

PROPOSED

ORDINANCE NO. 2021-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE BROWARD COUNTY BUSINESS OPPORTUNITY ACT AND RELATING TO COUNTY BUSINESS ENTERPRISE (“CBE”) GOALS; AMENDING SECTION 1-81.3 OF THE BROWARD COUNTY CODE OF ORDINANCES (“CODE”) ADDRESSING THE WAIVER OF CBE GOALS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, the Broward County Business Opportunity Act of 2012 (“Act”) requires a County Business Enterprise (“CBE”) participation goal of at least twenty-five percent (25%) of the total value of the contract for County contracts, with limited exceptions, unless the Board of County Commissioners (“Board”) modifies or waives the CBE goal;

WHEREAS, for competitive solicitations that require Board approval to advertise the solicitation, the agenda item approving the advertisement provides an opportunity for the Board to consider modification or waiver of the CBE goal;

WHEREAS, competitive solicitations with an anticipated value of Five Hundred Thousand Dollars (\$500,000) or less do not require Board approval to advertise; however, the Act requires Board approval to modify or waive CBE goals for these solicitations; and

WHEREAS, the Board has determined it is appropriate to amend the Act to authorize the County Administrator to waive or modify CBE goals for solicitations that do not require Board approval to advertise,

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

1 Section 1. Section 1-81.3 of the Broward County Code of Ordinances is hereby
2 amended to read as follows:

3 **Sec. 1-81.3. CBE goals and reserves.**

4 (a) *Establishment of CBE Goal.* A CBE goal of at least twenty-five percent
5 (25%) participation by CBEs is hereby established for each County contract, except those
6 contracts that are subject to other participation goals other than CBE reserves (e.g.,
7 federal DBE program or SBE reserves), those contracts that are exempt from the
8 County's Procurement Code, those contracts that are otherwise ineligible by state or
9 federal law, and those contracts to which goals are not assigned (e.g., sole source, sole
10 brand, and emergency contracts). However, a CBE goal of at least twenty-five percent
11 (25%) shall not be required if, at any time, the Board or the County Administrator (under
12 the limited circumstances stated below) approves a different goal or approves that no
13 CBE goal shall be set, based upon a written OESBD determination provided to the Board
14 or the County Administrator that establishes one (1) of the following:

15 (1) With regard to no CBE goal being set:

- 16 a. There are fewer than two (2) certified CBEs available to participate
17 in a specific project; or
18 b. There is no work related to the contract that can be performed by a
19 CBE; or

20 (2) There are other documented compelling reasons to assign a lower CBE
21 goal to a particular County contract; or

22 (3) There is no competitive solicitation associated with the contract.

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Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 (c) ~~Board~~Waiver of CBE gGoal. The Board may waive the application of, or
2 may modify, any CBE goal at any time. The County Administrator may waive the
3 application of, or may modify, the CBE goal only for competitive solicitations with an
4 anticipated total value of Five Hundred Thousand Dollars (\$500,000) or less, and only if
5 no County Commissioner objects within five (5) business days after receiving written
6 notice from the Purchasing Division of the proposed waiver or modification. If a County
7 Commissioner timely objects to the proposed waiver or modification of a CBE goal by the
8 County Administrator, the proposed waiver or modification of the CBE goal for that
9 competitive solicitation will require Board approval.

10 ...

11 Section 2. Severability.

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

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

19 It is the intention of the Board of County Commissioners that the provisions of this
20 Ordinance become part of the Broward County Code of Ordinances as of the effective
21 date. The sections of this Ordinance may be renumbered or relettered and the word
22 “ordinance” may be changed to “section,” “article,” or such other appropriate word or
23 phrase to the extent necessary in order to accomplish such intention.

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 underscored type are additions.

1 Section 4. Effective Date.

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

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4 ENACTED

PROPOSED

5 FILED WITH THE DEPARTMENT OF STATE

6 EFFECTIVE

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

10 By /s/ Sandy Steed 08/19/2021
11 Sandy Steed (date)
12 Assistant County Attorney

13 By /s/ René D. Harrod 08/19/2021
14 René D. Harrod (date)
15 Chief Deputy County Attorney

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08/19/2021
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