OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Amended
Agenda Item No. 7(A)

(Second Reading 6-2-15)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: April 21, 2015

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance relating to designated purchases; amending Section 2-8.1 of the Code to establish procedure to award contracts for public improvements and purchases of supplies, materials and services, other than professional, when not practicable to conduct competitive process

Ordinance No. 15-42

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Vice Chairman Esteban L. Bovo, Jr., and Co-Sponsors Commissioner Barbara J. Jordan and Commissioner Rebeca Sosa.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

/

Memorandum

MIAMI-DADE COUNTY

Date: June 2, 2015

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Ordinance related to designated purchases to establish procedure to award contracts when competitive bidding is not practical

---

The proposed ordinance amends Section 2-8.1 to: a) describe the types of instances when competitive bidding is not practical, and b) codify the required documentation of such instances, including advising the Board in the award item why is was not practical, the process followed, and any informal competition that may have been conducted leading to the waiver. Implementation of this ordinance will not have a fiscal impact to the County.

Edward Marquez
Deputy Mayor

Fis05215

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: June 2, 2015

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Amended Agenda Item No. 7(A)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 7(A)
6-2-15

ORDINANCE NO. 15-42

ORDINANCE RELATING TO DESIGNATED PURCHASES; AMENDING SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO ESTABLISH PROCEDURE TO AWARD CONTRACTS FOR PUBLIC IMPROVEMENTS AND PURCHASES OF SUPPLIES, MATERIALS AND SERVICES, OTHER THAN PROFESSIONAL, WHEN NOT PRACTICABLE TO CONDUCT COMPETITIVE PROCESS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Section 5.03(D) of the Miami-Dade County Charter provides that contracts for public improvements and purchases of supplies, materials, and services other than professional shall be made whenever practicable on the basis of specifications and competitive bids; and

WHEREAS, that Section recognizes expressly that it is not always practicable to make necessary County purchases on the basis of competitive processes; and

WHEREAS, providing a better definition of those instances where competitive processes are not practicable as provided under Section 5.03(D) of the Miami-Dade County Charter, and codifying a process for contracting in those instances, is consistent with the County's policy of contracting with responsibility and transparency and is otherwise in the best interest of Miami-Dade County,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 2-8.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Sec. 2-8.1. Contracts and purchases generally.

(a) *Scope.* Except as provided in subsections (b), (f), (h) and (l), this section shall apply to all contracts for public improvements and purchase of all supplies, materials and services other than professional services.

(b) (1) *Bid requirement for certain purchases; delegation of authority to advertise, award and reject bids or proposals for certain purchases.* Formal sealed bids shall be secured for all contracts and purchases within the scope of this section when the transaction involves the expenditure of two hundred fifty thousand dollars ($250,000.00) or more, except that the Board of County Commissioners, upon written recommendation of the Mayor or Mayor's designee, may, by resolution adopted by two-thirds (2/3) vote of the members present, waive competitive bidding when it finds this to be in the best interest of the County. The Mayor or Mayor's designee is hereby delegated the authority to advertise for bid all County contracts, including contracts for public improvements, purchases of supplies, materials and services, and purchases of professional services, without the need for action by the County Commission. The Mayor or Mayor's designee shall be required to include in any such advertisement the measures approved by the Review Committee relating to the County's small and community business programs established in this Code. The Mayor or Mayor's designee shall further be required to report to this Board on a bi-annual basis all contracts advertised with the measures included, and other steps taken to foster small and community business programs. The Commission Auditor shall review and evaluate the Mayor's or Mayor's designee exercise of authority delegated pursuant to this section and report the results of his or her evaluation to the Board of County Commissioners on a periodic basis. The Mayor or Mayor's designee is hereby delegated the authority to award and reject bids or proposals for contracts for public improvements (construction), and purchases of supplies, materials and services (including professional services, other than professional architectural, engineering and other services subject to section 2-10.4 and Section 287.055, Florida Statutes) costing one million dollars

($1,000,000.00) or less, or in the case of miscellaneous construction contracts designed to provide opportunities for Community Small Business Enterprises specifically authorized by Board resolution five million dollars ($5,000,000.00) or less, without the need for action by the County Commission. The authority to award contracts provided in the preceding sentence shall not constitute authority for the Mayor or Mayor's designee to exercise an option to renew any contract where the combined value for such contract's initial term and the option to renew would exceed one million dollars ($1,000,000.00), and in such instances the Mayor or Mayor's designee shall obtain the prior authorization of the County Commission to exercise such option. The Mayor or Mayor's designee may recommend that the foregoing requirement to obtain prior Commission authorization to exercise an option to renew be waived for a specific contract when the Mayor or Mayor's designee deems it to be in the best interests of the County. The Inspector General shall be invited to participate as appropriate in the processes by which the authority delegated hereby is exercised. The Mayor or Mayor's designee is delegated the authority to utilize any of the following processes for selection of a contractor to perform contracts for public improvements: competitive price bidding, request for proposals, or request for qualifications without the need for prior approval of the County Commission. The Mayor or Mayor's designee shall review all construction projects to determine whether the break-up of the project into smaller contracts will increase the opportunity for CSBEs to participate therein. For those contracts where the Mayor or Mayor's designee requests authority from the County Commission to advertise, the request for such authority shall advise the steps taken to accomplish the foregoing sentence. The Mayor or Mayor's designee may designate appropriate County staff to exercise the authority delegated hereunder by implementing order, approved by the Board of County Commissioners.

(2) *Legacy Purchases.* Notwithstanding the provisions of section 2-8.1(b)(1), formal sealed bids shall not be required for Legacy Purchases which do not result in the budget for the user department(s) exceeding the amount approved by the County Commission during the annual budget approval process. Such Legacy purchases may be awarded by the Board of County Commissioners upon a majority vote of those Board Members present, where the amount of such award exceeds the threshold for purchases by the Mayor set forth in section 2-8.1(b)(1). The County Mayor shall include, in any Legacy Purchase award recommendation, a statement as to the need for such purchase and the provisions taken to reduce or eliminate the future need for Legacy Purchases for the particular good or service. For the purposes of this section, Legacy Purchases shall mean the purchase of goods and services where competition is unavailable, impractical or constrained as a result of the need to continue to operate an existing County system which may not be replaced without substantial expenditure.

>>(3) *Procedures for purchases when competitive procedures are not practicable.* Notwithstanding the requirements of section 2-8.1(b)(1), formal sealed bids for purchase of goods or services shall not be required where such formal sealed bids would not be practicable as set forth herein. Designated Purchase shall mean a purchase within the scope of this section when the purchase through the use of formal sealed bids is not practicable, including, but not limited to: (i) sole source purchases, (ii) services where no competition exists such as public utility services, (iii) where purchases or rates are fixed by law or ordinance, (iv) unique professional or artistic services not governed by the Consultants' Competitive Negotiations Act, section 287.055, Florida Statutes, (v) purchases of goods and services necessary to address an emergency, or where additional formal competition would not be practicable and (vi) solicitations where only a single proposer has responded to a competitive solicitation but such response contains material defects and the County still desires to enter into a contract with such proposer. Where appropriate in a Designated Purchase, the County shall pursue the

maximum amount of competition available under the circumstances, which may include telephonic bids and informal price quotations. Any recommendation by the Mayor for the award of a Designated Purchase shall at a minimum: (i) provide a written explanation of why the purchase through formal sealed bids would not be practicable under the circumstances and is in the best interest of the County, (ii) provide a written explanation of the process followed resulting in the recommendation for a Designated Purchase, and (iii) provide a written description of any informal competition conducted and any and all efforts to obtain a valuation of the recommended purchase. The Board of County Commissioners shall adopt any resolution authorizing a Designated Purchase by a two-thirds vote of the members present. Such adoption shall be deemed for all purposes to constitute a determination by the Board of County Commissioners that formal sealed bids are not practicable for this purchase and that it is in the best interest of the County to waive competitive bidding. A recommendation for award of a Designated Purchase shall not be subject to the protest procedures set forth in section 2-8.4. Nothing in this subsection is intended to affect or modify any federal or state requirements relating to competitive purchases. <<

* * *

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: June 2, 2015

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Hugo Benitez

Prime Sponsor: Vice Chairman Esteban L. Bovo, Jr.
Co-Sponsor: Commissioner Barbara J. Jordan
Commissioner Rebeca Sosa