

R5 V AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION," ARTICLE VI, "PROCUREMENT," DIVISION 3, "CONTRACT PROCEDURES," BY CREATING SECTION 2-379, TO BE ENTITLED "PROHIBITION ON CITY CONTRACTS WITH CAMPAIGN CONSULTANTS," TO PROHIBIT THE CITY FROM CONTRACTING WITH AN INDIVIDUAL OR ENTITY WHICH HAS, WITHIN A DEFINED PERIOD OF TIME PRIOR TO THE ISSUANCE OF A COMPETITIVE SOLICITATION OR EXECUTION OF THE CONTRACT WITH THE CITY, PERFORMED SERVICES FOR COMPENSATION TO A CANDIDATE FOR CITY ELECTED OFFICE, AND PROVIDE FOR A WAIVER; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Attorney Ricardo J. Dopico

DATE: December 11, 2024 11:00 a.m. Second Reading Public Hearing

TITLE: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION," ARTICLE VI, "PROCUREMENT," DIVISION 3, "CONTRACT PROCEDURES," BY CREATING SECTION 2-379, TO BE ENTITLED "PROHIBITION ON CITY CONTRACTS WITH CAMPAIGN CONSULTANTS," TO PROHIBIT THE CITY FROM CONTRACTING WITH AN INDIVIDUAL OR ENTITY WHICH HAS, WITHIN A DEFINED PERIOD OF TIME PRIOR TO THE ISSUANCE OF A COMPETITIVE SOLICITATION OR EXECUTION OF THE CONTRACT WITH THE CITY, PERFORMED SERVICES FOR COMPENSATION TO A CANDIDATE FOR CITY ELECTED OFFICE, AND PROVIDE FOR A WAIVER; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

RECOMMENDATION

BACKGROUND/HISTORY

The attached Ordinance has been placed on the November 20, 2024 City Commission meeting agenda at the request of Commissioner Tanya K. Bhatt.

Chapter 2 of the City Code, at Article VI, entitled "Procurement," prescribes the manner in which the City purchases materials, supplies, equipment, and certain contractual services. As stated in Section 2-311 of the City Code, Article VI of Chapter 2 is also intended to "maintain a high ethical standard for all officers and employees of the City" in connection with the purchase of materials, supplies, equipment, and contractual services.

ANALYSIS

This Ordinance amends the City Code to prohibit the City from contracting with an individual or entity which has, within 2 years prior to the issuance of a competitive solicitation or execution of a contract with the City, performed services for compensation to a candidate for City elected office. The prohibition applies if an individual, business entity, or a principal or officer of the business entity has performed services for compensation within the 2-year period.

The Ordinance allows the City Commission to waive the prohibition by a Resolution adopted on a five-sevenths (5/7ths) vote.

If this Ordinance is adopted at First Reading, a Second Reading/Public Hearing will be scheduled.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? Yes
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on: 11/27/2024

See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

CONCLUSION

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 Tanya K. Bhatt

Co-sponsor(s)

Condensed Title

11:00 a.m. 2nd Rdg, Prohibit Contracts with Campaign Consultants. (Bhatt) CA

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BACKGROUND/HISTORY

The attached Ordinance has been placed on the December 11, 2024 City Commission meeting agenda for Second Reading/Public Hearing at the request of Vice-Mayor Tanya K. Bhatt. The Ordinance was adopted at First Reading on November 20, 2024.

Chapter 2 of the City Code, at Article VI, entitled "Procurement," prescribes the manner in which the City purchases materials, supplies, equipment, and certain contractual services. As stated in Section 2-311 of the City Code, Article VI of Chapter 2 is also intended to "maintain a high ethical standard for all officers and employees of the City" in connection with the purchase of materials, supplies, equipment, and contractual services.

ANALYSIS

This Ordinance amends the City Code to prohibit the City from contracting with an individual or entity which has, within 2 years prior to the issuance of a competitive solicitation or execution of a contract with the City, performed services for compensation to a candidate for City elected office. The prohibition applies if an individual, business entity, or a principal or officer of the business entity has performed services for compensation within the 2-year period.

At the direction of the City Commission on November 20th, the Ordinance has been revised for Second Reading to clarify that the restriction on contracting with the City shall not apply to the following:

- a. Any individual or entity that provides goods to a candidate for office.

- b. Any individual or entity that provides services to a candidate for office if those same services are regularly performed by the individual or entity in the ordinary course of business for clients or customers other than candidates for office. This includes, without limitation, banks, telephone or internet service providers, printing companies, event venues, restaurants, caterers, transportation providers, and office supply vendors.
- c. Any individual or entity which performs licensed professional services (including, for example, legal or accounting services).

The Ordinance also includes a waiver provision, authorizing the City Commission to waive the restriction on a case-by-case basis by a Resolution adopted on a five-sevenths (5/7ths) vote.

FISCAL IMPACT STATEMENT

The City of Miami Beach estimates that the proposed Ordinance will have no direct economic impact on private, for-profit businesses in the City of Miami Beach; that the proposed Ordinance will have no direct compliance costs that businesses may reasonably incur; that the proposed Ordinance will not impose any new charge or fee for which businesses will be financially responsible; and that the proposed Ordinance will not impact the City of Miami Beach's regulatory costs and will not generate any revenue from new charges or fees.

Does this Ordinance require a Business Impact Estimate? Yes (FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on: 11/27/2024 See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

CONCLUSION

Applicable Area

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

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

No

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 Tanya K. Bhatt

Co-sponsor(s)

Condensed Title

11:00 a.m. 2nd Rdg, Prohibit Contracts with Campaign Consultants. (Bhatt) CA

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION," ARTICLE VI, "PROCUREMENT," DIVISION 3, "CONTRACT PROCEDURES," BY CREATING SECTION 2-379, TO BE ENTITLED "PROHIBITION ON CITY CONTRACTS WITH CAMPAIGN CONSULTANTS," TO PROHIBIT THE CITY FROM CONTRACTING WITH AN INDIVIDUAL OR ENTITY WHICH HAS, WITHIN A DEFINED PERIOD OF TIME PRIOR TO THE ISSUANCE OF A COMPETITIVE SOLICITATION OR EXECUTION OF THE CONTRACT WITH THE CITY, PERFORMED SERVICES FOR COMPENSATION TO A CANDIDATE FOR CITY ELECTED OFFICE, AND PROVIDE FOR A WAIVER; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, Chapter 2 of the City Code, at Article VI, entitled "Procurement," prescribes the manner in which the City purchases materials, supplies, equipment, and certain contractual services; and

WHEREAS, pursuant to Section 2-311 of the City Code, Chapter 2, Article VI, is also intended to "maintain a high ethical standard for all officers and employees of the City" in connection with the purchase of materials, supplies, equipment, and certain contractual services; and

WHEREAS, this Ordinance amends the City Code to prohibit the City from contracting with an individual or entity which has, within a defined period of time prior to the issuance of a competitive solicitation or execution of a contract with the City, performed services for compensation to a candidate for City elected office.

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

SECTION 1. Chapter 2 of the Code of the City of Miami Beach is hereby amended as follows:

**CHAPTER 2
ADMINISTRATION**

* * *

ARTICLE VI. PROCUREMENT

* * *

DIVISION 3. CONTRACT PROCEDURES

* * *

Secs. 2-379— 2-380-2-390. Reserved.

Section 2-379. Prohibition on city contracts with campaign consultants.

- (a) Prohibition. Beginning on January 1, 2025, the city shall not enter into a contract with an individual or entity if the individual, entity, or a principal or officer of the entity has performed services for compensation to a candidate for the office of mayor or city commissioner within 2 years prior to the earlier of the (i) issuance of a competitive solicitation or (ii) execution of a contract with the city.
- (b) Exceptions. The provisions of this section shall not apply to the following:

 - a. Any individual or entity that provides goods to a candidate for office.
 - b. Any individual or entity that provides services to a candidate for office if those same services are regularly performed by the individual or entity in the ordinary course of business for clients or customers other than candidates for office. This includes, without limitation, banks, telephone or internet service providers, printing companies, event venues, restaurants, caterers, transportation providers, and office supply vendors.
 - c. Any individual or entity which performs licensed professional services (including, for example, legal or accounting services).
- (c) Waiver. The prohibition in subsection (a) may be waived by resolution of the city commission upon a five-sevenths (5/7ths) vote.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith 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.

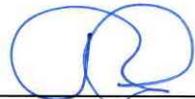
ATTEST:

Rafael E. Granado, City Clerk

Steven Meiner, Mayor

(Sponsored by Vice-Mayor Tanya K. Bhatt)

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION



City Attorney NK

12/9/2024
Date

Underline denotes additions
~~Strike through~~ denotes deletions