

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA CALLING FOR AN AUGUST 23, 2022 CITY OF MIAMI BEACH SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER CITY CODE SECTION 2-486 SHOULD BE AMENDED TO ESTABLISH AN EARLIER TERMINATION TIME FOR THE CONE OF SILENCE, OCCURRING UPON THE CITY MANAGER'S WRITTEN RECOMMENDATION OF CONTRACT AWARD INSTEAD OF UPON THE COMMISSION'S AWARD OF CONTRACT.

BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH:

SECTION 1.

In accordance with provisions of the Charter of the City of Miami Beach, Florida and the general laws of the State of Florida, a Special Election is hereby called and directed to be held in the City of Miami Beach, Florida, from 7:00 a.m. to 7:00 p.m. on Tuesday, August 23, 2022, for the purpose of submitting to the electorate the question as set forth hereinafter.

SECTION 2.

That the appropriate and proper Miami-Dade County election officials shall conduct the said Special Election hereby called, with acceptance of the certification of the results of said Special Election to be performed by the City Commission. The official returns for each precinct shall be furnished to the City Clerk of the City of Miami Beach as soon as the ballots from all precincts have been tabulated.

SECTION 3.

That the said voting precincts in the City of said Special Election shall be as established by the proper and appropriate Miami-Dade County Election Officials. All electors shall vote at the polling places and the voting precincts as determined by the Miami-Dade County Election Officials.¹

¹ Pursuant to City Code section 38-3(b): "The City Clerk shall further publish, in a newspaper meeting the requirements set forth in Florida Statute § 50.031 and on the City's website, the polling places for the election twice, once in the third week and once in the first week prior to the week in which the election is to be held."

SECTION 4.

Notice of the adoption of this Resolution and of its provisions calling this Special Election shall be given by publication in the Miami Herald, a newspaper of general circulation in Miami Beach, Miami-Dade County, Florida. Such publication shall be made in accordance with the provisions of Section 100.342, Florida Statutes, and Section 38-3 of the Code of the City of Miami Beach.

SECTION 5.

The Notice of Election shall be substantially in the following form:

THE CITY OF MIAMI BEACH, FLORIDA

NOTICE OF SPECIAL ELECTION

NOTICE IS HEREBY GIVEN THAT A SPECIAL ELECTION HAS BEEN CALLED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AND WILL BE HELD IN SAID CITY FROM 7:00 A.M. UNTIL 7:00 P.M. ON THE 23rd DAY OF AUGUST, 2022, AT WHICH TIME THERE SHALL BE SUBMITTED TO THE DULY REGISTERED AND QUALIFIED VOTERS OF THE CITY OF MIAMI BEACH THE FOLLOWING QUESTION:

Code Section 2-486 "Cone of Silence":

Establishing Cone's Earlier Termination (Upon Manager's Written Recommendation).

Code Section 2-486 establishes a "Cone of Silence" prohibiting communications with designated City personnel regarding City's procurement of contracts for certain goods and services, with the Cone terminating upon Commission's award of contract after it has evaluated the City Manager's written recommendation thereon.

Shall the Code be amended to provide for an earlier termination of the Cone, occurring upon the City Manager's written recommendation of contract award instead of upon Commission's award of contract?

Yes _____
No _____

Said Notice shall further set forth pertinent information regarding eligibility of electors to participate in said elections.

SECTION 6.

That the official ballot to be used in the Special Election to be held on August 23, 2022 hereby called, shall be in substantially the following form, to-wit:

“OFFICIAL BALLOT”

Code Section 2-486 “Cone of Silence”:
Establishing Cone’s Earlier Termination (Upon Manager’s Written Recommendation).

Code Section 2-486 establishes a “Cone of Silence” prohibiting communications with designated City personnel regarding City’s procurement of contracts for certain goods and services, with the Cone terminating upon Commission’s award of contract after it has evaluated the City Manager’s written recommendation thereon.

Shall the Code be amended to provide for an earlier termination of the Cone, occurring upon the City Manager’s written recommendation of contract award instead of upon Commission’s award of contract?

Yes _____
No _____

SECTION 7.

The form of the ballots to be used in this Special Election and their preparation shall be in compliance with all statutory requirements relating to the use of mechanical or other approved voting machines or devices.

SECTION 8.

Registration of persons desiring to vote in the Special Election shall be in accordance with the general law of the State of Florida governing voter registration. Qualified persons may obtain registration forms to vote at the Office of the City Clerk, City Hall, 1700 Convention Center Drive, First Floor, Miami Beach, Florida 33139, during normal business hours, and at such other voter registration centers and during such times as may be provided by the Supervisor of Elections of Miami-Dade County. The Miami-Dade County Supervisor of Elections will register voters for this Special Election until 5:00 p.m. on July 25, 2022. All persons eligible to vote at this Special Election must be registered before the time and date set forth herein or have registered previously, as provided by law. Each person desiring to become a registered voter shall be responsible for properly filling out the registration form and returning it to the Miami-Dade County Elections Department. All questions concerning voter registration should be directed to the Miami-Dade County Elections Department, 2700 N.W. 87th Avenue, Miami, Florida 33172; Telephone: (305) 499-VOTE (8683).

SECTION 9.

That voters participating via a Vote-by-Mail ballot in said Special Election shall be entitled to cast their ballots in accordance with the provisions of the Laws of the State of Florida with respect to such voting. All questions concerning Vote-by-Mail ballots should be directed to the Miami-Dade County Elections Department, 2700 N.W. 87" Avenue, Miami, Florida 33172; Telephone: (305) 499-VOTE (8683).

SECTION 10.

That the City of Miami Beach shall pay all expenses for conducting this Special Election and will pay to Miami-Dade County or directly to all persons or firms, upon receipt of invoice or statement approved by the Supervisor of Elections of Miami-Dade County, Florida.

SECTION 11.

That if the Code Amendment provided for in Sections 5 and 6 above shall be approved by a majority of the qualified electors of the City voting on the subject Code Amendment, it shall be considered adopted and effective upon the City Commission's acceptance of certification of final election results.

SECTION 12.

If any section, sentence, clause or phrase of this Resolution or of the ballot measure or the Code Amendment set forth herein 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 said Resolution, ballot measure or Code Amendment.

SECTION 13.

This Resolution shall be effective immediately upon its passage.

PASSED and ADOPTED this _____ day of _____, 2022.

ATTEST:

Rafael E. Granado, City Clerk

(Requested by Commissioner Ricky Arriola)

Dan Gelber, Mayor

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

PAZ

Date

4-28-22

**AUGUST 23, 2022 CITY OF MIAMI BEACH SPECIAL ELECTION:
CITY CODE SECTION 2-486 "CONE OF SILENCE"--
BALLOT QUESTION AND PROPOSED AMENDED CITY CODE TEXT**

I. BALLOT QUESTION:

**Code Section 2-486 "Cone of Silence":
Establishing Cone's Earlier Termination (Upon Manager's Written Recommendation).**

Code Section 2-486 establishes a "Cone of Silence" prohibiting communications with designated City personnel regarding City's procurement of contracts for certain goods and services, with the Cone terminating upon Commission's award of contract after it has evaluated the City Manager's written recommendation thereon.

Shall the Code be amended to provide for an earlier termination of the Cone, occurring upon the City Manager's written recommendation of contract award instead of upon Commission's award of contract?

Yes _____
No _____

II. PROPOSED AMENDED CITY CODE TEXT:

Sec. 2-486. Cone of silence.

(a) *Contracts for the provision of goods, services, and construction projects.*

* * *

(2) *Procedure.*

* * *

b. The cone of silence shall terminate:

1. At the time the city manager makes his or her written recommendation as to selection of a particular RFP, RFQ or bid to the city commission, ~~and said RFP, RFQ or bid is awarded; provided, however, that following the manager making his or her written recommendation, the cone of silence shall be lifted as relates to communications between the mayor and members of the commission and the city manager;~~ providing further if the city commission refers the manager's recommendation back to the city manager for further review, the cone of silence shall continue until such time as the manager makes a subsequent written recommendation, ~~and the particular RFP, RFQ or bid is awarded; or~~
2. In the event of contracts for less than \$25,000.00, when the city manager executes the contract.

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