MIAMIBEACH

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COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Rafael A. Paz, City Attorney

DATE: September 14, 2022

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE MIAMI BEACH CITY CODE, ENTITLED "ADMINISTRATION," BY AMENDING ARTICLE VII, ENTITLED "STANDARDS OF CONDUCT," BY AMENDING DIVISION 2, ENTITLED "OFFICERS, EMPLOYEES AND AGENCY MEMBERS," BY AMENDING SECTION 2-450 THEREOF, ENTITLED "DISCLOSURE OF INTEREST/RELATIONSHIP WITH BUSINESS ENTITY," TO EXPAND THE DISCLOSURE REQUIREMENTS APPLICABLE TO CITY ELECTED OFFICIALS AND CITY EMPLOYEES WITH RESPECT TO ANY BUSINESS RELATIONSHIPS WITH PERSONS OR ENTITIES DOING BUSINESS WITH THE CITY; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

Pursuant to the request of Commissioner Rosen Gonzalez, the above-referenced ordinance is submitted for consideration by the Mayor and City Commission at the September 14, 2022 meeting.

On September 27, 2000, the City enacted ethics legislation amending the City's Standards of Conduct, to require the disclosure of certain business interests held by public officials and employees. The initial legislation required elected officials and city employees to disclose to the City Clerk if they have or hold any employment or contractual relationship in excess of $10,000 with any entity doing business with the City.

The initial legislation, codified in Section 2-450 of the City Code, was amended in 2009, to provide that if any member of the City Commission, within 12 months after a Commission vote, enters into a covered business relationship with an entity doing business with the City, then that business relationship must also be disclosed to the City Clerk.

The existing ordinance does not define "doing business with" the City, or offer guidance as to what constitutes an "indirect" employment or contractual relationship with an entity doing business with the City that would trigger the existing ordinance's disclosure requirement.

Accordingly, the proposed Ordinance would both clarify and strengthen the existing disclosure requirement as follows:

- The proposed Ordinance specifies that entities "doing business with the City" would include any vendor, lobbyist on a procurement issue, real estate developer, lobbyist on a real estate development issue, as well as lessees and concessionaires, and that the disclosure requirements extend to any affiliates thereof (as such term is defined therein).

- Consistent with the identical definitions in the Miami-Dade County Code of Ethics, which covers business or contractual relationships held by "immediate family members" of public officials and employees, the proposed Ordinance incorporates the County definition of "immediate family members" and specifies that covered City officials must also disclose covered business relationships held by immediate family members, if such business relationships are with persons doing business with the City (or related entities such as affiliates thereof).

- Consistent with the County Code of Ethics and provisions defining indirect relationships held by public officials via any "controlling financial interest" in an entity (defined as owning or controlling an interest of 10% or more in an entity), the proposed Ordinance incorporates the County definition for purposes of evaluating the "significant interest" of a City elected official or employee in any entity that is in turn doing business with the City, thereby requiring disclosure of the relationship. Someone who serves as a partner, director, officer, manager or trustee of a business entity is also deemed to have a "significant interest".

- The proposed Ordinance defines the term "business entity" to include not-for-profit corporations. Based on the definition of "significant interest" as discussed above, a City elected official or employee serving as a director or officer of a not-for-profit corporation, would have to disclose (1) their interest in the not-for-profit corporation, if the entity is doing business with the City; and (2) any business relationship the not-for-profit entity has with entities doing business with the City.

RAP/ag