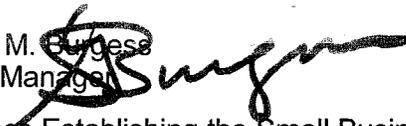


Memorandum



Date: (Public Hearing 01-20-05)
October 19, 2004

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager 

Subject: Ordinance Establishing the Small Business Enterprise (SBE) Program

Agenda Item No. 4(DD)

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached ordinance establishing the Small Business Enterprise (SBE) Program for the acquisition of goods and services.

BACKGROUND

On August 20th, 2004, Federal District Court Judge Adalberto Jordan issued a ruling in the case of Hershel Gill Consulting Engineers, Inc. et al, v.s. Metropolitan Dade County. This is the second federal court decision finding that the County's B/H/WBE programs do not meet the rigorous prerequisites required for the application of race-, ethnicity- or gender-conscious measures to county contracting. The County Attorney advised the effect of these two federal court decisions is that the B/H/WBE programs can no longer be applied to the bid and award of any County contract.

County staff, including the Department of Business Development (DBD) and the Department of Procurement Management have met with representatives from the affected market areas and with members of the Minority and Women-Owned Business Advisory Board to discuss the establishment of a County race and gender neutral small business program for goods and services. As proposed, the Small Business Enterprise (SBE) Program incorporates two sectors of the local market place: a) very small businesses, defined as Micro Business Enterprises (MicroBEs) whose three year average gross revenues do not exceed \$2,000,000 (manufacturers and wholesalers with 50 or more employees are ineligible) and b) small businesses, defined as SBEs whose three year average gross revenues do not exceed \$5,000,000 (manufacturers and wholesalers with 100 or more employees are also ineligible).

Under the SBE program, certified MicroBEs will receive an automatic 10% bid preference on contracts of \$50,000 and under. County departments will be required to solicit bids or quotes from at least four firms where available (2 available certified MicroBEs and 2 non-certified firms) for contracts of \$50,000 and under. County departments are also required to expend at least 5% of the total value of contracts \$50,000 and under with MicroBEs. On contracts that exceed \$50,000, certified SBEs will be afforded opportunities to participate through the application of set-asides and subcontractor goals. The proposed ordinance will also create the Small Business Advisory Board which shall be responsible for reviewing program activities and making recommendations to DBD and the Board on matters pertaining to the program.

DBD will be responsible for monitoring the compliance and utilization of contracts with SBE measures in addition to providing management and technical assistance, financial assistance and community outreach to firms interested in participating in the program once adopted by the Board.

Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners
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In order to demonstrate utilization, DBD will provide an annual report to the Board that will illustrate the County-wide participation levels of MicroBEs and SBEs.

In sum, small businesses account for the vast majority of economic activity in Miami-Dade County, the SBE Program will help provide opportunities to small businesses, including entrepreneurial development opportunities for certified MicroBEs and SBEs.



Alex Muñoz
Assistant County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: January 20, 2005

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(DD)

Please note any items checked.

- "4-Day Rule" ("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
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(DD)
01-20-05

ORDINANCE NO. _____

ORDINANCE CREATING SMALL BUSINESS ENTERPRISE PROGRAM APPLICABLE TO CONTRACTS FOR THE PURCHASE OF CERTAIN GOODS OR SERVICES; PROVIDING DEFINITIONS; PROVIDING PENALTIES; REPEALING ARTICLE XXIVA, SECTIONS 2-221 THROUGH 2-228, OF THE CODE OF MIAMI-DADE COUNTY FLORIDA PERTAINING TO THE SMALL BUSINESS ADVISORY COUNCIL; CREATING THE SMALL BUSINESS ADVISORY BOARD; EXEMPTING BOARD MEMBERS FROM CERTAIN ASPECTS OF THE CONFLICT OF INTEREST AND CODE OF ETHICS ORDINANCE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, a program which affords opportunities to small businesses to participate in the County's procurement of goods and services would foster growth in the economy of Miami-Dade County, by affording small businesses and micro businesses the opportunity to gain the experience, knowledge and resources to compete and survive, both in the government contracting arena as well as in the private contracting arena; and

WHEREAS, Miami-Dade County greatly impacts the local economy and business development through its spending of revenue for various County projects, goods, services and other needs; and

WHEREAS, the Board of County Commissioners hereby establishes an ordinance to assure that all businesses, within the relevant market area, are afforded fair treatment by the County government in the competitive process of supplying goods, services and professional services that promotes growth and employment,

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

Section 1. The Code of Miami-Dade County is hereby amended to add the following
new section as follows:

Sec. 2-8.1.1.1.1 Small Business Enterprise Program.

(1) *Title.* This section shall be referred to as the Small Business
Enterprise Program.

(2) *Definitions.* The following definitions shall apply in this section.

1. *Agreement* is a duly executed legally binding contract
2. *Available* or *availability* means to have prior to bid submission,
the ability to provide goods or services under a contract, by having:
 - a. Reasonably estimated, uncommitted capacity;
 - b. All necessary licenses, permits, registrations and
certifications, including Small Business Enterprise (SBE)
or Micro Business Enterprise (MicroBEs) certification to
provide the type of goods or services being purchased
under the contract;
 - c. The ability to obtain financing/insurance that is reasonably
required and consistent with normal industry practice; and
 - d. The ability to otherwise meet bid specifications.
3. *Bid* means a quotation, proposal, letter of interest or offer by any
bidder in response to any kind of invitation, request or public
announcement to submit such quotation, proposal, letter of interest
or offer for a contract.
4. *Bid preference* means an amount deducted from the total bid price
in order to calculate the bid price to be used to evaluate the bid
submitted by a MicroBE or SBE on a competitively bid contract to
be awarded on the basis of price (as opposed to an RFP, RFI or
RFQ) which is not set aside.
5. *Bidder* or *Proposer* means any person, partnership, corporation or
other business entity that submits a bid or proposal.

6. *Board* means the Board of County Commissioners of Miami-Dade County, Florida.
7. *Broker means* an individual or business that acts as a conduit for the sale of goods or services which are ordered from a supplier, manufacturer, or distributor who may be an authorized representative of the manufacturer, supplier, and/or distributor representative of the manufacturer, supplier, and/or distributor who, for a fee or commission, negotiates contracts of purchase and sale and personally takes title to or possession of the goods being sold.
8. *Commercially useful function* means contractual responsibility for the execution of a distinct element of the work of a contract by a SBE and the carrying out of its contractual responsibilities by actually performing, managing, and supervising the work involved. The determination of whether an activity is a commercially useful function shall include the evaluation of the amount of work subcontracted; normal industry practices; the skills, qualifications, or expertise of the enterprise to perform the work; whether the business owner performs, manages, and/or supervises the work involved; and other relevant factors.
9. *Contract* means an agreement for the purchase of goods or services, including professional services. Professional services as used in this section includes but is not limited to accounting, legal, health care, consulting and management services. Contract does not mean an agreement to purchase, lease, or rent real property; a grant, license, permit, franchise or a concession; an agreement to acquire professional architectural, engineering, landscape architectural or land surveying and mapping services; or a contract for construction or construction management services.
10. *DBD* means the Department of Business Development.
11. *Goods* mean any tangible product, material or supply that is not a service.
12. *Graduation* means the SBE or MicroBE has exceeded the specific size limits stated for the program.
13. *Gross Revenue* is defined to include all revenue in whatever form received or accrued from whatever source, including sales of products or services, interest, dividends, rents, royalties, fees or commissions, reduced by returns and allowances. However,

proceeds from sales of capital assets, and investments, proceeds from transaction between a firm and its domestic and foreign affiliates are excluded.

14. *Joint venture* means an association of two or more persons, partnerships, corporations or other business entities under a contractual agreement to conduct a specific business enterprise for a specified period with both sharing profits and losses.
15. *Management and Technical Assistance (MTA)* means a program designed to provide direct and indirect assistance for small business enterprise development.
16. *Mentor-Protégé Program* is a program whose purpose is to build effective working relationships between leaders of mature established companies and emerging SBEs and MicroBEs in order for the latter to benefit from the knowledge and experience of the established Mentor firms.
17. *Micro Business Enterprise (MicroBE)* means a business entity certified by DBD, providing goods or services, which has an actual place of business in Miami-Dade County and whose three year average gross revenues does not exceed \$2 million, except manufacturers and wholesalers whose number of employees does not exceed fifty (50). Representations as to a business entity's average gross revenues and payroll shall be subject to audit.
18. *Prompt Payment* is the intent of the Board that all firms, including SBEs and MicroBEs providing goods and services to the county, receive payments promptly as specified herein.
19. *Selection factor* means a factor considered in evaluating the response submitted to an RFP, RFQ or RFI by a bidder that is:
 - A SBE,
 - A joint venture with one or more SBEs, or
 - A non-SBE that demonstrates Small Business Utilization in accordance with requirements herein
20. *Small Business Advisory Board* is the board established for the purpose of supporting and promoting the Small Business Enterprise Program.

21. *Small Business Enterprise (SBE)* means a business entity certified by DBD, providing goods or services, which has an actual place of business in Miami-Dade County and whose three year average gross revenues does not exceed \$5 million except manufacturers and wholesalers whose number of employees does not exceed one hundred (100). Representations as to a business entity's average gross revenues and payroll shall be subject to audit.
 22. *Service* means work offered for public or private consumption that does not consist primarily of goods.
 23. *Set-aside* means the designation of a given contract for competition among SBEs.
 24. *Subcontractor goal* means a proportion of a total contract value stated as a percentage to be subcontracted to SBE(s) to perform a commercially useful function.
 25. *Small Business Utilization* means a bidder has expended 5 % or more of its total amount expended for goods and services with SBEs and MicroBEs within the last 12 months. Such utilization is subject to review and approval by DBD.
 26. *Work* means the provision of goods or services.
- (3) *Program.*
- (a) *Application.* Except where federal or state laws or regulations mandate to the contrary, the provisions of this ordinance shall be applicable to Miami-Dade and Public Health Trust contracts (as defined in this section) funded in whole or in part by County funds. The County Manager shall prepare administrative orders, bid and contract documents implementing the provisions of this section. The County Manager by administrative order may exclude classes of contracts, or parts thereof, from application of this section. The words County Manager in this section shall mean the County Manager or his or her designee.
 - (b) *Contracts of \$50,000 or less.*
 1. Within the fiscal year, it is required that County departments expend with MicroBEs a minimum of 5% of the total value of contracts less than \$50,000 for goods and/or services. The County Manager shall consider the above requirement as part of the performance review and management objectives of every appropriate department director and supervisor. The

departmental requirement shall be used as a guideline and shall not be construed as a ceiling for MicroBE participation. Such efforts shall include:

1. Requiring departments whenever possible to solicit bids or quotes from at least four bidders: 2 certified MicroBEs and 2 non-MicroBEs.
2. Bids or quotes submitted by MicroBEs shall automatically receive a 10% bid preference. The departments shall deduct the preference amount from the total bid or quoted price in order to calculate the price to be used for evaluation.
3. DBD shall provide a form to the departments to provide monthly reporting of MicroBE awards to DBD and quarterly to the Review Committee.
4. Annually, DBD shall provide a report of awards to MicroBEs and SBEs to the Board.

(c) Contracts Greater than \$50,000.

The following SBE measures may be applied to contracts greater than \$50,000:

1. *Set-asides:*
 - a. Competitive bidding requirements may be waived (by the County Manager or County Commission depending on whether the amount of the contract is above or below the minimum amount established by ordinance for competitive bidding) for a contract and the contract set-aside for bidding solely by SBEs where prior to bid advertisement, there are at least three (3) available SBEs to perform the contract, and where such set-aside is in the best interests of the County.
 - b. Transferring to a non-SBE through subcontracting or otherwise all or part of the actual work of a set-aside contract to a non-SBE is prohibited unless such transfer receives prior approval from DBD.

2. Subcontractor goals:

- a. Subcontractor goals may be applied to a contract based on estimates made prior to bid advertisement of the quality, quantity and type of subcontracting opportunities provided by the contract and the availability of SBEs to perform such work. Bid documents for contracts to which a SBE subcontract goal is applied shall provide that only SBEs certified to provide the type of goods or services for which a goal is imposed shall be counted towards meeting a goal. The bid documents shall further provide that a bidder must be found in compliance with the requirements of subsections b and c below in order to be eligible for award of the contract.

- b. Bid documents for contracts to which a SBE subcontractor goal is applied shall provide that a bidder must submit with its bid a copy of subcontract agreements with those SBE subcontractors the bidder proposes to utilize in order for such proposed participation to be eligible to be counted towards meeting the goal. Each agreement shall be in writing, shall be executed by the bidder and the SBE, and shall specify the type of goods or services the SBE is to provide and the price the SBE is to be paid therefor. Each agreement shall incorporate the prompt payment obligations and rights provided by the Small Business Enterprise Program. Bid documents for contracts to which a SBE subcontractor goal is applied shall provide that a bidder that is a SBE may itself meet the goal to the extent it is certified to provide the type of goods or services that are the subject of the contract. Bid documents for contracts to which a SBE subcontractor goal is applied shall provide that a bidder that is a joint venture one or more of whose venturers is an SBE must submit with its bid a copy of the joint venture agreement in order for such venturer(s)'s participation to be eligible to be counted towards meeting the goal. The joint venture agreement shall be in writing, signed by all venturers, and shall specify the ownership, control, profits and financial risk assumed by each venturer, including the SBE venturer(s). The joint venture agreement shall also specify the portion of the contract work (i.e., the goods or services to be provided) to be performed

by the SBE venturer(s) in detail separately from the work to be performed by the non-SBE member. The bidder shall receive credit towards meeting the goal to the extent that the combined dollar value of the SBE's participation as shown in the joint venture agreement submitted in conformity with and meeting the requirements of this paragraph bears to the total contract price bid by the bidder

- c. A bidder that is a SBE may meet up to 100% of the subcontractor goal with its own forces. A bidder that is a joint venture having one or more SBEs venturers may comply with the goal based on the percentage participation of the SBE joint venturer(s) in the ownership, control and profits of the joint venture, and in the performance of the contract work.
- d. Bid documents shall provide that (1) only expenditures to SBEs for performing a commercially useful function shall be counted toward meeting a subcontractor goal, (2) expenditures to SBEs for acting essentially as a broker to a non-SBE as defined herein shall be counted toward meeting a subcontractor goal, and (3) expenditures to SBEs who subcontract work further to non-SBEs shall not be counted toward meeting a specified goal unless such subcontracting receives prior approval from the DBD.

3. *Bid Preference:*

- a. A bid preference shall apply to all contracts which are to be awarded on the basis of price (as opposed to RFPs, RFIs and RFQs) and are not set-aside. The preference shall be used only to evaluate a bid and shall not affect the contract price.
- b. The preference accorded on contracts \$1 million or less shall be ten (10) percent of the price bid. The preference accorded on contracts greater than \$1 million shall be 5% of the price bid.

Preferences shall be applied to the bid price of bidders that:

Are SBEs/MicroBEs;

Are joint ventures with at least one
SBE/MicroBE; or

Demonstrate Small Business Utilization

- c. Bidders that utilize SBEs, MicroBEs in their purchases of goods or services in order to receive a preference, shall list at the time of bid submission or as may otherwise be specified, their purchases of goods and services and their utilization of SBEs/MicroBEs in such purchases for the twelve-month period prior to bid submission.
 - d. Joint ventures must be approved by DBD prior to bid opening. The SBE/MicroBE member of the joint venture shall perform work, manage the job and take financial risks in proportion to its level of participation in the joint venture. Agreements establishing joint ventures shall be in writing and shall specify work and financial risk assumed by the SBE/MicroBE. Bid and contract documents shall require that the portion of the work to be performed by the SBE/MicroBE member of the joint venture be set forth in detail separately from the work to be performed by the non-SBE/MicroBE member.
4. *SBE Selection Factor.* Any bidder that is an SBE, a joint venture with a SBE, or a non-SBE that demonstrates Small Business Utilization shall be accorded a selection factor on all RFPs, RFQs and RFIs for contracts greater than \$50,000 that are not set aside for bidding solely by SBEs.

RFPs, RFQs and RFIs that assign weights to evaluation or selection criteria, shall provide that a bidder entitled to a selection factor shall receive an additional ten (10%) percent of the evaluation points scored on the technical portion of such bidder's proposal. RFPs, RFQs and RFIs that do not assign weights to evaluation or selection criteria, shall provide that whenever there are two best ranked proposals that are substantially equal and only one of the two so ranked is submitted by a bidder entitled to a selection factor, the selection factor shall be the deciding factor for award.

(d) *Review Committee.* The County Manager shall establish an administrative procedure for the review of each proposed County contract greater than \$50,000 to which this section applies.

(e) *Management & Technical Assistance.* The Department of Business Development (DBD) will provide Management and Technical Assistance and Community Outreach to business entities certified as SBEs or MicroBEs with Miami-Dade County.

(f) *SBE Financial Assistance.* DBD will develop a program to identify methods of financial assistance to SBE/MicroBE vendors on Miami-Dade County contracts.

(g) *Small Business Advisory Board.* There is hereby created a Miami-Dade County Advisory Board for the SBE Program.

1. The Advisory Board will operate as a focal point for the public and with the assistance of the County Manager, will collect, input and disseminate information related to economic opportunities within Miami-Dade County government for small business owners.
2. The Board shall consist of 15 members, as follows
 - a. One member to be appointed by each County Commissioner.
 - b. Two members to be appointed by the County Manager
3. The terms of each commissioner appointed member shall be coterminous with the term of the appointing commissioner.
4. The terms of each County Manager appointed member shall be at the will and discretion of the County Manager
5. In no event shall a Board member serve more than four (4) consecutive years.
6. Members shall serve without compensation.
7. The Board shall submit an annual written report to the County Commission on ways to improve such communication. The Board may submit interim reports as it deems appropriate.
8. DBD shall provide appropriate staff support.
9. Sections 2-11.1(c) and (d) of the Conflict of Interest and Code of Ethics Ordinance of Miami-Dade County

are waived for Advisory Board members for transactions arising from the exercise of those powers given the Advisory Board by this ordinance.

(h) *Certification.*

1. The County Manager shall implement eligibility criteria and procedures for entities to be certified as SBEs/MicroBEs.
2. Any SBE/MicroBE that exceeds the size limits established by this Section shall be allowed to retain its certification for one (1) additional year from the date it is formally notified it has exceeded the size limits. Such SBE/MicroBE shall be allowed to remain through the contract period on awarded contracts. With exception of provisions described in the ordinance for graduation from the SBE/MicroBE program, loss of certification may lead to removal of the firm from continued participation in the Small Business Enterprise program.
3. The Department of Business Development shall maintain and publish at least every other week an updated list of SBEs and MicroBEs, identifying each listed SBE and MicroBE based on the nature of the goods and/or services the SBE and MicroBE shall be certified to provide.
4. The Department of Business Development shall not certify an applicant, shall not recertify a SBE or MicroBE, and shall decertify a SBE or MicroBE that fails to comply with the criteria or procedures for obtaining or maintaining certification. DBD shall have authority to suspend the certification of a SBE or MicroBE during any appeal of a decertification decision.
5. Certification shall be renewed annually, and must be in effect at the time of bid submission, bid award, and throughout the duration of the contract. SBEs and MicroBEs experiencing changes in ownership shall notify DBD within thirty (30) days of the effective date of such changes.
6. Applicants and certified SBEs or MicroBEs must have an occupational license for an actual place of business in Miami-Dade County at which they perform a commercially useful function in the provision of the type of goods or

services for which certification is sought in order to be eligible for certification or remain certified.

7. A business entity shall be eligible to be certified as a SBE or MicroBE only if the owner holding at least 10 percent shares or ownership in the business entity personally possesses any regulatory licenses and satisfies the qualifying requirements required in order to engage in the business of providing the type of goods or services for which certification is sought.
8. A business owner alone or as a member of a group, shall own or control only one SBE or MicroBE at a time and shall not own and control another separate business certified under the Small Business Enterprise Program.
9. The Department of Business Development may require applicants and SBEs or MicroBEs to submit information regarding their business operations in order to determine eligibility for certification.

(I) *Prompt Payment.*

1. All firms, including SBEs and MicroBEs providing goods and services to the County, shall receive payments promptly in order to maintain sufficient cash flow.
2. The County or Public Health Trust shall establish administrative procedures requiring that billings from SBE/MicroBE prime vendors on contracts shall be promptly reviewed and payment made by the County or Trust on those amounts not in dispute within 30 calendar days of receipt of such billing by the County or Trust.
3. A prime vendor on a contract with SBE measures shall include in its billings to the County or Trust copies of undisputed billings from SBE subcontractors within 14 calendar days of receipt of such billings, or by the next scheduled billing whichever comes first. The prime vendor shall pay those amounts not in dispute to subcontracting SBEs within 2 days of receipt of payment from the County. If the prime vendor fails to submit undisputed billings from a SBE to the County as specified herein or chooses not to submit any billing to the County pursuant to the billing schedule, the prime vendor must pay the full

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amount of the received SBE billings by the next billing cycle or 40 calendar days from receipt, whichever is less.

4. The County or prime vendor in direct privity with a SBE/MicroBE on a contract with SBE measures must notify the SBE/MicroBE and DBD, in writing, of those amounts billed by the SBE/MicroBE which are in dispute, and the specific reasons why they are in dispute, within fourteen (14) calendar days of submittal of such billing, or by the next scheduled billing whichever comes first. Failure of the County or prime vendor to comply with the applicable requirements of this subsection shall result in the forfeiture of the right to use the dispute as justification for not paying the SBE/MicroBE and payment shall be forthcoming from the County or prime vendor as appropriate by the next billing date or 40 calendar days from receipt of billing, whichever is less. Departments shall report disputed invoices to the Board on a quarterly basis.
5. A SBE/MicroBE may invoice the County or prime vendor, as appropriate, 1% interest per month for any undisputed amount that is not promptly paid.

(J) *Sanctions*

Bid and contract documents shall provide that, notwithstanding any other penalties or sanctions provided by law, a bidder's violation of or failure to comply with this section or its implementing administrative orders may result in the imposition of one or more of the following sanctions:

1. The suspension of any payment or part thereof until such time as the issues concerning compliance are resolved;
2. Work stoppage;
3. Termination, suspension, or cancellation of the contract in whole or part;
4. In the event a bidder, SBE or MicroBE attempts to comply with the provisions of this ordinance through fraud, misrepresentation, or material misstatement, the County shall, whenever practicable, terminate the contract or require the termination or cancellation of the subcontract for the project on which the bidder, SBE or MicroBE committed such acts. In addition, and as a further sanction, the County may impose any of the above-stated sanctions on any other contracts or subcontracts the bidder, SBE or MicroBE has on County projects. In each instance, the

bidder, SBE or MicroBE shall be responsible for all direct and indirect costs associated with such termination or cancellation including attorney's fees and costs.

The foregoing notwithstanding, the County Manager shall include language in all prospective contracts containing a SBE subcontractor goal which provides that, in addition to any other sanction for failure to fulfill the SBE subcontractor goal requirements for such contract, the contractor's eligibility to receive any future County contract shall be conditioned upon the contractor making up the deficit in SBE participation in such future contract by having SBEs perform work equal to double the dollar value of the deficiency in the SBE subcontractor goal in the prior contract. The foregoing obligation shall be in addition to any SBE subcontractor goal otherwise applicable to the future contract.

(K) Administrative Penalties.

The County Manager may impose, notwithstanding any other provision of this section, one or more of the following penalties for violation of or noncompliance with this section or its implementing administrative orders and bid documents:

1. The exclusion from county contracting and subcontracting for a specified period of time, not to exceed three (3) years, of a contractor, its individual officers, its shareholders with significant interests, and its affiliated businesses.
2. The loss of eligibility to be certified as a SBE or MicroBE for a specified period of time, not to exceed three (3) years, for an applicant or a SBE or MicroBE, its individual officers, its shareholders with significant interests, and its affiliated businesses.
3. Where a contractor, its individual officers, shareholders with significant interests, or its affiliated businesses, attempts to comply with the provisions of this ordinance through fraud, misrepresentation, or material misstatement, all such individuals and entities participating in the fraud, misrepresentation or material misstatement shall be excluded from County contracting, and SBE or MicroBE certification for a specified period of time, not to exceed 5 years.
4. If any individual or corporation, partnership or other entity, or any individual officer, shareholder with significant interests, director or partner of such entity or affiliated

business of such entity participates in an attempt to comply with the provisions of this ordinance through fraud, misrepresentation, or material misstatement, all such individuals and entities participating in the fraud, misrepresentation or material misstatement shall be excluded from County contracting, subcontracting, and SBE or MicroBE certification, for a specified period of time, not to exceed five (5) years.

(L) *Appeals.*

1. Appeals of decisions other than contractual violations, made under this ordinance by the Department of Business Development or other designees of the County Manager, shall be made to the County Manager.
2. Decisions by the County Manager under this ordinance shall be final unless the County Commission agrees in its sole discretion to review any such decision.
3. The County Manger shall designate procedures for the investigation, presentation and hearing of appeals.

Section 2 Article XXIVA, Sections 2-221 through 2-228, of the Code of Miami-Dade County, Florida, is hereby repealed in its entirety.

Section 3. If any section, subsection, sentence or clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Miami-Dade County. 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 5. This ordinance shall become effective 10 days after the date of its adoption unless vetoed by the Mayor and, if vetoed, shall become effective only upon override by this Board and shall apply to contracts advertised after approval by this Board of an

implementing Administrative Order which provides a reasonable time period for interested firms to apply for certification and provides a reasonable time period thereafter for DBD to review the applications received and make determinations thereon.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency.

Handwritten signature of R.A. Cuevas, Jr. in black ink, consisting of a stylized 'R' and 'A' followed by 'Cuevas'.

Prepared by:

R.A. Cuevas, Jr.