1	ORDINANCE NO. 2020-
2	AN ORDINANCE OF THE BOARD OF COUNTY
3	COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE BROWARD COUNTY BUSINESS
4	OPPORTUNITY ACT RELATING TO COUNTY BUSINESS ENTERPRISE ("CBE") RESERVE PROCUREMENTS;
5	AMENDING SECTIONS 1-81.1 AND 1-81.3 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE")
6	ADDRESSING SOLICITATIONS INVOLVING CBE RESERVE PROCUREMENTS; AND PROVIDING FOR
7	SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.
8	
9	(Sponsored by the Board of County Commissioners)
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11	WHEREAS, the Broward County Business Opportunity Act of 2012 allows certain
12	contracts to be reserved for County Business Enterprise ("CBE") certified firms to allow
13	CBEs to gain practical experience as prime contractors;
14	WHEREAS, the County recognizes the need for and importance of CBE reserve
15	procurements as a mechanism for CBEs to gain experience, but the County also
16	recognizes the obligation to account for public funds and therefore seeks to establish
17	certain limits to ensure that CBE reserve awards are generally similar in both rate and
18	quality with the open market for such goods or services; and
19	WHEREAS, the Broward County Board of County Commissioners has determined
20	that amending Sections 1-81.1 and 1-81.3 of the Broward County Code of Ordinances,
21	pertaining to CBE reserve procurements, is appropriate at this time,
22	BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
23	BROWARD COUNTY, FLORIDA:
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Words in struck-through type are deletions from existing text. Words in <u>underscored</u> type are additions.

1	Section 1. Section 1-81.1 of the Broward County Code of Ordinances is hereby
2	amended to read as follows:
3	Sec. 1-81.1. Objectives and definitions.
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5	(c) Program definitions.
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7	(2) <i>Bid <u>or Proposal</u> means a response to any County procurement solicitation.</i>
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10	Section 2. Section 1-81.3 of the Broward County Code of Ordinances is hereby
11	amended to read as follows:
12	Sec. 1-81.3. CBE goals and reserves.
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14	(f) Solicitations Involving Reserves. When a CBE reserve is established in
15	connection with a County solicitation, CBEs and nonCBEs may respond to the solicitation.
16	If a CBE with capacity to perform the work submits a responsive and responsible Bid or
17	<u>pP</u> roposal, the work will be awarded to the CBE that submits the lowest responsive and
18	responsible Bid <u>,</u> or the highest-ranked responsive and responsible p Proposal <u>, subject to</u>
19	the language stated below (and consistent with all applicable terms and conditions of the
20	County's Procurement Code and subject to entering into an agreement acceptable to the
21	County). The CBE with the lowest responsive and responsible Bid, or the highest-ranked
22	responsive and responsible Proposal, as compared to all other CBEs (the "CBE
23	Presumptive Awardee") shall be awarded the contract if the CBE Presumptive Awardee
24	meets the following requirements, as applicable:

Coding:

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1	A. Monetary Differential: The total Bid or Proposal amount of the CBE
2	Presumptive Awardee: (a)(i) does not exceed Three Million Dollars (\$3,000,000)
3	and (ii) does not exceed the total amount of the lowest responsive and responsible
4	Bid, or the total amount of the highest-ranked responsive and responsible
5	Proposal, as applicable, from a nonCBE by more than ten percent (10%); or
6	(b)(i) exceeds Three Million Dollars (\$3,000,000) and (ii) does not exceed the total
7	amount of the lowest responsive and responsible Bid, or the total amount of the
8	highest-ranked responsive and responsible Proposal, as applicable, from a
9	nonCBE by more than five percent (5%).
10	B. Points Differential: For competitive solicitations in which the Proposals are
11	assigned point totals, the total points assigned to the CBE Presumptive Awardee
12	is not more than percent (%) less than the total points assigned to the
13	highest-ranked responsive and responsible nonCBE.
14	If the CBE Presumptive Awardee does not meet the above requirements, as
15	applicable, then the award shall be made to the nonCBE that submits the lowest
16	responsive and responsible Bid, or the highest-ranked responsive and responsible
17	Proposal, provided the Director of Purchasing determines the total amount of the Bid or
18	Proposal is fair and reasonable. If a nonCBE is awarded the contract because no CBE
19	with capacity to perform the work submits a responsive and responsible Bid or Proposal,
20	a nonCBE with the lowest responsive and responsible Bid or the highest-ranked
21	responsive and responsible proposal, as applicable, may be awarded or because the
22	CBE Presumptive Awardee does not meet the applicable requirements stated above, the
23	contract with the nonCBE must include at least a twenty-five percent (25%) CBE goal
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(unless the CBE goal is waived or otherwise modified by Board action), or the County
 may reject all b<u>B</u>ids and responses or Proposals submitted.

Section 3. <u>Severability</u>.

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.

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Section 4. Inclusion in the Broward County Code of Ordinances.

14 It is the intention of the Board of County Commissioners that the provisions of this
15 Ordinance become part of the Broward County Code of Ordinances as of the effective
16 date. The sections of this Ordinance may be renumbered or relettered and the word
17 "ordinance" may be changed to "section," "article," or such other appropriate word or
18 phrase to the extent necessary in order to accomplish such intention.

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- Section 5. <u>Effective Date</u>.
- 21 This Ordinance is effective as of the date provided by law.

23 ENACTED

- 24 FILED WITH THE DEPARTMENT OF STATE
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1	EFFECTIVE
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3	Approved as to form and legal sufficiency: Andrew J. Meyers, County Attorney
4	Andrew J. Meyers, County Attorney
5	By <u>/s/ 00/00/2020</u>
6	Sandy Steed (date) Assistant County Attorney
7	Assistant County Attorney
8	By <u>/s/ 00/00/2020</u>
9	Nathaniel A. Klitsberg (date) Senior Assistant County Attorney
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14	SS/hb CBE Reserves Cap Ordinance.doc
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