent or former appointment to a Broward County government advisory or quasi-judicial board shall not of itself preclude a person from being selected as a~~ hearing officer.

- (4) (3) The ~~prompt payment~~ hearing officer shall hold and preside at proceedings, all of which shall be held at the ~~Broward County Governmental Center.~~
- (5) ~~The hearing officer shall preside at all proceedings of the prompt payment hearing officer~~ to address prompt payment disputes.
- ~~(6)~~ (4) The ~~prompt payment~~ hearing officer may adopt ~~such written~~ rules and procedures as the hearing officer deems appropriate for the exercise of responsibility to render decisions, so long as such written rules and procedures are ~~approved by the board of county commissioners and are~~ not inconsistent with the Florida Local Government Prompt Payment Act or this section. ~~The hearing officer's written rules shall be published in the Broward County Administrative Code; however, the absence of the adoption or publication of rules shall not preclude the hearing officer from holding proceedings and rendering decisions.~~
- ~~(7)~~ (5) The Broward County ~~f~~Finance and ~~a~~Administrative ~~s~~Services ~~d~~Department shall provide administrative and organizational support to the ~~prompt payment~~ hearing officer. This support shall extend to secretarial assistance, document control, records management, and all physical and logistical support necessary for the hearing officer to render decisions.
- (c) *Hearing Procedures:*
- (1) The general pattern of the process to resolve disputes between Broward County ~~government~~ and vendors will be generally as follows: A dispute may arise between Broward County ~~government~~ and a vendor because of the

112 vendor's assertion that ~~the~~ Broward eCounty has failed to pay the vendor's
113 invoice ~~within thirty (30) calendar days after~~ by the applicable due date
114 ~~established in the Florida Prompt Payment Act.~~ The controversy will
115 typically center ~~typically~~ on the following issues: ~~What is t~~The correctly
116 ~~calculated date that payment was due from Broward County government to~~
117 ~~a~~ the vendor; and whether Broward County ~~government effected payment~~
118 ~~to~~ timely paid the vendor. The ~~prompt payment~~ hearing officer shall decide
119 the issues. ~~The~~ and shall render a decision ~~shall be~~ either in favor of the
120 vendor or in favor of Broward County ~~government~~. The hearing officer is
121 expressly prohibited from deciding issues as to whether performance of a
122 contract has taken place or whether ~~the~~ Broward eCounty is obligated to
123 make payment for a purchase. The ~~scope of the~~ hearing officer's jurisdiction
124 is limited exclusively to issues of when ~~the~~ Broward eCounty was required
125 to pay and whether ~~the~~ Broward eCounty has timely paid. The hearing
126 officer shall not make determinations as to ~~underlying, fundamental~~ any
127 grounds for nonpayment.

128 (2) All ~~P~~roceedings shall take place within the timeliness guidelines set forth
129 in ~~the Florida~~ Section 218.76 of the Local Government Prompt Payment
130 Act. However, such guidelines are directory in nature and are not
131 mandatory so as to divest the hearing officer of jurisdiction.

132 (3) The hearing officer shall announce a decision by virtue of a written final
133 order. The final order shall be prepared and signed before the conclusion
134 of a the proceeding. The hearing officer shall not adjourn to an additional

day or time for the purpose of preparing a final order. The text of the final order shall include findings of facts and may make such conclusions, ~~which conclusions shall~~ as may be deducible from the findings of facts ~~as found by the hearing officer~~. The hearing officer shall find and iterate the findings of facts ~~specifically~~ specifically and thereafter state separately a each conclusion. The findings of fact shall be stated in nonargumentative and neutral terms and be divided into short, separately numbered, declarative paragraphs or sentences ~~each of which contains only one (1) feature or point~~. Proposed findings of fact and conclusions may be submitted by the Broward ~~e~~County and the vendor before or during the proceeding, but not ~~before or~~ after the proceeding. The hearing officer shall not simply adopt verbatim the proposals of either party ~~because;~~ rather, the hearing officer ~~shall have~~ has a duty to review the evidence in order that the hearing officer is certain that each finding and conclusion accords with the evidence. The hearing officer shall not announce a decision ~~either in favor of the county or in favor of the vendor~~ before the hearing officer ~~finds facts and~~ makes findings of fact and any conclusions derived therefrom. The final order shall be considered rendered and final upon its execution by the hearing officer. There shall be no appeal from a decision of the hearing officer ~~to the hearing officer, to the county administrator, or to the board of county commissioners~~. The hearing officer's decision may be subject to review by a court; however, pursuant to the Florida Local Government Prompt Payment Act, the decision of the

158 hearing officer shall not be considered as an administrative proceeding
159 that prohibits a court from deciding *de novo* a cause of action arising out
160 of the dispute.

161 (d) *Proper Invoice Requirements:* ~~The Florida Prompt Payment Act provides~~
162 ~~that the county may set forth the requirements for an invoice to be a proper invoice. The~~
163 ~~requirements of~~ for a proper invoice shall be, as set forth in this section, are in addition to
164 any additional requirements set forth in the agreement or applicable contract and/or
165 purchase order governing the purchase; however, in addition, ~~n~~No invoice submitted by
166 a vendor shall be considered a proper invoice unless the invoice is an original invoice, is
167 delivered to the Broward eCounty in accordance with the terms of the contract and/or the
168 purchase order, and sets forth the following and additional information:

- 169 (1) ~~The invoice shall set forth the Broward eCounty purchase order number;~~
170 ~~and the invoice shall that~~ correlates ~~to the County purchase order number~~
171 ~~under which the applicable purchase was made; and~~
- 172 (2) ~~The invoice shall set forth the name of the business organization that is~~
173 ~~recited~~ vendor entity stated in the Broward eCounty purchase order; and
- 174 (3) ~~The invoice shall set forth the date of its~~ the invoice ~~preparation; and~~
- 175 (4) ~~The invoice shall set forth a~~An identifying number for the invoice ~~to facilitate~~
176 ~~identification of the invoice; and~~
- 177 (5) ~~The invoice shall set forth the vendor's federal identification number; and~~
- 178 (6) ~~The invoice shall set forth a~~A description of the goods or services or
179 property provided to the county being invoiced; and

- (7) The ~~invoice shall set forth the county's~~ part or item number for each item or part provided or delivered; and
- (8) The ~~invoice shall set forth the~~ delivery terms (if any) set forth within the Broward eCounty purchase order; and
- (9) The ~~invoice shall set forth the~~ location and date of delivery of the goods or services or property ~~to the county~~ at issue (if applicable); and
- (10) The ~~invoice shall set forth the~~ quantity of the goods or services or property ~~provided to the county~~ at issue; and
- (11) The ~~invoice shall set forth the~~ unit price of the goods or services or property ~~provided to the county~~ at issue; and
- (12) The ~~invoice shall set forth the~~ extended total price of the goods or services or property ~~provided to the county~~ at issue; and
- (13) ~~The invoice shall set forth~~ Any applicable discounts.

Section 2. Severability.

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

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

It is the intention of the Board of County Commissioners that the provisions of this Ordinance become part of the Broward County Code of Ordinances as of the effective

date. The sections of this Ordinance may be renumbered or relettered and the word “ordinance” may be changed to “section,” “article,” or such other appropriate word or phrase to the extent necessary to accomplish such intention.

Section 4. Effective Date.

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

ENACTED

PROPOSED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

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

By: /s/ Christina A. Price 02/25/2025
Christina A. Price (date)
Senior Assistant County Attorney

By: /s/ René D. Harrod 02/25/2025
René D. Harrod (date)
Chief Deputy County Attorney

CAP/sr
Prompt Payment Ordinance
02/25/2025
#1117265v6

Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.