

R5 W AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION," BY AMENDING ARTICLE VI, ENTITLED "PROCUREMENT," BY AMENDING DIVISION 3, ENTITLED "CONTRACT PROCEDURES" BY CREATING SECTION 2-375.1, ENTITLED "PROHIBITION AGAINST CONTRACTING WITH PARTIES THAT BOYCOTT ISRAEL" TO REGULATE CITY CONTRACTS WITH PARTIES THAT ENGAGE IN BOYCOTTS OF THE STATE OF ISRAEL; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

MIAMI BEACH

COMMISSION MEMORANDUM

TO:	Honorable Mayor and Members of the City Commission
FROM:	City Attorney Ricardo J. Dopico
DATE:	June 26, 2024 First Reading
TITLE:	AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION," BY AMENDING ARTICLE VI, ENTITLED "PROCUREMENT," BY AMENDING DIVISION 3, ENTITLED "CONTRACT PROCEDURES" BY CREATING SECTION 2-375.1, ENTITLED "PROHIBITION AGAINST CONTRACTING WITH PARTIES THAT BOYCOTT ISRAEL" TO REGULATE CITY CONTRACTS WITH PARTIES THAT ENGAGE IN BOYCOTTS OF THE STATE OF ISRAEL; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

ANALYSIS

The proposed Ordinance is presented to the Mayor and City Commission for their consideration on First Reading by the sponsor, Commissioner David Suarez.

The proposed Ordinance codifies the following policies:

Israel is renowned for its dynamic and innovative approach across many business sectors, particularly in health sciences and technology, making a party's decision to discriminate against Israel, Israeli entities, or entities that do business with and/or in Israel, an unsound business practice that renders such a party an unduly risky contracting partner.

The City of Miami Beach is committed to the public policy of the federal government, as articulated in several federal acts, that cooperation with Israel enhances American competitiveness and materially benefits the country's economy (see, e.g., 19 U.S.C. § 2112 note; 19 U.S.C. § 4201(b)(20)).

The City of Miami Beach is committed to adhering to state laws and ensuring our policies and procedures fully align with Florida's public policy, as stated in § 287.135, Fla. Stat., which prohibits City contracts with parties that engage in boycotts against the State of Israel.

The proposed Ordinance codifies this public policy of the City of Miami Beach by prohibiting the City from entering into contracts with parties that engage in boycotts of the State of Israel.

FISCAL IMPACT STATEMENT

None, because the State of Florida already prohibits City contracts with parties that boycott Israel.

Does this Ordinance require a Business Impact Estimate? No
(FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on . See BIE at:
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

Applicable Area

Citywide

Is this a “Residents Right to Know” item, pursuant to City Code Section 2-17?

No

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

City Attorney

Sponsor(s)

Commissioner David Suarez

Co-sponsor(s)

Mayor Steven Meiner

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION," BY AMENDING ARTICLE VI, ENTITLED "PROCUREMENT," BY AMENDING DIVISION 3, ENTITLED "CONTRACT PROCEDURES" BY CREATING SECTION 2-375.1, ENTITLED "PROHIBITION AGAINST CONTRACTING WITH PARTIES THAT BOYCOTT ISRAEL" TO REGULATE CITY CONTRACTS WITH PARTIES THAT ENGAGE IN BOYCOTTS OF THE STATE OF ISRAEL; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, Israel is renowned for its dynamic and innovative approach across many business sectors, particularly in health sciences and technology, making a party's decision to discriminate against Israel, Israeli entities, or entities that do business with and/or in Israel, an unsound business practice that renders such a party an unduly risky contracting partner; and

WHEREAS, the City of Miami Beach is committed to the public policy of the federal government, as articulated in several federal acts, that cooperation with Israel enhances American competitiveness and materially benefits the country's economy (see, e.g., 19 U.S.C. § 2112 note; 19 U.S.C. § 4201(b)(20)); and

WHEREAS, the City of Miami Beach is committed to adhering to state laws and ensuring our policies and procedures fully align with Florida's public policy, as stated in § 287.135, Fla. Stat., which prohibits City contracts with parties that engage in boycotts against the State of Israel; and

WHEREAS, this Ordinance codifies the public policy of the City of Miami Beach as set forth herein, prohibiting the City from entering into contracts with parties that engage in boycotts of the State of Israel.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. That Article VI, Section 2-375 of Chapter 2 of the Code of the City Miami Beach is hereby amended as follows:

CHAPTER 2

ADMINISTRATION

* * *

ARTICLE VI

PROCUREMENT

* * *

DIVISION 3

CONTRACT PROCEDURES

Sec. 2-375.1 - Prohibition against contracting with parties that boycott Israel.

(1) Definitions.

For purposes of this section:

- (a) “Boycott” and “boycott of Israel” means engaging in refusals to deal, terminating business activities, or other similar commercial actions that are intended to limit commercial relations with persons or entities doing business in Israel or in Israeli-controlled territories, when such actions are taken:
 - (1) In compliance or adherence to calls for a boycott of Israel, other than those boycotts to which 50 App. U.S.C. § 2407(c) applies, or
 - (2) In a manner that discriminates on the basis of nationality, national origin, religion, or other unreasonable basis.
- (b) A party’s statement that it is participating in boycotts of Israel, or that it has taken a boycott action at the request of, in compliance with, or in furtherance of calls for a boycott of Israel, can be considered as one type of evidence, among others, that a party is participating in a boycott of Israel.
- (c) “Party” includes a for-profit or nonprofit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association. The term does not include a natural person or sole proprietorship.

(2) Prohibition on Contracting with Parties that Boycott Israel.

- (a) The city shall not enter a contract with a party unless the contract includes a written certification that the party is not currently engaged in and agrees for the duration of the contract to not engage in a boycott of Israel.
- (b) The city shall not adopt a procurement, investment or other policy that has the effect of inducing or requiring a person or party to boycott Israel.
- (c) Nothing in this section shall be construed to diminish or infringe upon any right protected under the First Amendment to the United States Constitution, or the Constitution of the State of Florida. Nothing in this subsection shall be construed to conflict with local, state, or federal laws.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY.

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

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, 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 5. EFFECTIVE DATE.

This Ordinance shall take effect on the _____ day of _____, 2024.

PASSED AND ADOPTED this _____ day of _____, 2024.

ATTEST:

Rafael E. Granado, City Clerk

Steven Meiner, Mayor

(Sponsored by Commissioner David Suarez)

Underline denotes additions
~~Strike through~~ denotes deletions

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

6/17/2024

Date

RL