

ORDINANCE NO. 2023-4557

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2 "ADMINISTRATION", ARTICLE VII "STANDARDS OF CONDUCT", AT DIVISION 5 "CAMPAIGN FINANCE REFORM", SECTIONS 2-487 THROUGH AND INCLUDING 2-490 THEREOF TO PROHIBIT CANDIDATES FOR CITY ELECTED OFFICE AND MEMBERS OF THE CITY COMMISSION FROM SOLICITING VENDORS, REAL ESTATE DEVELOPERS AND THEIR LOBBYISTS FOR CONTRIBUTIONS TO ELECTIONEERING COMMUNICATIONS ORGANIZATIONS THAT EXPEND FUNDS RELATED TO CANDIDATES FOR CITY ELECTED OFFICE, AND FURTHER ESTABLISHING DISCLOSURE REQUIREMENTS OF SUCH CITY CANDIDATES AND CITY COMMISSION MEMBERS FOR THEIR SOLICITATION OF CONTRIBUTIONS FOR POLITICAL COMMITTEES AND ELECTIONEERING COMMUNICATIONS ORGANIZATIONS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, as reflected by its prior adoption of legislation on the issue of Campaign Finance Reform, the Miami Beach City Commission has found and determined that legislation is necessary for the preservation of the integrity of representative democracy in the City of Miami Beach, in order to combat quid pro quo and its appearance; and

WHEREAS, pursuant to Section 106.11 of the Florida Statutes, Electioneering Communications Organization ("ECO") means any group, other than a political party, affiliated party committee, or political committee, whose election-related activities are limited to making expenditures for electioneering communications or accepting contributions for the purpose of making electioneering communications and whose activities would not otherwise require the group to register as a political party or political committee under Chapter 106 of the Florida Statutes; and

WHEREAS, although the City's campaign finance laws prohibit candidates for the City Commission and members of the City Commission from soliciting lobbyists, vendors and real estate developers ("prohibited donors") for contributions to political committees, a "loophole" exists in that the City Code does not address solicitations of prohibited donors for contributions for ECOs that expend funds relating to candidates for City elected office; and

WHEREAS, the City Commission has determined that responsible and effective use of legislative power requires that candidates for City elected office and incumbent members of the City Commission be insulated from actual or perceived quid pro quo, which is accomplished in part by proscribing their solicitation of prohibited donors for

contributions to both political committees and ECOs related to candidates for City elected office; and

WHEREAS, the below legislation is thus presented as an amendment to the City's Code of Conduct in order to provide for stricter ethics laws than currently exist in the City Code, and extend existing restrictions regarding solicitations for contributions for ECOs expending funds relating to candidates for City elected office; and

WHEREAS, in addition, in furtherance of the City's interests in transparency in government, this Ordinance seeks to establish a requirement for a candidate for City elected office, or a member of the city commission, to file a one-time report with the city clerk indicating that they are undertaking solicitation activities on behalf of a political committee or electioneering communications organization, prior to commencing such solicitation activities; and

WHEREAS, the following amendments to Chapter 2, Article VII, Division 5 of the City Code are necessary to accomplish this objective.

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

SECTION 1. Miami Beach City Code Chapter 2, Article VII, Division 5 thereof at Sections 2-487 through and including 2-490 are hereby amended as follows:

CHAPTER 2 ADMINISTRATION

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ARTICLE VII. STANDARDS OF CONDUCT

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DIVISION 5. CAMPAIGN FINANCE REFORM

Sec. 2-487. Prohibited campaign contributions by vendors.

A. General.

- (1) (a) No vendor shall give a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner. Commencing on the effective date of this ordinance, all proposed city contracts, purchase orders, standing orders, direct payments, as well as requests for proposals (RFP), requests for qualifications (RFQ), requests for letters of interest (RFLI), or bids issued by the city, shall incorporate this section so as to notify potential vendors of the proscription embodied herein.

- (b) i. No candidate or campaign committee of a candidate for the offices of mayor or commissioner, or member of the city commission, shall directly or

indirectly solicit, accept² or deposit into such candidate's campaign account any campaign contribution from a vendor. Candidates (or those acting on their behalf), as well as members of the city commission, shall ensure compliance with this code section by confirming with the procurement division's city records (including City of Miami Beach website) to verify the vendor status of any potential donor.

- ii. For purposes of subsection A(1)(b)i. hereinabove, the term "indirectly solicit" shall be defined as the situation in which a candidate, campaign committee of a candidate, or member of the city commission actively coordinates or directs another person or entity to solicit a vendor for a campaign contribution, as prohibited above. The term "indirectly" shall also be defined to include those instances in which a candidate for the offices of mayor or commissioners, or a member of the city commission, solicits a vendor for campaign contributions for a political committee which supports or opposes candidates for city elected office, or solicits a vendor for contributions for an electioneering communications organization (ECO) which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications.

- (2) (a) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of soliciting, giving, accepting or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.

(b) Any candidate or member of the city commission that is issued a letter of instruction or other finding of a violation of this section or sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida shall provide the city clerk with a copy of such letter of instruction or other finding of violation within ten (10) days of receipt thereof, and the city clerk shall post such letter of instruction or other finding of a violation on the city's website.

(c) If the letter of instruction or other finding of a violation involves any failure to comply with the requirements of sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida, the candidate or member of the city commission shall notify the city clerk in writing, at the time of submission to the city clerk of the letter of instruction or other finding of a violation, whether the contribution or proceeds associated with such letter of instruction or other violation has been returned to the donor.

(d) Notwithstanding the provisions of section 2-487(D) herein, the provisions of sections 2-487(A)(2)(b) and (c) shall apply to any letter of instruction or other finding of a violation issued on or after the effective date of this ordinance.

- (3) (a) Disqualification from serving as vendor.

1. A person or entity other than a vendor who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from serving as a vendor with the city.
 2. i. A vendor who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified from serving as a vendor with the city for a period of 12 months from a final finding of violation, or from action on a waiver request by the Miami Beach City Commission (per subsection B herein below) in the event a waiver of said violation is sought.
 - ii. In the event such waiver request for a particular transaction is granted, the affected vendor shall nonetheless be disqualified from serving as a vendor with the city as to all other vendor projects for the stated 12-month period. In the event such waiver request is denied for a particular transaction, the 12-month disqualification period shall apply to both the particular transaction which was the subject of the waiver request, as well as all other vendor projects during that 12-month period.
- (b) Definition. For purposes of this section, the term "disqualified" shall be defined to include:
1. Termination of a donor/vendor's existing contract with the city, subject to the waiver provisions of subsections B(1)(d) and B(2) herein; and
 2. Disqualification of a donor's response to solicitation requests for prospective vendor contracts with the city, subject to the waiver provisions of subsections B(1)(a), (b) and (c) herein.
- (4) As used in this section:
- (a) 1. A "vendor" is a person and/or entity who has been selected by the city as the successful contractor on a present or pending solicitation for goods, equipment or services, or has been approved by the city on a present or pending award for goods, equipment or services prior to or upon execution of a contract, purchase order, standing order, direct payment or purchasing card payment. The term "vendor" shall not include those persons and/or entities who provide goods, equipment or services not exceeding \$10,000.00 in a City of Miami Beach fiscal year wherein city commission action is not required.
 2. "Vendor" shall include natural persons and/or entities who hold a controlling financial interest in a vendor entity. The term "controlling financial interest" shall mean the ownership, directly or indirectly, of ten percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten percent or more in a firm. The term "firm" shall mean a corporation, partnership, business trust or any legal entity other than a natural person.

3. For purposes of this section, "vendor" status shall terminate upon completion of the agreement for the provision of goods, equipment or services.
- (b) For purposes of this section, the term "services" shall mean the rendering by a vendor through competitive bidding or otherwise, of labor, professional and/or consulting services to the city.
- (c) The term contribution shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented (copies available in city clerk's office).
- (d) The term "political committee" shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.
- (e) The term "electioneering communications organization" or ("ECO") shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.
- (fe) The term "candidate" shall have the meaning ascribed to such term in Florida Statutes, section 97.021(5), as amended and supplemented.

B. Registration with City Clerk.

Prior to commencing solicitation activities (not otherwise prohibited by this Section), either directly or indirectly, on behalf of a political committee which supports or opposes candidates for city elected office, or electioneering communications organization which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications, a candidate for the offices of mayor or commissioners, or a member of the city commission shall file a one-time report with the city clerk indicating that the candidate or member of the city commission is undertaking solicitation activities on behalf of such political committee or electioneering communications organization.

1. The report shall be filed on a form created by the city clerk for such purpose, and shall include:

- a. the full name, address and telephone number of the political committee or electioneering communications organization on behalf of whom such funds are being solicited;
- b. the name of the registered agent for the political committee or electioneering communications organization, as well as the name of the chairperson or treasurer thereof;
- c. the jurisdiction where the political committee or electioneering communications organization filed its statement of organization (e.g., either City of Miami Beach, Miami-Dade County, or the State of Florida);
- d. a description of the relationship between the candidate or member of city commission (as is applicable) and the political committee or electioneering communications organization; and

e. a certification that the candidate or member of the city commission acknowledging that it is their responsibility to read, understand, and follow the campaign finance requirements described in this article VII, division 5.

CB. Waiver of prohibition.

- (1) *Conditions for waiver.* The requirements of this section may be waived by a five-sevenths vote for a particular transaction by city commission vote after public hearing upon finding that:
 - (a) The goods, equipment or services to be involved in the proposed transaction are unique and the city cannot avail itself of such goods, equipment or services without entering into a transaction which would violate this section but for waiver of its requirements; or
 - (b) The business entity involved in the proposed transaction is the sole source of supply as determined by the city's procurement director in accordance with procedures established in subsection 2-367(c) of this Code; or
 - (c) An emergency contract (as authorized by the city manager pursuant to section 2-396 of this Code) must be made in order to protect the health, safety or welfare of the citizens of the city, as determined by a five-sevenths vote of the city commission; or
 - (d) A contract for the provision of goods, equipment or services exists which, if terminated by the city, would be adverse to the best economic interests of the city.
- (2) *Conditions for limited waiver.* Notwithstanding the denial by the city commission of a waiver request regarding an existing contract per subsection BC(1)(d) above, upon a five-sevenths vote of the city commission at a public hearing, a limited waiver may be granted on an existing contract upon a finding that in order to protect the health, safety and welfare of the citizens of the city, continuation of said contract for a limited period of time (not to exceed six months) is necessary in order for the city to obtain a replacement vendor.
- (3) *Full disclosure.* Any grant of waiver by the city commission must be supported with a full disclosure of the subject campaign contribution.

DG. Applicability. This section shall be applicable only to prospective transactions, and the city commission may in no case ratify a transaction entered into in violation of this section.

Sec. 2-488. Prohibited campaign contributions by lobbyists on procurement issues.

- (1) No lobbyist on a present or pending solicitation for goods, equipment or services or on a present or pending award for goods, equipment or services prior to or upon execution of a contract, purchase order, standing order, direct payment, or purchasing card payment shall solicit for or give a campaign contribution directly or

indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner. The term "lobbyist" shall not include those individuals who lobby on behalf of persons and/or entities in connection with their provision of goods, equipment or services not exceeding \$10,000.00 in a City of Miami Beach fiscal year wherein city commission action is not required.

(a) Commencing on the effective date of this ordinance, all proposed city contracts, purchase orders, standing orders, direct payments, as well as requests for proposals (RFP), requests for qualifications (RFQ), requests for letters of interest (RFLI), or bids issued by the city, shall incorporate this section so as to notify lobbyists of the proscription embodied herein.

(b) i. No candidate, or campaign committee of a candidate for the offices of mayor or commissioner, or member of the City Commission, shall directly or indirectly solicit, accept, or deposit into such candidate's campaign account any campaign contribution from a lobbyist subject to the provisions of this ordinance. Candidates (or those acting on their behalf), as well as members of the City Commission, shall ensure compliance with this code section by confirming with the city clerk's records to verify the lobbyist status of any potential donor.

ii. For purposes of Subsection (1)(b)i. hereinabove, the term "indirectly solicit" shall be defined as the situation in which a candidate, campaign committee of a candidate, or member of the City Commission actively coordinates or directs another person or entity to solicit a lobbyist on a procurement issue for a campaign contribution, as prohibited above. The term "indirectly" shall also be defined to include those instances in which a candidate for the offices of Mayor or Commissioners, or a member of the City Commission, solicits a lobbyist on a procurement issue for campaign contributions for a political committee which supports or opposes candidates for City elected office, or solicits a lobbyist for contributions for an electioneering communications organization (ECO) which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications.

(2) (a) A person other than a lobbyist on a procurement issue as set forth in subsection (1) above, who directly or indirectly solicits for or makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from lobbying the city commission in connection with a present or pending bid for goods, equipment or services or on a present or pending award for goods, equipment or services.

(b) A lobbyist on a procurement issue as set forth in subsection (1) above, who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified from lobbying the city commission in connection with a present or pending bid for goods, equipment or services or on a present or pending award for goods, equipment or services for a period of 12 months from a final finding of violation.

- (3) (a) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of soliciting, giving, accepting or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.

(b) Any candidate or member of the city commission that is issued a letter of instruction or other finding of a violation of this section or sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida shall provide the city clerk with a copy of such letter of instruction or other finding of violation within ten (10) days of receipt thereof, and the city clerk shall post such letter of instruction or other finding of a violation on the city's website.

(c) If the letter of instruction or other finding of a violation involves any failure to comply with the requirements of sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida, the candidate or member of the city commission shall notify the city clerk in writing, at the time of submission to the city clerk of the letter of instruction or other finding of a violation, whether the contribution or proceeds associated with such letter of instruction or other violation has been returned to the donor.

(d) The provisions of sections 2-488(3)(b) and (c) shall apply to any letter of instruction or other finding of a violation issued on or after the effective date of this ordinance.

- (4) The term "contribution" shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented.

- (5) The term "political committee" shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.

- (6) The term "electioneering communications organization" or ("ECO") shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.

- (7) The term "candidate" shall have the meaning ascribed to such term in Florida Statutes, § 97.021(5), as amended and supplemented.

- (8) *Registration with City Clerk.* Prior to commencing solicitation activities (not otherwise prohibited by this Section), either directly or indirectly, on behalf of a political committee which supports or opposes candidates for city elected office, or electioneering communications organization which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications, a candidate for the offices of mayor or commissioners, or a member of the city commission, shall file a one-time report with the city clerk indicating that the candidate or member of the city commission is undertaking solicitation activities on behalf of such political committee or electioneering communications organization. The report shall identify the name of the political committee or electioneering communications organization on behalf of whom such funds are being solicited and a description of the relationship between the candidate or member of city commission (as is applicable) and the political committee or electioneering

communications organization. The report shall be filed on a form created by the city clerk for such purpose.

a. The report shall be filed on a form created by the city clerk for such purpose, and shall include:

i. the full name, address and telephone number of the political committee or electioneering communications organization on behalf of whom such funds are being solicited;

ii. the name of the registered agent for the political committee or electioneering communications organization, as well as the name of the chairperson or treasurer thereof;

iii. the jurisdiction where the political committee or electioneering communications organization filed its statement of organization (e.g., either City of Miami Beach, Miami-Dade County, or the State of Florida);

iv. a description of the relationship between the candidate or member of city commission (as is applicable) and the political committee or electioneering communications organization; and

v. a certification that the candidate or member of the city commission acknowledging that it is their responsibility to read, understand, and follow the campaign finance requirements described in this article VII, division 5.

Sec. 2-489. Prohibited campaign contributions by real estate developers.

A. General.

(1) (a) No real estate developer shall give a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner. Commencing on the February 15, 2003, all applications for development agreements and for changes in zoning map designation as well as future land use map changes shall incorporate this section so as to notify potential real estate developers of the proscription embodied herein.

(b) i. No candidate, or campaign committee of a candidate for the offices of mayor or commissioner, or member of the City Commission, shall directly or indirectly solicit, accept, or deposit into such candidate's campaign account any campaign contribution from a real estate developer. Candidates (or those acting on their behalf), as well as members of the City Commission, shall ensure compliance with this code section by confirming with the city planning department's records (including city of Miami Beach website) to verify the real estate developer status of any potential donor.

ii. For purposes of Subsection A(1)(b)i. hereinabove, the term "indirectly solicit" shall be defined as the situation in which a candidate, campaign committee of a candidate, or member of the City Commission actively coordinates or directs another person or entity to solicit a real estate

developer for a campaign contribution, as prohibited above. The term "indirectly" shall also be defined to include those instances in which a candidate for the offices of Mayor or Commissioners, or a member of the City Commission, solicits a real estate developer for campaign contributions for a political committee which supports or opposes candidates for City elected office, or solicits a real estate developer for contributions for an electioneering communications organization (ECO) which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications.

- (2) (a) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of soliciting, giving, accepting or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.

(b) Any candidate or member of the city commission that is issued a letter of instruction or other finding of a violation of this section or sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida shall provide the city clerk with a copy of such letter of instruction or other finding of violation within ten (10) days of receipt thereof, and the city clerk shall post such letter of instruction or other finding of a violation on the city's website.

(c) If the letter of instruction or other finding of a violation involves any failure to comply with the requirements of sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida, the candidate or member of the city commission shall notify the city clerk in writing, at the time of submission to the city clerk of the letter of instruction or other finding of a violation, whether the contribution or proceeds associated with such letter of instruction or other violation has been returned to the donor.

- (d) Notwithstanding the provisions of section 2-489(D) herein, the provisions of sections 2-489(A)(2)(b) and (c) shall apply to any letter of instruction or other finding of a violation issued on or after the effective date of this ordinance.

- (3) (a) A person or entity other than a real estate developer who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from becoming a real estate developer.

(b) 1. A real estate developer who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified from becoming a real estate developer for a period of 12 months from a final finding of violation, or from action on a waiver request by the Miami Beach City Commission in the event a waiver of said violation is sought.

2. In the event such waiver request for a particular real estate project and/or land use application is granted, the affected real estate

developer shall nonetheless be disqualified from serving as a real estate developer with the city as to all other relevant real estate projects and/or applications for land use relief referred to in subsection A(4)(a)(1) below for the stated 12-month period. In the event such waiver request is denied for a particular real estate project and/or land use application, the 12-month disqualification period for the affected real estate developer shall apply to both the particular real estate project and/or land use application which was the subject of the waiver request, as well as all other relevant real estate projects and/or applications for land use relief referred to in subsection A(4)(a)(1) below during that 12-month period.

- (c) A real estate developer shall not make a contribution within 12 months after termination of its status as a real estate developer.

(4) As used in this section:

- (a) 1. A "real estate developer" is a person and/or entity who has a pending application for a development agreement with the city or who is currently negotiating with the city for a development agreement, or, who has a present or pending application with the city for a change of zoning map designation or a change to the city's future land use map.
- 2. "Real estate developer" shall include natural persons and/or entities who hold a controlling financial interest in a real estate developer entity. The term "controlling financial interest" shall mean the ownership, directly or indirectly, of ten percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten percent or more in a firm. The term "firm" shall mean a corporation, partnership, business trust or any legal entity other than a natural person.
- 3. For purposes of this section, "real estate developer" status shall terminate upon the final approval or disapproval by the city commission of the requested development agreement, and/or upon final approval or disapproval of the subject application for the land use relief, referred to in subsection (4)(a)1. above.
- (b) The term "development agreement" shall have the meaning ascribed to such term in F.S. ch. 163, as amended and supplemented. For purposes of this section, the term "development agreement" shall include any amendments, extensions, modifications or clarifications thereto.
- (c) The term contribution shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented.
- (d) The term "political committee" shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.
- (e) The term "electioneering communications organization" or ("ECO") shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.

(fe) The term "candidate" shall have the meaning ascribed to such term in Florida Statutes, section 97.021(5), as amended and supplemented.

B. Registration with City Clerk.

Prior to commencing solicitation activities (not otherwise prohibited by this Section), either directly or indirectly, on behalf of a political committee which supports or opposes candidates for city elected office, or electioneering communications organization which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications, a candidate for the offices of mayor or commissioners, or a member of the city commission, shall file a one-time report with the city clerk indicating that the candidate or member of the city commission is undertaking solicitation activities on behalf of such political committee or electioneering communications organization. The report shall identify the name of the political committee or electioneering communications organization on behalf of whom such funds are being solicited and a description of the relationship between the candidate or member of city commission (as is applicable) and the political committee or electioneering communications organization. The report shall be filed on a form created by the city clerk for such purpose. The registration requirements of this section shall apply to solicitations activities made on or after June 1, 2023.

1. The report shall be filed on a form created by the city clerk for such purpose, and shall include:

a. the full name, address and telephone number of the political committee or electioneering communications organization on behalf of whom such funds are being solicited;

b. the name of the registered agent for the political committee or electioneering communications organization, as well as the name of the chairperson or treasurer thereof;

c. the jurisdiction where the political committee or electioneering communications organization filed its statement of organization (e.g., either City of Miami Beach, Miami-Dade County, or the State of Florida);

d. a description of the relationship between the candidate or member of city commission (as is applicable) and the political committee or electioneering communications organization; and

e. a certification that the candidate or member of the city commission acknowledging that it is their responsibility to read, understand, and follow the campaign finance requirements described in this article VII, division 5.

CB. Conditions for waiver of prohibition. The requirements of this section may be waived by a five-sevenths vote for a particular real estate project and/or land use application by city commission vote after public hearing upon finding that such waiver would be in the best interest of the city.

Any grant of waiver by the city commission must be supported with a full disclosure of the subject campaign contribution.

D. *Applicability.* This section shall be applicable only to prospective real estate projects and/or applications for land use relief, and the city commission may in no case ratify a development agreement and/or application for land use relief entered into in violation of this section.

Sec. 2-490. Prohibited campaign contributions by lobbyists on real estate development issues.

- (1) No lobbyist on a pending application for a development agreement with the city, or application for change of zoning map designation or change to the city's future land use map shall solicit for or give a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner.
 - (a) Commencing on the effective date of this ordinance, all applications for development agreements and for changes in zoning map designation or future land use map changes, shall incorporate this section so as to notify affected lobbyists of the proscription embodied herein.
 - (b) i. No candidate, or campaign committee of a candidate for the offices of mayor or commissioner, or member of the city commission, shall directly or indirectly solicit, accept or deposit into such candidate's campaign account any campaign contribution from a lobbyist subject to the provisions of this section. Candidates (or those acting on their behalf), as well as members of the city commission, shall ensure compliance with this code section by confirming with the city clerk's and planning department's records to verify the lobbyist status of any potential donor.
 - ii. For purposes of subsection (1)(b)i. hereinabove, the term "indirectly solicit" shall be defined as the situation in which a candidate, campaign committee of a candidate, or member of the city commission actively coordinates or directs another person or entity to solicit a lobbyist on a real estate development issue for a campaign contribution, as prohibited above. The term "indirectly" shall also be defined to include those instances in which a candidate for the offices of mayor or commissioner, or a member of the city commission, solicits a lobbyist on a real estate development issue for campaign contributions for a political committee which supports or opposes candidates for city elected office, or solicits a lobbyist on a real estate development issue for contributions for an electioneering communications organization (ECO) which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications.
- (2) (a) A person other than a lobbyist on a real estate development issue as set forth in subsection (1) above, who directly or indirectly solicits for or makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from lobbying the city commission in connection with a present development

agreement, in connection with a development agreement that is currently being negotiated, or in connection with a present or pending application with the city for a change of zoning map designation or a change to the city's future land use map.

- (b) A lobbyist on a real estate development issue as set forth in subsection (1) above, who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified from lobbying the city commission in connection with a present development agreement, in connection with a development agreement that is currently being negotiated, or in connection with a present or pending application with the city for a change of zoning map designation or a change to the city's future land use map for a period of 12 months from a final finding of violation.
- (3) (a) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of soliciting, giving, accepting or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.
 - (b) Any candidate or member of the city commission that is issued a letter of instruction or other finding of a violation of this section or sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida shall provide the city clerk with a copy of such letter of instruction or other finding of violation within ten (10) days of receipt thereof, and the city clerk shall post such letter of instruction or other finding of a violation on the city's website.
 - (c) If the letter of instruction or other finding of a violation involves any failure to comply with the requirements of sections 12-14.2.1 or 12-14.2.2 of the Code of Miami-Dade County, Florida, the candidate or member of the city commission shall notify the city clerk in writing, at the time of submission to the city clerk of the letter of instruction or other finding of a violation, whether the contribution or proceeds associated with such letter of instruction or other violation has been returned to the donor.
 - (d) The provisions of sections 2-490(3)(b) and (c) shall apply to any letter of instruction or other finding of a violation issued on or after the effective date of this ordinance.
- (4) The term "contribution" shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented.
- (5) The term "development agreement" shall have the meaning ascribed to such term in F.S. ch 163, as amended and supplemented.
- (6) The term "lobbyist" as used herein shall exclude any person who only appears as a representative of a nonprofit corporation or entity, without special compensation or reimbursement for the appearance, whether direct or indirect, to express his/her support of or opposition to the subject item.
- (7) The term "political committee" shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented.

(8) The term "electioneering communications organization" or ("ECO") shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.

(98) The term "candidate" shall have the meaning ascribed to such term in F.S. § 97.021(5), as amended and supplemented.

(10) Registration with City Clerk. Prior to commencing solicitation activities (not otherwise prohibited by this Section), either directly or indirectly, on behalf of a political committee which supports or opposes candidates for city elected office, or electioneering communications organization which makes expenditures for electioneering communications relating to candidates for city elected office or accepts contributions for the purpose of making such electioneering communications, a candidate for the offices of mayor or commissioners, or a member of the city commission, shall file a one-time report with the city clerk indicating that the candidate or member of the city commission is undertaking solicitation activities on behalf of such political committee or electioneering communications organization. The report shall identify the name of the political committee or electioneering communications organization on behalf of whom such funds are being solicited and a description of the relationship between the candidate or member of city commission (as is applicable) and the political committee or electioneering communications organization. The report shall be filed on a form created by the city clerk for such purpose.

a. The report shall be filed on a form created by the city clerk for such purpose, and shall include:

i. the full name, address and telephone number of the political committee or electioneering communications organization on behalf of whom such funds are being solicited;

ii. the name of the registered agent for the political committee or electioneering communications organization, as well as the name of the chairperson or treasurer thereof;

iii. the jurisdiction where the political committee or electioneering communications organization filed its statement of organization (e.g., either City of Miami Beach, Miami-Dade County, or the State of Florida);

iv. a description of the relationship between the candidate or member of city commission (as is applicable) and the political committee or electioneering communications organization; and

v. a certification that the candidate or member of the city commission acknowledging that it is their responsibility to read, understand, and follow the campaign finance requirements described in this article VII, division 5.

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, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

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 a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered 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 the 1st day of June, 2023.

PASSED and **ADOPTED** this 17 day of May, 2023.

ATTEST:



Rafael E. Granado, City Clerk

MAY 22 2023






Dan Gelber, Mayor

Underline denotes additions
~~Strikethrough~~ denotes deletions

(Sponsored by Mayor Dan Gelber and Commissioner Steven Meiner)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

4-21-23
Date

PAZ

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Rafael A. Paz, City Attorney
DATE: May 17, 2023

10:35 a.m. Second Reading Public Hearing

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2 "ADMINISTRATION", ARTICLE VII "STANDARDS OF CONDUCT," AT DIVISION 5 "CAMPAIGN FINANCE REFORM", SECTIONS 2-487 THROUGH AND INCLUDING 2-490 THEREOF TO PROHIBIT CANDIDATES FOR CITY ELECTED OFFICE AND MEMBERS OF THE CITY COMMISSION FROM SOLICITING VENDORS, REAL ESTATE DEVELOPERS AND THEIR LOBBYISTS FOR CONTRIBUTIONS TO ELECTIONEERING COMMUNICATIONS ORGANIZATIONS THAT EXPEND FUNDS RELATED TO CANDIDATES FOR CITY ELECTED OFFICE, AND FURTHER ESTABLISHING DISCLOSURE REQUIREMENTS OF SUCH CITY CANDIDATES AND CITY COMMISSION MEMBERS FOR THEIR SOLICITATION OF CONTRIBUTIONS FOR POLITICAL COMMITTEES AND ELECTIONEERING COMMUNICATIONS ORGANIZATIONS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

ANALYSIS

See attached Commission Memorandum.

SUPPORTING SURVEY DATA

N/A

FINANCIAL INFORMATION

N/A

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

No

Does this item utilize G.O. Bond Funds?

No

Legislative Tracking

Office of the City Attorney

Sponsor

Mayor Dan Gelber and Commissioner Steven Meiner

ATTACHMENTS:**Description**

- ▢ Commission Memorandum
- ▢ Ordinance

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission
Alina T. Hudak, City Manager

FROM: Rafael A. Paz, City Attorney



SECOND READING

DATE: May 17, 2023

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2 "ADMINISTRATION", ARTICLE VII "STANDARDS OF CONDUCT", AT DIVISION 5 "CAMPAIGN FINANCE REFORM", SECTIONS 2-487 THROUGH AND INCLUDING 2-490 THEREOF TO PROHIBIT CANDIDATES FOR CITY ELECTED OFFICE AND MEMBERS OF THE CITY COMMISSION FROM SOLICITING VENDORS, REAL ESTATE DEVELOPERS AND THEIR LOBBYISTS FOR CONTRIBUTIONS TO ELECTIONEERING COMMUNICATIONS ORGANIZATIONS THAT EXPEND FUNDS RELATED TO CANDIDATES FOR CITY ELECTED OFFICE, AND FURTHER ESTABLISHING DISCLOSURE REQUIREMENTS OF SUCH CITY CANDIDATES AND CITY COMMISSION MEMBERS FOR THEIR SOLICITATION OF CONTRIBUTIONS FOR POLITICAL COMMITTEES AND ELECTIONEERING COMMUNICATIONS ORGANIZATIONS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

At the April 28, 2023 City Commission Meeting, the proposed Ordinance, sponsored by Mayor Dan Gelber and Commissioner Steven Meiner, was approved on first reading. No changes have been made between first and second reading. A summary of the proposed Ordinance is set forth below.

The City's existing campaign finance laws are a key component of the City Commission's efforts to promote ethics and public confidence in elected officials and candidates for elected office.

Among other restrictions, the City's existing campaign finance laws prohibit a candidate for City elected office and/or a member of the City Commission, from soliciting certain City vendors, real estate developers (as defined in the City Code), and their respective lobbyists (collectively, "Prohibited Donors"), for a contribution for a candidate, campaign committee of a candidate, or a political committee that supports or opposes candidates for City elected office.

The City's campaign finance laws, however, do not currently cover solicitations made to Electioneering Communications Organizations (ECOs). ECOs are recognized under Florida law as a type of group (other than a political party, affiliated party committee, or political committee), whose election-related activities are limited to making expenditures for certain "electioneering communications" within a specified period prior to any election, i.e., communications which may refer to a candidate for office without expressly advocating for election or defeat of the candidate.

Accordingly, the proposed Ordinance seeks to close the “loophole” with respect to solicitations for ECOs, and prohibit candidates for City elected office and members of the City Commission from soliciting Prohibited Donors for contributions to ECOs that expend funds related to candidates for City elected office, in the same manner as such solicitations are currently prohibited for political committees.

The proposed Ordinance also requires candidates for City elected office and members of the City Commission to register with the City Clerk, prior to commencing solicitation activities for contributions to political committees or ECOs, e.g., for those solicitations that are not otherwise prohibited under the City Code. In addition, the proposed Ordinance requires disclosure to the City Clerk in the event any agency with jurisdiction, such as the Miami-Dade County Ethics Commission, issues a letter of instruction or other finding of a violation of any solicitation requirement of the City Code or Miami-Dade County Code.

If approved on first reading on April 28, 2023, we anticipate that second reading of the proposed ordinance will be noticed for the May 17, 2023 City Commission meeting.

RAP/ag