

1 RESOLUTION NO. 2011-086

2 A RESOLUTION OF THE BOARD OF COUNTY
3 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
4 PERTAINING TO THE PROCUREMENT CODE, AMENDING
5 SECTIONS 21.8, 21.14, 21.22, 21.30, 21.31, 21.32, 21.48, 21.66,
6 21.74, 21.77, 21.83, 21.84, 21.85, 21.86, 21.87, 21.94, 21.118,
7 21.120, 21.141, AND 21.147 OF THE BROWARD COUNTY
8 ADMINISTRATIVE CODE, RELATING TO DEFINITIONS,
9 CONTRACT ADMINISTRATION, AWARD, COMPETITIVE
10 SEALED PROPOSALS, ADDENDA, BONDS AND SECURITY
11 REQUIREMENTS, DESIGN/BUILD CONTRACTS, SELECTION
12 COMMITTEES, SELECTION AND EVALUATION COMMITTEE
13 COMPOSITION, PROCUREMENT OF PROFESSIONAL
14 SERVICES PURSUANT TO CCNA, PROFESSIONAL SERVICES
15 ABOVE MANDATORY BID AMOUNT, PURCHASES OF
16 PROFESSIONAL SERVICES, CHANGES TO NEGOTIATED
17 CONTRACTS, TIE BREAKER CRITERIA, LETTERS OF
18 INTEREST, REQUEST FOR PROPOSALS, CHANGE ORDER
19 AUTHORITY, TWO-STEP CONTRACTING PROCESS, VENDOR
20 OBJECTIONS, BOARD APPROVAL OF SELECTION
21 COMMITTEE RANKINGS, CONSULTANTS' COMPETITIVE
22 NEGOTIATION ACT, AND PROTEST PROCESS; PROVIDING
23 FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE
24 BROWARD COUNTY ADMINISTRATIVE CODE; AND
PROVIDING FOR AN EFFECTIVE DATE.

15 WHEREAS, the Board of County Commissioners of Broward County desires to
16 amend the Procurement Code of Broward County; NOW, THEREFORE,

17
18 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
19 BROWARD COUNTY, FLORIDA:

20
21 Section 1. Section 21.8 of Chapter 21 of the Broward County Administrative
22 Code, the "Procurement Code of Broward County," is hereby amended to read as
23 follows:

24
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underscored type are additions.

1 **21.8. Definitions.**

2 b. Definitions.

3 ...

4 7. *Competitive Selection and Negotiation* is a method of procurement
5 whereby qualified professional firms are invited to submit either "Letters of
6 Interest" or "Proposals" and are "~~short-listed~~ shortlisted" by an
7 appropriately-appointed selection/evaluation committee. Discussions are
8 held with at least the top three firms who are either ranked ~~by preference~~
9 or scored, and negotiations ~~being~~ are initiated with the best rated firm. If
10 negotiations are unsuccessful, they shall be terminated and negotiations
11 shall proceed with the other firms in order of their ~~ranking~~ rating. Eventual
12 selection is made of one firm with which negotiations take place.

13 ...

14 10. ~~Consultant's~~ Consultants' *Competitive Negotiations Act* or (CCNA) is the
15 common name for Section 287.055 of the Florida Statutes, as amended,
16 concerning the procurement of Architectural, Engineering (including
17 testing), Landscape Architecture, and Registered Land Surveying and
18 Mapping Services. These services shall be procured by either Request
19 for Letters of Interest or Request for Proposals and Competitive Selection
20 and Negotiation.

21 ...

22 16. ~~Construction Contracting, Two-Step Method,~~ means a method of
23 contracting ~~for construction whereby the vendors are solicited through a~~

24
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1 Request for ~~Letters of Interest~~ and only those vendors shortlisted as being
2 the most qualified are allowed to bid on the construction contract.

3 ~~17.16.~~ Cooperative Purchasing means the procurement conducted by or on
4 behalf of more than one public procurement unit.

5 ~~18.17.~~ Cost-Reimbursement Contract means a contract under which a contractor
6 is reimbursed for costs which are allowable and allocable in accordance
7 with the contract terms and the provisions of this Code and a fee, if any.

8 ~~19.18.~~ County Public Procurement Unit means the Purchasing Division of
9 Broward County.

10 ~~20.19.~~ Current Known Requirements means the amount of an item or service
11 that will fulfill the needs of any County agency at any point in time or the
12 estimated amount of an item or service that is projected to fulfill the needs
13 of the County for a period of time specified in a bid document. The award
14 authority is based upon the current known requirements and, if this
15 amount changes, then the award authority will be adjusted, if necessary,
16 at the next opportunity to rebid the contract.

17 ~~21.20.~~ Data means recorded information, regardless of form or characteristic.

18 ~~22.21.~~ Design-build means a single contract with a design-build firm for
19 the design and construction of a county construction project pursuant
20 to the Consultants' Competitive Negotiation Act.

21 ~~23.22.~~ Design criteria package means concise, performance-oriented drawings
22 or specifications of the project and shall include such performance-based
23 criteria as the legal description of the site, survey information concerning
24 the site, interior space requirements, material quality standards, schematic

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1 layouts and conceptual design criteria of the project, cost or budget
2 estimates, design and construction schedules, site development
3 requirements, provisions for utilities, storm water retention and disposal,
4 and parking requirements, as may be applicable to the project.

5 ~~24.~~23. *Designee* means a duly authorized representative of the person holding
6 a superior position.

7 ~~25.~~24. *Director of Purchasing* means the person holding the position established
8 in Section 3.28. of the Broward County Administrative Code, as the head
9 of the Purchasing Division of Broward County.

10 ~~26.~~25. *Emergency* means a threat to public health, welfare, safety, property,
11 or other substantial loss to the County.

12 ~~27.~~26. *Discount-from-List Contracts* means those contracts whereby price is
13 determined by applying a percentage discount from an established catalog
14 price. This type of contract is only to be used when it is determined, by the
15 Purchasing Director, that this contracting methodology is in the best
16 interest of the County.

17 ~~28.~~27. *Employee* for the purposes of this Code means an individual employed by
18 the Board of County Commissioners drawing a salary or wages from the
19 Board, and any non-compensated individual performing personal services
20 for such a governmental body.

21 ~~29.~~28. *Established Catalog Price* means the price included in a catalog, price
22 list, schedule, or other form that:

23 (a) Is regularly maintained by a manufacturer or contractor;

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1 (b) Is either published or otherwise available for inspection by
2 customers; and

3 (c) States prices at which sales are currently or were last made to a
4 significant number of any category of buyers or buyers constituting
5 the general buying public for the supplies or services involved.

6 ~~30-29.~~ *Excess Supplies* means any supplies having a remaining useful life but
7 which are no longer required by the using agency in possession of the
8 supplies.

9 ~~31-30.~~ *Expendable Supplies* means all consumable supplies other than non-
10 expendable supplies.

11 ~~32-31.~~ *External Procurement Activity* means any buying organizations not located
12 in this County, which, if located in this County, would qualify as a public
13 procurement unit. An agency of the United States or any state
14 government is an external procurement activity.

15 ~~33-32.~~ *Firm Fixed-Price Contract* means a contract whereby the price is fixed,
16 not variable, for the entire life of the contract or until a set quantity of
17 goods or services is delivered.

18 ~~34-33.~~ *General Services* means support services performed by an independent
19 contractor requiring specialized knowledge, experience, or expertise. The
20 service rendered does not consist primarily of acquisition of equipment or
21 materials. A general service may be differentiated from a professional
22 service by the degree of direction given to the provider. A professional
23 service generates solutions with very little direction from the government
24 while a general service provides a measured outcome of work completed.

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1 Examples: designing a computer system is a professional service; writing
2 computer code or providing a packaged system is a general service;
3 designing a building is a professional service; drawing plans is a general
4 service. Additional examples of general services are: pest control,
5 janitorial, laundry, catering, security, and maintenance of equipment.
6 General Services are normally procured through either a Request for
7 Letters of Interest, a Requests for Proposals, or an Invitations to for Bids.
8 Procurement of general services may include subjective evaluation factors
9 of the submitting firms.

10 ~~35.34.~~ 34. *Governmental Agency* means any agency of the Federal, State, or any
11 local government.

12 ~~36.35.~~ 35. *Grant* means the furnishing by the County Government or a
13 County-authorized not-for-profit provider of assistance, whether financial
14 or otherwise, to any person to support a program or activity, or the
15 furnishing to the County Government of such assistance by another
16 person. It does not include an award to a for-profit organization, the
17 primary purpose of which is to procure an end product to be provided
18 directly to the County Government, whether in the form of supplies,
19 services, or construction. A contract resulting from such an award is not a
20 grant but a procurement contract.

21 ~~37.36.~~ 36. *GSA Contracts* means contracts entered into by the General Services
22 Administration of the Federal Government (also known as GSA
23 Schedules) and are multiple award contracts containing prices to be
24 utilized by all Federal Government Agencies. GSA contracts also contain

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1 the most-preferred-customer clause, making the prices contained in GSA
2 contracts equivalent with those that are given to the most preferred
3 customer of the vendor.

4 ~~38-37.~~ *Invitation for Bids* means all documents, whether attached or incorporated
5 by reference, utilized for soliciting formal bids.

6 ~~39-38.~~ *Letter of Interest (Request for) or RLI* is a method of selecting a vendor
7 whereby all vendors are invited to submit a summary of their qualifications
8 and state their interest in performing a specific job or service. From these
9 Letters of Interest, the County determines which vendors shall be
10 "shortlisted", interviewed, and ~~enter into~~ selected for final negotiation for a
11 contract.

12 ~~40-39.~~ *Local Public Procurement Unit* means any City, Town, and any other
13 subdivision of the state located within Broward County or a public agency
14 of any such subdivision, public authority, educational, health, or any other
15 institution, and any other entity which expends public funds for the
16 procurement of supplies, services, and construction.

17 ~~41-40.~~ *Lock-In* means the improper construction of specifications so as to limit,
18 unnecessarily, the number of vendors or brands that may compete on any
19 particular procurement.

20 ~~42-41.~~ *Mandatory Bid Amount* means the dollar amount at which the formal Bid
21 Process is required unless an exemption is provided in this Code. The
22 Mandatory Bid Amount is ~~\$30,000~~ \$50,000.00. Purchases below the
23 Mandatory Bid Amount shall, whenever possible, be procured through
24 informal quotations, but other informal methods may be used at the

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1 discretion of the Purchasing Director. The current known requirement of
2 any commodity or service shall not be divided to circumvent the
3 requirement of the Mandatory Bid Amount; however, there is no
4 requirement to aggregate all predicted amounts of any commodity or
5 service for formal bidding. The Purchasing Director may deem it more
6 beneficial or economical to purchase an annual or alternate quantity of a
7 commodity or service at one time or to enter into an open-end contract for
8 annual or alternate requirements, in which case if the aggregate total
9 exceeds the mandatory bid amount, formal bid procedures shall be used.

10 ~~43.42.~~ *Materially Unbalanced Bid* means a bid which generates a reasonable
11 doubt that award to the bidder submitting a mathematically unbalanced bid
12 will result in the lowest ultimate cost to the County; or which is so
13 mathematically unbalanced as to result in an advance payment.

14 ~~44.43.~~ *Mathematically Unbalanced Bid* means a bid containing lump sum or unit
15 bid items which do not reflect reasonable actual costs plus a reasonable
16 proportionate share of the bidder's anticipated profit, overhead costs, and
17 other indirect costs.

18 ~~45.44.~~ *May* denotes the permissive. Failure to comply with a "may" ~~generally will~~
19 directive will generally not be a matter of responsiveness.

20 ~~46.45.~~ *Multiple-Award Contracts* means contracts which provide awards to more
21 than one vendor for the same item. These contracts may be used by
22 Purchasing only when it is determined by the Purchasing Director that the
23 use of more than one vendor is in the best interest of the County.
24

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1 47.46. *Must* denotes the imperative. Failure to comply with a "must" directive will
2 generally be a matter of responsiveness.

3 48.47. *Negotiations for Professional Services* means the act of determining
4 terms, conditions, and prices for the performance of professional services.
5 An appropriately-appointed negotiation committee shall negotiate with the
6 top-ranked candidate from the competitive selection of professional
7 services firms, in an attempt to reach agreement on a contract for the
8 provision of services to the County.

9 49.48. *Non-Expendable Supplies* means all tangible supplies having a value of
10 over \$750.00 or more per unit, and a normal life expectancy of one year or
11 more and all other tangible supplies designated as subject to formal
12 inventory control.

13 50.49. *Open-End Contract* (~~also or a~~Designated Price Agreement) means a
14 contract whereby an indefinite quantity of supplies, services, or
15 construction is to be procured over an identified time span, as and when
16 needed. This contract has an established unit price to be applied to
17 releases from the governmental entity. The award authority is based on
18 the current known requirements as indicated in the bid document.

19 5150. *Open-End Purchase Order* means a purchase order whereby a ~~V~~vendor
20 provides supplies, services, or construction on demand or on a prescribed
21 schedule not to exceed a period of 12 months or the Mandatory Bid
22 Amount. An open-end purchase order may be used as a release and
23 encumbrance document to authorize an agency to order any
24

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1 predetermined amount from an open-end contract on an as-needed
2 basis.

3 ~~52.51.~~ *Person* means any business, corporation, partnership, individual, union,
4 committee, club, organization, or group of individuals.

5 ~~53.52.~~ *Procurement* means buying, purchasing, renting, leasing, or otherwise
6 acquiring any supplies, services, or construction. It also includes all
7 functions that pertain to the obtaining of any supply, service, or
8 construction, including description of requirements, selection and
9 solicitation of sources, preparation and award of contracts, and all phases
10 of contract administration.

11 ~~54.53.~~ *Procurement Officer or Purchasing Agent* means any person duly
12 authorized to enter into and make written determinations with respect
13 ~~thereto~~ to public procurement. The terms also include an authorized
14 representative acting within the limits of authority.

15 ~~55.54.~~ *Professional Services* means any services where the County is obtaining
16 advice, instruction, or specialized work from an individual specifically
17 qualified in a particular area. Professional service may include a report, or
18 written advice which may be lengthy; however, the main thrust of the
19 service is not considered labor, but the exercise of intellectual ability. The
20 procurement of professional services does not lend itself to normal
21 competitive bidding and price competition alone. These services shall be
22 procured by either a Request for Letters of Interest or Request for
23 Proposals and Competitive Selection and Negotiation.

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1 ~~56-55.~~ *Proposals (Request For) ~~R.F.P.~~ or RFP* means a solicitation for offers to
2 provide a solution to a problem. An RFP is characterized by description of
3 the desired results and a scale of how the proposals to obtain these results
4 will be evaluated. RFP's include a price proposal which is a part of the
5 evaluations unless the Consultants' Competitive Negotiation Act applies.
6 Limited negotiation on any part of the RFP is permissible. The RFP
7 includes all documents, whether attached or incorporated by reference,
8 utilized for soliciting proposals.

9 ~~57-56.~~ *Purchase Description* means the words used in a solicitation to describe
10 the supplies, services, or construction to be purchased, and includes
11 specifications attached to, or made a part of, the solicitation.

12 ~~58-57.~~ *Purchase Order* means a purchaser's document to formalize a purchase
13 transaction with a vendor, conveying acceptance of a vendor's proposal.
14 The purchase order should contain statements as to quantity, description,
15 and price of the supplies, services, or construction ordered, and applicable
16 terms as to payment, discounts, date of performance, transportation, and
17 other factors or suitable references pertinent to the purchase and its
18 execution by the vendor.

19 ~~59-58.~~ *Purchasing Agency* means any organization under the control of the
20 Board of County Commissioners of Broward County, other than the
21 Director of Purchasing, which is authorized by this Code or its
22 implementing regulations, or by way of delegation from the Director of
23 Purchasing, to enter into contracts.

24
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1 ~~60-59.~~ *Purchasing Negotiator* is a county employee designated to conduct
2 negotiations authorized by this Procurement Code.

3 ~~61-60.~~ *Public Procurement Units* means either a Federal, State, or local
4 governmental unit or agency (including, without limitation, a city, school
5 district, or special district) purchasing goods, services, or construction, an
6 external public or not-for-profit procurement unit, or the County Public
7 Procurement Unit.

8 ~~62-61.~~ *Quotation (Request For) ~~R.F.Q.~~ or RFQ* is an informal request for prices
9 normally used for procurement below the mandatory bid amount. The
10 Request for Quotations includes all documents, whether attached or
11 incorporated by reference, included in a solicitation of quotations.

12 ~~63-62.~~ *Regulation* means a governmental body's statement, having general or
13 particular applicability and future effect, designed to implement, interpret,
14 or prescribe law or policy, or describe organization, procedure, practice, or
15 requirements.

16 ~~64-63.~~ *Resource Manager* means an officer of the Administrative Branch,
17 designated by the Administrator, to provide guidance, control, and proper
18 application of expertise in the procurement of selected items.

19 ~~65-64.~~ *Responsible Bidder ~~or~~ or Offeror* means an offeror who has the capability
20 in all respects to perform fully the contract requirements, and the integrity
21 and reliability which will assure good faith performance.

22 ~~66-65.~~ *Responsive Bidder* means a person who has submitted a bid which
23 conforms in all material respects to a solicitation. A bid or proposal of a
24 Responsive Bidder must be submitted on the required forms, which

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1 contain all required information, signatures, notarizations, insurance,
2 bonding, security, or other mandated requirements required by the bid
3 documents to be submitted at the time of bid opening.

4 ~~67-66.~~ *Selection Committee* is a group of persons appointed as provided in this
5 Code and regulations to designate a vendor or vendors to provide goods
6 or services, or both, for a particular project by ranking them in preferential
7 order or by some other method. "Selection Committee" shall also include
8 "Selection/Evaluation Committee" and "Evaluation Committee."

9 ~~68-67.~~ *Services* means the furnishing of labor, time, and effort by a contractor,
10 not involving the delivery of a specific end product other than reports
11 which are merely incidental to the required performance. This term shall
12 not include employment agreements or collective bargaining agreements
13 but shall include both professional and general services.

14 ~~69-68.~~ *Shall* denotes the imperative.

15 ~~70-69.~~ *Should* denotes the permissive.

16 ~~71-70.~~ *Small Purchase* means any purchase below the mandatory bid amount.

17 ~~72-71.~~ *Sole Brand* means the only known brand or the only reasonable brand
18 capable of fulfilling the needs of the County.

19 ~~73-72.~~ *Sole Source* means the only known vendor or the only reasonable vendor
20 capable of providing a service or commodity to the County.

21 ~~74-73.~~ *Specifications* means any description of the physical or functional
22 characteristics or of the nature of a supply, service, or construction item. It
23 may include a description of any requirement for inspecting, testing, or
24 preparing a supply, service, or construction item for delivery.

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1 Specifications may also contain provisions for inclusion of factors which
2 will lead to the ultimate calculation of lowest total cost. Specifications will,
3 when practical, contain Life Cycle Costing (LCC), Total Cost Concept
4 (TCC), Value Analysis (VA), or Value Engineering (VE). All specifications
5 shall seek to promote overall economy for the purposes intended, and
6 encourage competition in satisfying the County's needs and shall not be
7 unduly restrictive.

8 ~~75.74.~~ *Supplies* means all property, including, but not limited to, equipment,
9 materials, printing, and insurance, excluding real property.

10 ~~76.75.~~ *Surplus.*

11 (a) *Surplus Supplies* means supplies no longer having any use to the
12 County. This includes, but is not limited to, obsolete or scrap
13 material and non-expendable supplies that have completed their
14 useful life cycle.

15 (b) *Surplus Property* means surplus personal property as that term
16 is defined by this Code, State, and County law.

17 76. *Two-Step Contracting Method* means a method of contracting whereby
18 the vendors are solicited through a Request for Letters of Interest and only
19 those vendors prequalified are allowed to either bid pursuant to an Invitation
20 for Bids or submit a proposal pursuant to a Request for Proposals.

21 . . .

22 Section 2. Section 21.14 of Chapter 21 of the Broward County Administrative
23 Code, the "Procurement Code of Broward County," is hereby amended to read as
24 follows:

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1 **21.14. Authority of the Purchasing Director.**

2 ...

3 c. *Duties.* Except as otherwise specifically provided in this Code, the
4 Purchasing Director shall, in accordance with the regulations promulgated:

5 ...

6 7. Have discretion to reject any and all vendor offers to a procurement
7 solicitation after any vendor offer is opened, including those solicitations in
8 which there is only one responsive vendor, except when a Selection
9 Committee has been established. When a Selection Committee has been
10 established, the responsiveness of vendor offers shall be determined as
11 stated in Subsection 21.83.ed of this Code.

12 Section 3. Section 21.22 of Chapter 21 of the Broward County Administrative
13 Code, the "Procurement Code of Broward County," is hereby amended to read as
14 follows:

15 **21.22. Contract Administration.**

16 ...

17 g. *Assignments and delegations of contracts and purchase orders.* The
18 Director of Purchasing shall establish procedures for approval of assignments and
19 delegations of contracts and purchase orders. The Director will consult with the Office of
20 Economic and Small Business Development Division (~~"SBDD"~~) ("OESBD"), or successor
21 agency, concerning the impact on goal compliance from assignment or delegation of a
22 contract or purchase order from a certified prime contractor to a
23 non-certified prime contractor. The Director shall not approve such assignment or
24

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1 delegation until the earlier of ~~SBDD's~~ OESBD's response or five (5) business days after
2 the request for ~~SBDD~~ OESBD review.

3 h. *Evaluation of performance of certain vendors.* The Purchasing Director or
4 Contract Administrator shall, for each contract above the award authority of the
5 Purchasing Director, evaluate construction and architect/engineer performance,
6 including achievement of participation goals, and report same to the Board. A report to
7 the Board is required prior to the release of final payment for vendors who have a
8 weighted performance evaluation of 2.59 or below on two or more contracts over a five
9 (5) year period. Evaluation of the achievement of participation goals must be done in
10 conjunction with the Office of Economic and Small Business Development Division or
11 successor agency.

12 Section 4. Section 21.30 of Chapter 21 of the Broward County Administrative
13 Code, the "Procurement Code of Broward County," is hereby amended to read as
14 follows:

15 **21.30. Competitive Sealed Bidding.**

16 . . .

17 f. *Correction, Cancellation, or Withdrawal of Bids.*

18 . . .

19 3. Cancellation of Bids.

20 . . .

21 (b) Rejection After Bid Opening. After any vendor offer is opened, any
22 or all offers may be rejected by the Purchasing Director or
23 designee, including those bids in which there is only one
24 responsive vendor, except when a Selection Committee has been

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1 established. When a Selection Committee has been established,
2 the responsiveness of vendor offers shall be determined as stated
3 in Subsection 21.83.ed of this Code.

4 . . .

5 5. Determination of Responsiveness and Responsibility. The determination
6 of a non-responsible or non-responsive bidder or offeror and the
7 permitting of withdrawals or corrections of bids and offers, in accordance
8 with the directives of this Code, shall be the duty and responsibility of the
9 Director of Purchasing except when a Selection Committee has been
10 established. When a Selection Committee has been established, the
11 responsiveness of vendor offers shall be determined as stated in
12 Subsection 21.83.ed of this Code. The Director of Purchasing shall only
13 recommend award or cause award to be made to the responsive and
14 responsible offeror of the best evaluated offer. All determinations of
15 responsiveness and responsibility by the Purchasing Director, or
16 allowance for a change in or withdrawal of a bid or offer, shall be made in
17 writing and maintained in an appropriate file in the Purchasing Division.

18 . . .

19 Section 5. Section 21.31 of Chapter 21 of the Broward County Administrative
20 Code, the "Procurement Code of Broward County," is hereby amended to read as
21 follows:

22 **21.31. Award.**

23 . . .

24
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1 c. ~~Tie Bids~~ Criteria for Breaking Ties - Bids. If two or more bidders are tied,
2 the tie may be broken and the successful vendor selected by the following criteria
3 presented in order of importance and consideration as documented in the vendor's
4 response to the solicitation.

- 5 1. ~~Quality of the items or services bid if such quality is ascertainable.~~
6 Vendor located within Broward County.
- 7 2. ~~Delivery time if provided in the bid by the bidders.~~ Vendor which provides
8 domestic partner benefits.
- 9 3. ~~Preference to businesses with drug-free workplace programs as defined in~~
10 ~~Section 287.087, Florida Statutes, as amended.~~ Vendor providing the
11 most advantageous delivery time if provided in the bid by the bidders.
- 12 4. ~~Location of the vendor within Broward County.~~ Vendor that has the
13 lowest dollar volume of work previously awarded by the County over a five
14 (5) year period from the date of the bid submittal.
- 15 5. ~~Company which provides domestic partner benefits.~~
- 16 6. ~~Preference for purchase from a vendor other than a manufacturer.~~
- 17 7. ~~If items #1-6 are not applicable, the award will be decided by drawing of~~
18 ~~lots or flipping a coin.~~

19 For purposes of this tiebreaker, to be considered a vendor located in Broward
20 County, a vendor must be (1) in existence for at least six months prior to the solicitation
21 opening; (2) at a business address physically located within Broward County; (3) in an
22 area zoned for such business; (4) providing services from this location on a day-to-day
23 basis; and (5) providing services from this location that are a substantial component of
24 the services offered.

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1 d. *Criteria for Breaking Ties - RLI and RFP.* If two (2) or more ranked
2 vendors are tied and it is necessary to break the tie, the tie shall be broken and the
3 higher ranked vendor or vendors shall be selected by the following criteria presented in
4 order of importance and consideration as documented in the vendor's response to the
5 solicitation:

- 6 1. ~~Location of the v~~Vendor located within Broward County as set forth in
7 Subsection 21.31.c.
- 8 2. ~~Company~~ Vendor which provides domestic partner benefits.
- 9 3. ~~Preference to businesses with drug-free workplace programs as defined in~~
10 ~~Section 287.087, Florida Statutes, as amended.~~ Vendor that has the
11 lowest dollar volume of work previously awarded by the County over a five
12 (5) year period from the date of the submittal.
- 13 4. ~~Preference for purchase from vendor other than a manufacturer. A~~
14 re-vote or re-assessment of only the tied vendors.
- 15 5. ~~A re-vote or re-assessment of only the tied vendors.~~ Preference to vendor
16 receiving a majority of the total first-place votes.
- 17 6. ~~Preference to vendor receiving a majority of the total first-place votes.~~
- 18 7. ~~If items 1-6 do not break the tie vote, vendor or vendors shall be selected~~
19 ~~by the Board of County Commissioners.~~

20 ...

21
22 Section 6. Section 21.32 of Chapter 21 of the Broward County Administrative
23 Code, the "Procurement Code of Broward County," is hereby amended to read as
24 follows:

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underscoring type are additions.

1 **21.32. Competitive Sealed Proposals.**

2 a. *Conditions for Use.* If it is not practical nor advantageous to procure any
3 specific supplies, services, or construction by competitive sealed bidding, or Request for
4 Letters of Interest, the Director of Purchasing may determine that the use of competitive,
5 sealed proposals may be used. Competitive sealed proposals shall be the preferred
6 method to obtain general service, when the award is to be based upon evaluation of
7 price, quality, experience of the vendor, and other factors.

8 ...

9 d. *Evaluation Factors.* The Request for Proposals shall state the relative
10 importance of all evaluation factors, including price if CCNA does not apply, in an exact
11 numerical fashion, stating the number of points each evaluation factor may receive. In
12 addition, certain items may be rated in accordance with their importance and classified
13 as mandatory, desirable, or highly desirable. Only criteria disclosed on the solicitations
14 may be used to evaluate the items or services proposed.

15 e. *Discussion with Responsible Offerors and Revisions to Proposals.* As
16 provided in the Request for Proposals, discussions may be conducted with responsible
17 offerors whose submitted proposal is determined to be reasonably susceptible of being
18 accepted for award, for the purpose of clarification to assure full understanding of
19 responsiveness to the solicitation requirement. Offerors shall be afforded fair and equal
20 treatment with respect to any opportunity for discussion ~~and revision of proposal and~~
21 ~~such revisions will be permitted after submissions and prior to award for the purpose of~~
22 ~~obtaining best and final offers~~ to clarify a proposal.

23 ...

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

1 Section 7. Section 21.48 of Chapter 21 of the Broward County Administrative
2 Code, the "Procurement Code of Broward County," is hereby amended to read as
3 follows:

4 **21.48. Addenda.**

5 Any additional directions or modifications to the Invitation ~~to~~ for Bids, Request for
6 Letters of Interest, or Request for Proposals shall be issued as separate documents
7 identified as changes to the Invitation ~~to~~ for Bids, Request for Letters of Interest, or
8 Request for Proposals. In order for a ~~B~~idder or ~~P~~roposer to be considered
9 responsive, all addenda must be signed and returned with the ~~bid or Proposal~~ response
10 to the Invitation for Bids, Request for Letters of Interest, or Request for Proposals
11 unless the Addenda explicitly provides otherwise.

12 Section 8. Section 21.66 of Chapter 21 of the Broward County Administrative
13 Code, the "Procurement Code of Broward County," is hereby amended to read as
14 follows:

15 **21.66. Bonds and Security Requirements.**

16 . . .

17 b. *Contract Performance and Payment Bonds.* When a ~~construction~~
18 contract (as covered by the Procurement Code) is awarded in excess of an amount to
19 be established by Administrative regulation, the following bond or security shall be
20 delivered to the County and shall become binding on the parties upon the execution of
21 the contract.

22 . . .
23
24

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1 5. When a performance and payment bond (or other security) is required by
2 the Director of Purchasing, the bonds (or other security) shall remain in
3 effect for the duration of the contract unless otherwise provided in the
4 contract. If the contract is extended or renewed, it shall be subject to the
5 same bonding (or other security) requirements.

6 Section 9. Section 21.74 of Chapter 21 of the Broward County Administrative
7 Code, the "Procurement Code of Broward County," is hereby amended to read as
8 follows:

9 **21.74. ~~Construction—Contracting; Two-Step~~ Contracting Method,**
10 **Construction.**

11 The Purchasing Division may obtain construction services by means of the
12 ~~Construction—Contracting Two-Step~~ Contracting Method as defined in Subsection 21.8.b.
13 of this Code. All construction contractors ~~short-listed~~ shortlisted by a duly appointed
14 Selection Committee will be considered responsible to perform the construction service,
15 and the lowest responsive bidder in Step Two will receive the award.

16 Section 10. Section 21.77 of Chapter 21 of the Broward County Administrative
17 Code, the "Procurement Code of Broward County," is hereby amended to read as
18 follows:

19 **21.77. Design/Build Contracts.**

20 . . .

21 b. The design/build solicitation process, in accordance with Section
22 287.055, Florida Statutes, ~~consists of two steps: request for letters of interest~~
23 ~~(RLI), step one, and request for proposals (RFP), step two~~ as amended, utilizes
24 the Two-Step Contracting Method. In Step One, a Request for Letters of Interest (RLI)

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1 is issued and ~~The RFI, step one,~~ invites all design/build firms, as defined by Section
2 287.055, Florida Statutes, as amended, to submit their qualifications at a time and date
3 certain to the Purchasing Division. The Purchasing Division will provide all submittals to
4 the Selection/Evaluation Committee (SEC). The SEC will shortlist at least three (3)
5 firms, if possible, based on qualifications, availability, and past work of the firms,
6 including the partners or members thereof. The shortlisted firms will then be presented
7 with ~~the a~~ a RFP, ~~in s~~in ~~Step t~~Two. The RFP will contain a design criteria package as
8 defined by Subsection 21.8.b, of this Code, and all other pertinent requirements for the
9 project, including, ~~any small minority or women-owned~~ business enterprise participation
10 goals, insurance, bonding requirements, and method of evaluation for award which shall
11 state the factors, e.g., price, design, delivery time, and other project specific
12 requirements. Each of the factors of evaluation shall be assigned a percent (weight),
13 based on importance, totaling 100 percent. Proposals (responses to the RFP) shall be
14 delivered in a sealed envelope to the Purchasing Division no later than the specified
15 date and time certain. The Purchasing Division will forward all proposals, along with its
16 recommendations on responsiveness, to the SEC for determination and evaluation. The
17 Purchasing Negotiator will negotiate final details with the first ranked firm and, in
18 conjunction with the Office of the County Attorney, draft a contract ~~for the SEC to approve~~
19 ~~if required by the SEC and~~ to recommend execution to the awarding authority.

20 c. If an emergency situation is declared by the Board of County
21 Commissioners, a negotiating committee may be formed by the ~~Board~~ County
22 Administrator and authorized to negotiate with the best qualified design/build firm for the
23 design and construction of a capital project.

24 . . .

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1 Section 11. Section 21.83 of Chapter 21 of the Broward County Administrative
2 Code, the "Procurement Code of Broward County," is hereby amended to read as
3 follows:

4 **21.83. Selection Committee.**

5 a. Each Selection Committee for ~~professional services where the~~
6 ~~construction costs are estimated to cost \$500,000.00 or more or when a fee for any~~
7 ~~professional service is estimated to be \$100,000.00 or more,~~ shall be recommended by
8 the Director of Purchasing and appointed by the ~~Board of County Commissioners,~~ with
9 the ~~Board having the option to name at least one member of the Board to serve on the~~
10 ~~committee as a voting member, if a Board member expresses an interest in serving~~
11 County Administrator or designee. The appointment of the Selection Committee shall
12 occur within one (1) business day after the approval of the applicable competitive
13 solicitation. The dates of the ~~short-listing~~ shortlisting and ranking meetings shall be
14 established with the appointment of the Committee. After the ~~short-listing~~ shortlisting
15 and presentation meeting dates and times are set ~~in the agenda item~~ by the County
16 Administrator, the dates and times shall not be changed unless due to a protest of the
17 solicitation or the Director of Purchasing determines that the dates should be changed
18 either to comply with other requirements of the Procurement Code or if it is in the best
19 interest of the County. The using division shall provide staff to assist the Committee
20 and the Purchasing Negotiator. The using division shall also provide to the Committee,
21 the ~~County Attorney's Office~~ of the County Attorney, the County Auditor's Office, and,
22 when applicable, the Cultural Division Representative, a copy of the RLI or other
23 solicitation document and a brief, written summary of the project and the project
24 objectives prior to the ~~short-listing~~ shortlisting meeting.

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1 b. Each ~~Selection Committee~~ for professional services covered by CCNA for
2 any construction contract whose estimated cost is less than \$500,000.00 or when the
3 fee for any professional service is estimated to be under \$100,000.00, will be appointed
4 by the County Administrator or his or her designee upon the recommendation of the
5 Director of Purchasing. Membership of a Selection Committee constituted under this
6 subsection shall consist of county staff.

7 e.b. The best interest of the County in procuring services is served by an
8 expeditious and competitive selection, negotiation, and contracting process. Each
9 Selection Committee constituted under the provisions of this eCode or any similar state
10 law may proceed to conduct its scheduled and otherwise necessary business as soon
11 as a quorum is present at such meeting.

12 d.c. It is the responsibility of the eCommittee chair to maintain order at
13 meetings of the Selection Committee. Any person who interrupts or otherwise disrupts
14 the eCommittee's deliberations or a vendor's presentation to the eCommittee may be
15 removed from the meeting after warning by the chair.

16 e.d. When a Selection Committee has been established, the Selection
17 Committee shall determine whether a vendor is responsive. The Purchasing Director,
18 however, shall first review vendor submittals for responsiveness and indicate his or her
19 recommendations to the Selection Committee. Failure of the Purchasing Director to
20 make a recommendation shall not preclude the Selection Committee from determining
21 the responsiveness of any vendor's offer. The Purchasing Director's recommendation
22 may include any other recommendation he or she deems appropriate. If an appeal from
23 the Selection Committee's determination is filed, the Purchasing Director shall not be
24 required to decide the appeal pursuant to the provisions of ~~Sub~~section 21.118. Instead,

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 underscored type are additions.

1 any vendor that has a substantial interest in and is dissatisfied or aggrieved in
2 connection with the Selection Committee's determination of responsiveness may appeal
3 the determination pursuant to Section 21.120 of this Code.

4 ~~e.f.~~ The Selection Committee shall consider price, when possible, in
5 determining the ranking of vendors.

6 Section 12. Section 21.84 of Chapter 21 of the Broward County Administrative
7 Code, the "Procurement Code of Broward County," is hereby amended to read as
8 follows:

9 **21.84. Selection Committee and Selection/Evaluation Committee**
10 **Composition.**

11 A Selection Committee or Selection/Evaluation Committee shall be composed as
12 follows:

13 a. ~~Each Committee shall have no less than three (3) members. For~~
14 solicitations valued at under \$5,000,000.00 for the initial contract period, the Committee
15 shall have no less than three (3) members. For solicitations valued at \$5,000,000.00
16 and over for the initial contract period, the Committee shall have no less than five (5)
17 members. The Office of the County Attorney shall provide advisory legal assistance.

18 b. The voting members of a Committee may include:

19 1. ~~A Commissioner if the Committee is appointed by the Board under Section~~
20 ~~21.83.a.~~

21 ~~2.1. The Director of the using Division, or his or her authorized designee. A~~
22 Broward County employee with a Job Classification Code of D, E, or Y, or
23 as designated by the County Administrator.

24
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underscored type are additions.

1 3-2. Other voting members who may have a significant financial concern,
2 interest in the project, or special expertise and shall be selected as follows:

3 (a) No more than two (2) voting members shall be from the same
4 department.

5 (b) No manager shall serve on a Committee with any individual from
6 the same department who is under his or her direct supervision,
7 without written permission from the County Administrator.

8 (c) Except as provided in this subsection, no person from outside
9 County government shall be a voting member of the Committee.
10 Persons from the private sector may be appointed as voting
11 members of Committees when contractual arrangements require the
12 participation of the private sector. The ~~Board~~ County Administrator
13 may appoint persons from the public sector who are experts in
14 certain areas. Representatives of the Broward County Chapter of
15 the Florida Engineering Society and the ~~A1A~~ AIA Fort Lauderdale
16 may be appointed as voting members of committees for projects in
17 which the County's design guidelines, when available, are to be
18 used.

19 (d) The Committee Chair shall provide recording support to all
20 Committee meetings including making a recording and promptly
21 providing a written summary of the minutes of the proceedings. The
22 written minutes, at a minimum, shall set forth the names of
23 Committee members present and official actions taken by the
24 Committee.

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 underscored type are additions.

1 4.c. A representative of the Cultural Division shall serve as staff to the
2 Committee for all architectural or engineering services involving the construction or
3 renovation of public buildings.

4 5.d. All Committee members shall be free of conflicts of interest as provided by
5 Part III, Chapter 112, Florida Statutes, as amended, and the Broward County Employee
6 Code of Ethics, as amended. The appointing authority shall not appoint a person to a
7 Committee whose service would create the appearance of a conflict of interest.

8 e.e. ~~For each Committee on which any member of the Board of County~~
9 ~~Commissioners serves, the number of Committee members needed to establish a~~
10 ~~quorum shall be three (3) members. For each Committee on which no member of the~~
11 ~~Board of County Commissioners serves, a~~ A majority of the members of the Committee
12 shall constitute a quorum, except in no event shall a quorum be less than three (3)
13 members. Once a quorum is established, a Committee meeting may start without
14 regard to the absence of any other Committee members. Except as provided in this
15 paragraph, any member of the Committee may attend the meeting by audio interactive
16 telephone conference, including voting; however, no one attending the meeting by audio
17 interactive telephone conference may be counted as establishing a quorum. Each
18 voting member of a Committee must be physically present and remain physically
19 present at the RLI presentation/ranking meeting, the RFP evaluation meeting, and any
20 combination meeting that includes a ranking or evaluation, unless a recess is called.
21 Any member of a Committee that is absent from the RLI presentation/ranking meeting,
22 the RFP evaluation meeting, or any combination meeting that includes a ranking or
23 evaluation for more than five (5) minutes is automatically removed from the Committee
24 and is not allowed to vote. The five-minute requirement begins when the Committee

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1 Chair announces the time and starts the meeting. The five-minute requirement ends
2 when the meeting is adjourned. Automatic removal shall not affect the quorum for the
3 particular meeting at which removal occurred if a quorum was present at the start of the
4 meeting. The Chair of the Committee is responsible for notifying a removed member of
5 his or her status.

6 f. Objection and/or New Information Period. If a vendor believes the
7 Proposed Recommendation of Ranking is unfair, incorrect, or there is significant new
8 information that should be taken into consideration, the vendor shall provide the
9 objection or information in writing to the Purchasing Director within three (3) business
10 days from the posting of the Proposed Recommendation of Ranking. The letter must
11 (1) identify the vendor submitting the objection or new information and the solicitation
12 involved; (2) include a clear statement of the new information or, in the case of an
13 objection, the legal and factual grounds on which the objection is based; and (3) state
14 the relief requested. The letter must include any and all supporting documents along
15 with a statement attesting that all statements made in support of the submission are
16 accurate, true, and correct. The vendor shall acknowledge that the determination of
17 inaccurate, untruthful, or incorrect statements made in support of this submission may
18 serve as a basis for debarment of the vendor regardless of whether the submission is
19 directly provided by the vendor or a representative on behalf of the vendor. The letter,
20 including any response thereto, shall be attached to the Board agenda item for the
21 approval of the Selection Committee's ranking under the applicable competitive
22 solicitation.

23 d.g. A Committee need not meet after ranking/evaluating the vendors unless
24 there is new significant information; or a significant change in the staff, subcontractors,

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1 or qualifications of the first-ranked/highest-evaluated vendor, ~~or the Committee has~~
2 ~~required the final contract to be returned for approval.~~ When the Purchasing Negotiator
3 Director identifies such information or change, the Purchasing ~~Negotiator~~ Director or
4 designee will present such information to the Committee for consideration in order to
5 ratify the ranking/evaluation or to reorder the list. If the list is reordered, all negotiations
6 with the original first-ranked/highest-evaluated vendor will immediately cease, and
7 negotiations will begin with the first-ranked/highest-evaluated vendor on the reordered
8 list.

9 h. After the Final Recommendation of Ranking is posted, the Purchasing
10 Director shall present to the Board the ranking/evaluation for approval. The Board, by
11 majority vote, has the option to either (1) approve the Selection/Evaluation Committee's
12 ranking/evaluation recommendation; (2) recommend to the Purchasing Director
13 rejection of all submittals based upon a stated reason; or (3) send the
14 ranking/evaluation back to the Selection/Evaluation Committee to consider new
15 significant information and either ratify the ranking/evaluation or reorder the list. The
16 Board, by super majority vote, has the option to re-rank/re-evaluate the shortlisted firms
17 following presentations to the Board.

18 ~~e.i. After ranking by the Committee~~ If the Board of County Commissioners
19 approves the final ranking, the Purchasing Negotiator, assisted by County staff, will
20 attempt to negotiate a contract with the first-ranked/highest-evaluated vendor within a
21 reasonable time period as defined in the solicitation document. The Purchasing
22 Negotiator shall keep the using division apprised of the negotiations and shall meet
23 with the using division's representative, as necessary, to ensure input relevant to the
24 using division's needs and concerns. The final negotiated contract will be forwarded by

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1 the Purchasing Negotiator ~~to the Committee for approval, if required by the Committee,~~
2 ~~or~~ to the awarding authority for approval.

3 f.i. All members of each Committee and all persons who formally participate
4 or assist in negotiations must receive prior training from the Purchasing Division in the
5 purpose and process of negotiations pursuant to the Procurement Code. Such training
6 must be available in written or recorded form as well as through classroom and other
7 structured oral instruction, such as seminars or lecture presentation.

8 Section 13. Section 21.85 of Chapter 21 of the Broward County Administrative
9 Code, the "Procurement Code of Broward County," is hereby amended to read as
10 follows:

11 **21.85. Procurement of Architectural, Engineering, Testing, Landscape**
12 **Architectural, and Land Surveying Services.**

13 ...

14 c. *Solicitation of Professional Services Covered by the Consultants'*
15 *Competitive Negotiation Act ("CCNA").*

- 16 1. ~~Letters of Interest;~~ Solicitations. Each time a requirement or group of
17 requirements is to be procured under the Consultants' Competitive
18 Negotiation Act (CCNA), either a Request for Proposals or a Request for
19 Letters of Interest will be sent to all firms having filed qualifications with the
20 Director of Purchasing. ~~Such Request for Letters of Interest will define the~~
21 ~~general insurance requirements. In addition, the Requests for Letters of~~
22 ~~Interest will request them to:~~

- 23 (a) ~~Express their interest in obtaining the particular job.~~

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 underscored type are additions.

1 (b) ~~State the staff proposed for the particular project including, if~~
2 ~~applicable, joint ventures and minority participation.~~

3 2. *Advertisement for CCNA.* The Purchasing Division shall publicly
4 announce each project and ~~request Letters of Interest.~~ Each public
5 announcement shall be consistent with ~~s~~Section 287.055, Florida
6 Statutes, as amended.

7 3. *Review of Qualifications.* A duly appointed Selection/Evaluation
8 Committee shall review all qualifications and submittals of those firms
9 responding to the solicitation with a ~~Letter of Interest.~~

10 4. ~~Short List~~ Shortlist. The Selection/Evaluation Committee shall reduce the
11 number of firms (~~short list~~ shortlist) to at least three (3), if possible, for
12 further discussions. In ~~short listing~~ shortlisting firms, the Committee shall
13 attempt to select the best qualified firms for the particular project by using
14 a method established by the ~~Committee~~ Director of Purchasing prior to the
15 issuance of the ~~Request for Letters of Interest~~ solicitation.

16 5. *Discussions.* If a Request for Letters of Interest is used, ~~The~~ Committee
17 shall hold discussions with all ~~short listed~~ shortlisted firms. Such
18 discussion may encompass formal presentations by each firm. The
19 requirements of presentations or discussion will be the same for each firm
20 ~~short listed~~ shortlisted. If a Request for Proposals is used, the Committee
21 shall evaluate each proposal based upon weighted criteria and may
22 require presentations or discussions.

23 6. *Ranking/Rating of Firms.* If a Request for Letters of Interest is used, ~~The~~
24 voting members of the Selection Committee, after discussions ~~and of~~

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1 ~~and/or~~ presentations by each ~~short-listed~~ shortlisted firm, will vote on the
2 ~~final a~~ ranking. If a Request for Proposals is used, the Evaluation
3 Committee will score each proposal to determine a ranking. The ranking
4 of firms shall indicate the Committee's view of the firm that will best serve
5 the interest of the County with factors considered such as the ability of
6 professional personnel; whether a firm is a certified ~~small minority or~~
7 ~~women-owned~~ County-approved small business enterprise; past
8 performance; willingness to meet time and budget requirements; location;
9 recent, current, and a projected workload of the firm; and the volume of
10 work previously awarded to each firm by the County.

11 7. ~~Ranking/Rating Reported to the Board. On completion of the selection~~
12 ~~process, the committee, if appointed by the Board, shall report to the~~
13 ~~Board the ranking of the three or more firms selected and their ranking in~~
14 ~~order of preference. After the Final Recommendation of Ranking is~~
15 ~~posted, the Purchasing Director shall present the ranking to the Board in~~
16 ~~accordance with Subsection 21.84.h.~~

17 8. ~~Negotiations Proceed if No Concern Expressed by Board. If no~~
18 ~~Commissioner indicates concern with the selection or ranking within five~~
19 ~~business days of the date of transmittal, the Purchasing Negotiator will~~
20 ~~proceed with negotiations.~~

21 9. ~~Procedure if a Concern is Expressed. If one or more Commissioners have~~
22 ~~concerns which cannot be resolved without impacting the selection or~~
23 ~~ranking, a motion shall be placed before the Board to approve the~~
24

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 underscored type are additions.

1 selection and ranking and negotiation shall not proceed until the Board
2 has taken approving action.

3 ~~10.8.~~ *Negotiations.* The Purchasing Negotiator may, after five (5) business days
4 from notification of the ranking to the Board, attempt to shall negotiate with
5 the first-ranked firm to perform services upon terms and conditions, and at
6 a compensation which the Purchasing Negotiator determines to be fair
7 and reasonable. If the Purchasing Negotiator is unable to negotiate a
8 satisfactory contract with the first-ranked firm, negotiations with that firm
9 shall be formally terminated in a writing sent to the firm. The Purchasing
10 Negotiator then shall undertake negotiations with the second-ranked firm.
11 If these negotiations also prove unsatisfactory, negotiations shall again be
12 terminated and the Purchasing Negotiator will negotiate, in turn, with each
13 firm in accordance with its ranking by the ~~Selection Committee~~, until an
14 agreement is reached or the ~~short list~~ shortlist is exhausted. When a ~~short~~
15 ~~list~~ shortlist is exhausted, a new solicitation for ~~Letters of Interest~~ must be
16 initiated.

17 ~~11.9.~~ *Award of Contract.* At the successful conclusion of negotiations, a
18 contract, written or approved by the Office of the County Attorney, will be
19 awarded and signed by the awarding authority ~~based on the~~
20 ~~recommendations of the Purchasing Negotiator.~~

21 . . .

22 f. *Continuing Contracts Covered by CCNA.*

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- 1 1. A continuing contract as defined under the Consultants' Competitive
2 Negotiation Act ("CCNA") can be used for: (1) projects in which
3 construction costs do not exceed \$2,000,000.00, (2) study activities when
4 the fee for such professional service does not exceed \$200,000.00, or (3)
5 work of a specified nature as outlined in the contract required by the
6 agency, with no time limitation except that the contract must provide a
7 termination clause.
- 8 2. The continuing contract shall act as a general professional services
9 contract within the stated subject matter and will have a general
10 description of services but will not have a defined scope of work. The
11 work shall be assigned through the issuance of work authorizations.
12 Each work authorization shall specifically define the scope of work and
13 fees for the particular professional service.
- 14 3. The total annual cumulative fees for a continuing contract shall not exceed
15 \$1,000,000.00 for construction-related projects, \$500,000.00 for a study
16 activity, and \$500,000.00 for "work of a specified nature."
- 17 4. For "work of a specified nature," the description of services shall (1) not be
18 project specific, (2) be limited to the specific Using Agency (resulting in a
19 contract that shall not be shared with other Using Agencies), and (3)
20 include subject matters that do not require a professional seal. The only
21 areas requiring a professional seal that are permitted in a continuing
22 contract for work of a specified nature are serving as the County's Design
23 Criteria Professional in the preparation of design criteria packages, and
24 serving as a Threshold or Special Inspector.

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1 Section 14. Section 21.86 of Chapter 21 of the Broward County Administrative
2 Code, the "Procurement Code of Broward County," is hereby amended to read as
3 follows:

4 **21.86. Professional Services Above Mandatory Bid Amount.**

5 a. Professional services and other selected goods or services above
6 Mandatory Bid Amount not listed by CCNA or which are listed and are below the CCNA
7 dollar limits, or for which a procurement method is not specified by Florida State
8 Statutes, shall be procured by ~~Letters of Interest whenever practicable~~ under the same
9 procedures as services covered by CCNA or alternates set forth in this Code and
10 Administrative Regulations with the exception that a representative of the ~~County~~
11 ~~Attorney's Office~~ of the County Attorney may be excused from some negotiation
12 meetings. The Director of Purchasing may select alternate methods of acquisition as
13 necessary, including ~~two-step requests for letters of interest~~ the Two-Step Contracting
14 Method or other types of solicitations for non-CCNA purchases or services whereby a
15 separate price envelope is requested with the submission and is only opened after
16 ~~short-listing~~ shortlisting. The shortlisted firms will be ranked after their presentations,
17 which may include discussion of their price proposals. ~~In addition, the Selection~~
18 ~~committee may negotiate simultaneously with each firm and request best and final~~
19 ~~offers before giving rankings to the firms. The Purchasing Negotiator may proceed to~~
20 ~~negotiate the final contract with the best ranked firm if there are no objections from the~~
21 ~~Board of County Commissioners to the rankings.~~

22 . . .

23
24
Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
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1 Section 15. Section 21.87 of Chapter 21 of the Broward County Administrative
2 Code, the "Procurement Code of Broward County," is hereby amended to read as
3 follows:

4 **21.87. Letters of Interest.**

5 a. Letters of Interest ~~shall~~ may be obtained by the Purchasing Division in one of
6 the following methods:

- 7 1. Procurement Equal to or Exceeding Mandatory Bid Amount. Unless
8 otherwise provided by general or local law, procurements estimated to be
9 equal to or to exceed the mandatory bid amount ~~shall~~ may be procured by
10 formally advertising Requests for Letters of Interest and the responses
11 received as a formal bid.

12 . . .

13 e. An RLI that receives less than three (3) responses by the submittal
14 deadline shall have the deadline for receipt of responses extended by a maximum of up
15 to four (4) weeks as determined by the Director of Purchasing to solicit additional
16 responses. The Director or Purchasing shall determine the extension period and all
17 prospective vendors, including those which have responded, ~~and the members of the~~
18 ~~Board of County Commissioners on the Selection Committee will be notified of the~~
19 ~~extension in the manner used for the original advertisement and in any other manner~~
20 ~~deemed appropriate by the Director of Purchasing.~~ No response to said RLI will be
21 opened prior to the close of the extension period. If after the extension period has
22 expired there remain less than three (3) responses, the using division must compile all
23 responses and submit them to the Selection Committee for determination of
24 responsiveness. The Purchasing Director shall provide recommendations as to the

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1 responsiveness of all responses as required by Subsection 21.83.ed of this Code. For
2 purposes of this subsection, the County's Cone of Silence Ordinance shall be applied as
3 of the first scheduled meeting of the Selection Committee.

4 Section 16. Section 21.94 of Chapter 21 of the Broward County Administrative
5 Code, the "Procurement Code of Broward County," is hereby amended to read as
6 follows:

7 **21.94. Changes to Negotiated Contracts.**

8 . . .

9 b. In any case where an amendment is ~~\$30,000~~ \$50,000.00 or more, the
10 amendment must be approved by the proper award authority, and the approval shall be
11 based upon negotiations conducted in accordance with Florida's Sunshine Law by the
12 Purchasing Negotiator or Contract Administrator.

13 c. In any case where the amendment is less than ~~\$30,000~~ \$50,000.00,
14 negotiations may be conducted by the Contract Administrator or designee; however, the
15 amendment must be approved by the proper award authority.

16 d. In cases of ~~architectural-engineering~~ architectural and engineering
17 non-continuing services contracts for capital construction projects, amendments may be
18 negotiated by the Contract Administrator when the amount is less than \$60,000.00. The
19 Contract Administrator may negotiate amendments more than \$30,000.00 but less than
20 \$60,000.00 only two (2) times in the life of any ~~architectural-engineering~~ architectural and
21 engineering services contract for capital construction. In any case, the amendments
22 must be approved by the proper award authority and the approval shall be based upon
23 negotiations conducted in accordance with Florida's Sunshine Law by the Purchasing
24 Negotiator or Contract Administrator.

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1 e. The Contract Administrator may negotiate amendments to the scope of
2 services and time of performance, as long as the monetary limits of Section 21.94., and
3 other provisions of this Code, are adhered to.

4 ~~f. All continuing engineering contracts providing for issuance of work
5 authorizations for work of a specified nature on projects identified after creation of the
6 continuing contract, shall establish limits on the value of work authorizations which may
7 be negotiated by the Contract Administrator before submission to the proper award
8 authority. In no event shall a Contract Administrator negotiate a work authorization
9 under such continuing contract for a project with a total estimated construction cost in
10 excess of \$2 million, or for professional fees in excess of \$200,000 per work
11 authorization. If the Contract Administrator determines that either limit must be
12 exceeded for operational purposes, the Contract Administrator must bring the request to
13 the Purchasing Negotiator who will negotiate or approve such change as an
14 amendment to the original contract, and submit the recommended negotiated change in
15 accordance with existing rules and procedures to the proper award authority for
16 approval.~~

17 g.f. All nonemergency work authorizations issued pursuant to a contract in the
18 Library of Environmental Consulting Services must be limited to a cumulative total of
19 \$200,000.00 for all such work authorizations under a particular contract in the Library.
20 If the Contract Administrator determines that this limit must be exceeded for
21 operational purposes, the Contract Administrator must bring the work authorization to
22 the Purchasing Negotiator for negotiation. The Contract Administrator will present the
23 negotiated work authorization to the Board of County Commissioners for approval.

24
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1 Section 17. Section 21.118 of Chapter 21 of the Broward County
2 Administrative Code, the "Procurement Code of Broward County," is hereby amended
3 to read as follows:

4 **21.118. Authority to Resolve Protested Solicitations and Proposed Awards.**

5 a. *Right to Protest.*

6 . . .

7 1. Any protest concerning a solicitation or proposed award above the award
8 authority of the Purchasing Director, after the bid opening, shall be
9 submitted in writing and received by the County within five (5) business
10 days from the posting of the final recommendation of award on the
11 Purchasing Division's website.

12 2. Any actual or prospective bidder or offeror who has a substantial interest
13 in and is aggrieved in connection with the proposed award of a contract
14 which does not exceed the amount of the award authority of the Director
15 of Purchasing, may protest to the Director of Purchasing. The protest
16 shall be submitted in writing and received within three (3) business days
17 from the posting of the final recommendation of award on the Purchasing
18 Division's website.

19 . . .

20 d. *Distribution.* A copy of this decision shall be either mailed, sent by
21 facsimile, or otherwise furnished as agreed upon by the parties, immediately to the
22 protestant and any other party intervening.

23 . . .

24 . . .
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1 Section 18. Section 21.120 of Chapter 21 of the Broward County Administrative
2 Code, the "Procurement Code of Broward County," is hereby amended to read as
3 follows:

4 **21.120. Hearing Procedure for Debarment of Persons and Determinations**
5 **of the Director of Purchasing.**

6 a. *Right of Appeal.*

7 . . .

8 2. Any person who has a substantial interest in the matter and who is
9 dissatisfied or aggrieved with the determination of responsiveness by the
10 Selection Committee pursuant to Subsection 21.83.eg of this Code must
11 appeal said determination to the County by sending written notice to the
12 attention of the Purchasing Director to the County Purchasing Division.
13 Such appeal must be received by the County Purchasing Division within
14 ten (10) calendar days of the determination by the Selection Committee to
15 be deemed timely. The requirements of Subsections 21.118.e and
16 21.118.f shall be applicable to the appeal of the Selection Committee's
17 determination of responsiveness. Only appeals that are in writing and
18 timely made by or on behalf of a person who has standing to maintain a
19 protest under Florida case law, and accompanied by an appeal bond as
20 required by Subsection 21.120.a.3, shall be entitled to a decision by a
21 hearing officer. The written appeal shall briefly state the facts and
22 arguments upon which the appeal is based. The institution and filing of an
23 appeal pursuant to this Subsection 21.120.a.2 is an administrative remedy
24

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1 to be employed prior to the institution and filing of any civil action against
2 the County concerning the subject matter of the appeal.

3 . . .

4 c. *Hearing Procedure.* The procedure for any hearing required by this article
5 shall be:

6 . . .

7 3. The hearing officer shall be able to compel the attendance of witnesses, if
8 requested by a party, by issuance of an administrative subpoena served
9 by certified mail or by any other process and service authorized by law.
10 The hearing officer shall only determine whether procedural due process
11 has been afforded, whether essential requirements of law have been
12 observed, and whether the Purchasing Director's findings are arbitrary,
13 capricious, or an abuse of discretion, or whether such findings are in
14 accordance with the law or are unsupported by substantial evidence as a
15 whole. In cases involving determinations of responsiveness pursuant to
16 Subsection 21.83.04 of this Code, the hearing officer shall only determine
17 whether the Selection Committee's determination is arbitrary and
18 capricious. In cases involving determinations of violation of Section
19 1-266, Code of Ordinances, relating to the cone of silence, the hearing
20 officer shall only determine whether there has been a violation of the
21 ordinance. Substantial evidence means such relevant evidence as a
22 reasonable person might accept as adequate to support a conclusion.
23 When all parties are represented by counsel, upon a written motion made
24 at least ten (10) days prior to ~~when a hearing is~~ the scheduled hearing

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1 date, the hearing officer may allow local depositions of the parties who
2 have personal knowledge of the protest and who will be unavailable to
3 testify at the hearing. The hearing officer may grant the motion of any
4 person having standing under Florida law to intervene in the proceedings.
5 The hearing officer must rule upon any preliminary motions or motions to
6 intervene before the commencement of a hearing held under this section.
7 Such motions shall be made at least ten (10) days prior to the date the
8 hearing is scheduled. The motions may be argued at the final hearing or
9 at a motion hearing noticed prior to the date of the final hearing. When all
10 parties are represented by counsel, the hearing officer may also allow
11 each party one (1) written request for production of documents, on an
12 expedited basis, prior to the hearing and may issue subpoenas duces
13 tecum for witnesses to bring documents to the hearing. Any motions
14 allowed by this section must be made at least ten (10) days before a
15 hearing is scheduled and served upon all parties, to be considered.

16 Section 19. Part XII, Small Disadvantaged Business Enterprises, and Section
17 21.141 of Chapter 21 of the Broward County Administrative Code, the "Procurement
18 Code of Broward County," are hereby amended to read as follows:

19 **PART XII. SMALL ~~DISADVANTAGED~~ BUSINESS ENTERPRISES**

20 **21.141. Policy.**

21 The Board of County Commissioners has determined that the County shall take
22 affirmative action to increase the participation of small, ~~disadvantaged~~ business
23 enterprises in all County procurements administered through the Central Procurement
24 System of Broward County, to include, as appropriate, the use of annual goals for the

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1 procurement of all classes of goods and services, goals on individual contracts, and set-
2 asides.

3 Section 20. Section 21.147 of Chapter 21 of the Broward County Administrative
4 Code, the "Procurement Code of Broward County," is hereby amended to read as
5 follows:

6 **21.147. Bid or Proposal Security.**

7 a. *Bid Security Allowed on any Solicitations.* The Director of Purchasing
8 may require a Bid Security for any Bid Invitation, Two-Step Contracting Process, or
9 Request for Quotation issued by the Purchasing Division. The security shall be a bond
10 provided by a surety company authorized to do business in this state or the equivalent
11 in cash, certified check, cashier's check, irrevocable letter of credit, or an alternate form
12 of security for the same purpose, subject to the same conditions and in a form acceptable
13 to the Office of the County Attorney as a bid security.

14 . . .

15 Section 21. SEVERABILITY.

16 If any portion of this Resolution is determined by any Court to be invalid, the
17 invalid portion shall be stricken, and such striking shall not affect the validity of the
18 remainder of this Resolution. If any Court determines that this Resolution, or any
19 portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies),
20 property(ies), or circumstance(s), such determination shall not affect the applicability
21 hereof to any other individual, group, entity, property, or circumstance.

22 Section 22. INCLUSION IN THE ADMINISTRATIVE CODE.

23 It is the intention of the Board of County Commissioners that the provisions of
24 this Resolution shall become and be made a part of the Broward County Administrative

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1 Code; and that the sections of this Resolution be renumbered or relettered and the word
2 "resolution" may be changed to "section," "article," or such other appropriate word or
3 phrase in order to accomplish such intentions.

4 Section 23. EFFECTIVE DATE.

5 This Resolution shall become effective upon adoption.

6

7 ADOPTED this 8th day March , 2011. #4 - 2pm

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