



**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact**

| Fiscal Years             | <u>2024</u> | <u>2025</u> | <u>2026</u> | <u>2027</u> | <u>2028</u> |
|--------------------------|-------------|-------------|-------------|-------------|-------------|
| Capital Expenditures     | _____       | _____       | _____       | _____       | _____       |
| Operating Costs          | _____       | _____       | _____       | _____       | _____       |
| External Revenues        | _____       | _____       | _____       | _____       | _____       |
| Program Income (County)  | _____       | _____       | _____       | _____       | _____       |
| In-Kind Match (County)   | _____       | _____       | _____       | _____       | _____       |
| <b>Net Fiscal Impact</b> | =====       | =====       | =====       | =====       | =====       |

**# ADDITIONAL FTE POSITIONS (Cumulative)**      0                      0                      0                      0                      0

Is Item Included In Current Budget?    Yes \_\_\_\_\_    No   X    
 Is this item using Federal Funds?      Yes \_\_\_\_\_    No   X    
 Is this item using State Funds?        Yes \_\_\_\_\_    No   X  

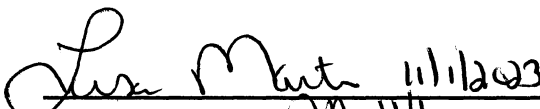
Budget Account Exp No: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_  
 Rev No: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_ RevSc \_\_\_\_\_

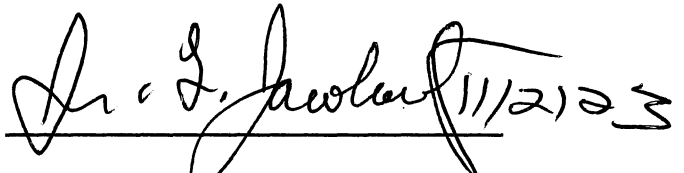
**B. Recommended Sources of Funds/Summary of Fiscal Impact:**  
 There is no fiscal impact associated with this agenda item.

Departmental Fiscal Review: \_\_\_\_\_

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

  
 \_\_\_\_\_  
 OFMB      JA 11/11      AMF 11/1

  
 \_\_\_\_\_  
 Contract Administration  
 frob 11/2/23

**B. Legal Sufficiency:**

  
 \_\_\_\_\_  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

**ORDINANCE NO. 2023-**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE III, DIVISION 2, PART C OF THE PALM BEACH COUNTY CODE, (ORDINANCE NO. 2018-021), PERTAINING TO THE EQUAL BUSINESS OPPORTUNITY PROGRAM; PROVIDING FOR DEFINITIONS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE AND SUNSET.**

**WHEREAS**, on October 16, 2018, the Palm Beach County Board of County Commissioners adopted Ordinance No. 2018-021 (Equal Opportunity Ordinance) establishing the Equal Business Opportunity Program (Program) and the Office of Equal Business Opportunity; and

**WHEREAS**, the Program seeks to ensure that all segments of Palm Beach County's (County) business population, including, but not limited to, small, local, minority, and women-owned businesses, have an equitable opportunity to participate in the County's procurement process, prime contract, and subcontract opportunities; and

**WHEREAS**, the current gross annual revenue size standards for small businesses under the Program are not to exceed \$9,000,000.00 for construction services; \$5,000,000.00 for providing goods; \$5,000,000.00 for professional services procured pursuant the Consultants' Competitive Negotiation Act (CCNA); \$4,000,000.00 for non-CCNA professional services; and \$4,000,000.00 for other services; and

**WHEREAS**, in order to keep up with the current Consumer Price Index (CPI), the United States Small Business Administration best practices, and the current North American Industrial Classification System (NAICS) codes the annual gross revenue not exceeding amounts must be increased, and

**WHEREAS**, the Board of County Commissioners adopted the Equal Opportunity Ordinance pursuant to a Disparity Study examining five (5) years (2009-2013) of contracts for construction, professional services (CCNA and non-CCNA), and goods and services; and

**WHEREAS**, the Disparity Study found statistically significant disparities for African American, Hispanic American, Asian American, and Female-owned businesses in the various

industry segments for specific contract amounts; and

**WHEREAS**, the Equal Opportunity Ordinance contains an Effective Date and Sunset provision setting a sunset date of December 31, 2023 absent amendment and/or reauthorization by the Board; and

**WHEREAS**, a two (2) year reauthorization of the Equal Opportunity Ordinance is required in order to solicit, conduct, and consider an updated Disparity Study to determine whether the Equal Business Opportunity Program is required to further the County's compelling interest in ensuring that the County is neither an active nor passive participant in private sector marketplace discrimination, and to actively promote equal opportunity for all segments of the contracting and business community to participate in county contract opportunities.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

1 **SECTION 1. DEFINITIONS.** Section 2-80.21 of the Palm Beach County Code, “Small Business  
2 Enterprise,” is hereby amended as follows:

3 \*\*\*

4 *Small Business Enterprise (SBE)* means a corporation, partnership, sole proprietorship, or  
5 other legal entity for the purpose of making a profit that: (1) is independently owned and operated  
6 by individuals legally residing in, or that are citizens of, the United States or its territories; and (2) is  
7 currently certified as having annual revenues that satisfy S/M/WBE size standards on an industry-  
8 specific basis (i.e., Construction, CCNA Professional Services including Architectural and  
9 Engineering Design firms, Professional Services, Goods, and Other Services) that are reflected in  
10 Exhibit Q to the PPM; and (3) also is domiciled in Palm Beach County and satisfies the Significant  
11 Business Presence and other eligibility requirements for participation in the EBO Program as defined  
12 herein. The initial size standards for SBE firms are as follows, and may be periodically revised by  
13 the Director of the Office of EBO as necessary to satisfy and better serve the purposes and objectives  
14 of this EBO Ordinance, and shall thereafter be reflected in Exhibit Q of the PPM:

15 (1) For a provider of Construction Services, the annual gross revenue shall not exceed  
16 thirteen million dollars (\$13,000,000.00) (averaged over the previous three (3) most  
17 recent years, or if in business less than three (3) years, averaged over the duration of  
18 the provider’s existence).

19 (2) For a provider of Goods, the annual gross revenue shall not exceed seven million  
20 dollars \$7,000,000.00) (averaged over the previous three (3) most recent years, or if  
21 in business less than three (3) years, averaged over the duration of the provider’s  
22 existence).

23 (3) For a provider of Professional Services procured pursuant to the CCNA statute, the  
24 average annual gross revenues shall not exceed seven million dollars (\$7,000,000.00)  
25 (averaged over the previous three (3) most recent years, or if in business less than three  
26 (3) years, averaged over the duration of provider’s existence).

27 (4) For a provider of other Non-CCNA Professional Services, the average annual gross  
28 revenue shall not exceed five million, seven hundred thousand dollars (\$5,700,000.00)

1 (averaged over the previous three (3) most recent years, or if in business less than three  
2 (3) years, averaged over the duration of the provider's existence).

3 (5) For a provider of Other Services, the average annual gross revenue shall not exceed five  
4 million, seven hundred thousand dollars (\$5,700,000.00) (averaged over the previous  
5 three (3) most recent years, or if in business less than three years, averaged over the  
6 duration of the provider's existence).

7 In addition, the Director of the Office of EBO is authorized to establish a second tier size  
8 standard for Emerging SBEs that are eligible for small sheltered market contracts; and whose size  
9 standards are 50% or less than the size standards for SBEs. If, and when, established, the size  
10 standards for Emerging SBEs and Emerging M/WBEs shall be 50% or less of the sizes of SBE size  
11 standards, and shall also be the posted in the PPM in Exhibit Q.

12 \*\*\*

13 **SECTION 2. REPEAL OF LAWS IN CONFLICT.**

14 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby  
15 repealed to the extent of such conflict.

16 **SECTION 3. SAVINGS CLAUSE.**

17 Notwithstanding Section 2, Repeal of Laws in Conflict, all administrative and county orders,  
18 fines, and pending enforcement issued pursuant to the authority and procedures established by  
19 Ordinance 2018-021 shall remain in full force and effect.

20 **SECTION 4. SEVERABILITY CLAUSE.**

21 If any section, paragraph, sentence, clause, phrase or word of this Equal Business Opportunity  
22 Ordinance, Policies, Procedures, or the application thereof, to any person or circumstance is for any  
23 reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, invalid or void,  
24 such holding shall not affect the remainder of this Equal Business Opportunity Ordinance or the  
25 application of any other provisions of this Ordinance which can be given effect without the invalid  
26 provision or application, and to this end, all the provisions of this Ordinance are hereby declared to  
27 be severable.

28 **SECTION 5. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

1 The provisions of this Ordinance shall become and be made a part of the Code of Laws and  
2 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or  
3 re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or  
4 other appropriate word.

5 **SECTION 6. CAPTIONS.**

6 The captions, section headings, and section designations used in this Ordinance are for  
7 convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

8 **SECTION 7. EFFECTIVE DATE AND SUNSET.** Section 2-80.30 of the Palm Beach County  
9 Code is hereby amended as follows:

10 This Ordinance shall become effective January 1, 2019, and various features of the EBO  
11 Program may be phased in as soon as practicable over the course of the subsequent six months at the  
12 discretion of the County Administrator. Absent amendment and/or reauthorization by the Board, this  
13 EBO Ordinance, policies and procedures shall sunset on December 31, 2025.

14  
15  
16  
17 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this  
18 the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

19 **JOSEPH ABRUZZO,**  
20 **CLERK OF THE CIRCUIT**  
21 **COURT & COMPTROLLER**  
22

**PALM BEACH COUNTY, FLORIDA, BY ITS**  
**BOARD OF COUNTY COMMISSIONERS**

23  
24 By: \_\_\_\_\_  
25 **Deputy Clerk**

By: \_\_\_\_\_  
**Mayor**

26  
27 **APPROVED AS TO FORM AND**  
28 **LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS AND**  
**CONDITIONS**

29  
30 By: \_\_\_\_\_  
31 **County Attorney**

By: \_\_\_\_\_  
**Department Director**

32  
33 **EFFECTIVE DATE: Filed with the Department of State of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.**

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1 revenue shall not exceed ~~four million~~five million, seven hundred thousand dollars  
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15 EBO Ordinance, policies and procedures shall sunset on ~~December 31, 2023~~December 31, 2025.

16  
17  
18  
19 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this  
20 the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

21 **JOSEPH ABRUZZO,**  
22 **CLERK OF THE CIRCUIT**  
23 **COURT & COMPTROLLER**

**PALM BEACH COUNTY, FLORIDA, BY ITS**  
**BOARD OF COUNTY COMMISSIONERS**

24  
25  
26 By: \_\_\_\_\_  
27 **Deputy Clerk**

By: \_\_\_\_\_  
**Mayor**

28  
29 **APPROVED AS TO FORM AND**  
30 **LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS AND**  
**CONDITIONS**

31  
32 By: \_\_\_\_\_  
33 **County Attorney**

By: \_\_\_\_\_  
**Department Director**

34  
35 **EFFECTIVE DATE: Filed with the Department of State of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.**