


## COMMISSION MEMORANDUM

**TO:** Mayor Dan Gelber and Members of the City Commission  
**FROM:** Rafael A. Paz, City Attorney   
**DATE:** January 8, 2022

**SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 31 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "PURCHASING," BY AMENDING SECTION 31-27 THEREOF, ENTITLED "ESTABLISHMENT OF MINIMUM WAGES" TO EXTEND THE WAGE REQUIREMENTS OF THE PREVAILING WAGES ORDINANCE TO CONSTRUCTION PROJECTS WHICH ARE DEVELOPED AS PART OF THE SALE OF ANY CITY PROPERTY, AND TO REQUIRE SUCH COMPLIANCE AS A CONDITION OF THE SALE OF ANY CITY PROPERTY, BY AMENDING SECTION 31-31, "ENTITLED EXCEPTIONS," TO EXEMPT CERTAIN PROJECTS FROM THE REQUIREMENTS OF THE ORDINANCE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

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### **BACKGROUND**

The proposed ordinance was prepared at the request of Commissioner Kristen Rosen Gonzalez.

### **ANALYSIS**

The City's Prevailing Wages Ordinance, set forth in Chapter 31 of the City Code, currently requires that for "City construction projects" with a contract value in excess of \$1,500,000, the contractor must pay laborers, apprentices and mechanics minimum wages, commonly referred to as "prevailing wages," in accordance with the wage rates established from time to time by the United States Department of Labor.

As currently drafted, based on the definition of "City construction project" in the Prevailing Wages Ordinance, the requirements of the Ordinance apply to construction contracts to which the City is a party, and to construction projects that are developed by persons or entities other than the City, but which require the participation of the City as a party to a (i) development agreement, (ii) ground lease, or (ii) management agreement for city-owned building or facility having a term of ten years or more (including renewal terms terms).

The proposed ordinance would extend the Prevailing Wages Ordinance to include construction projects which are developed as part of the sale of any City property, and to require such compliance with the City's Prevailing Wages Ordinance, as a condition of

the sale of any City property.

Simply put, if a developer desires to purchase any City property and renovate or construct a new project on the property, the sponsor proposes that the same wage requirements that the City imposes on itself for its own projects should apply to the developer's project. The City Commission accepted this same principle last year, when it extended the prevailing wage requirements to developers building on City land pursuant to development agreements, leases or management agreements.

In addition, as every project implicates unique issues and the City Commission may desire the flexibility to take into account the overall public benefits or other issues associated with any given project, the sponsor proposes that the requirements of the Ordinance could be waived by the City Commission on a case-by-case basis, by an affirmative 5/7ths vote, in the same manner as applicable to all other projects, as the intent is to place a development pursuant to the sale of City property on the same footing as a development pursuant to a City lease or management agreement.

Finally, as the City Commission's express policy is to incentivize affordable housing and workforce housing projects in the City, the proposed ordinance would exclude such projects from the requirements of the Prevailing Wages Ordinance.

RAP/FA/ag