

# MEMORANDUM

Agenda Item No. 4(B)

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**TO:** Honorable Chairman Jose "Pepe" Diaz  
and Members, Board of County Commissioners

**DATE:** September 1, 2021

**FROM:** Geri Bonzon-Keenan  
County Attorney

**SUBJECT:** Ordinance relating to  
procurement of facial coverings  
and masks; creating section  
2-8.2.6.2 of the Code; creating  
the Buy American Facial  
Coverings and Masks  
Procurement Program;  
providing exceptions;  
exempting certain projects

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Chairman Jose "Pepe" Diaz.



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Geri Bonzon-Keenan  
County Attorney

GBK/smm



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairman Jose "Pepe" Diaz  
and Members, Board of County Commissioners

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**FROM:**   
Gen Bonzon-Keenan  
County Attorney

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Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 4(B)  
9-1-21

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO PROCUREMENT OF FACIAL COVERINGS AND MASKS; CREATING SECTION 2-8.2.6.2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CREATING THE BUY AMERICAN FACIAL COVERINGS AND MASKS PROCUREMENT PROGRAM; PROVIDING EXCEPTIONS; EXEMPTING CERTAIN PROJECTS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, the Buy American Act of 1933, codified at section 83 of title 41 of the United States Code, requires that the federal government in procurement and certain matters involving federal financial assistance use American products for the purchase or acquisition of goods, products or materials, as defined in the Buy American Act, whenever possible with some exceptions; and

**WHEREAS**, multiple states and local governments across the United States have adopted similar Buy American laws, particularly, pertaining to the purchase of facial coverings and masks products in public improvement projects; and

**WHEREAS**, this Board likewise desires to enact Buy American legislation setting forth procurement and contracting requirements that facial coverings and masks utilized as personal protective equipment by Miami-Dade County departments be produced in the United States,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** The preceding recitals are incorporated as factual findings of this Board of County Commissioners.

**Section 2.** Section 2-8.2.6.2 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

**Sec. 2-8.2.6.2. Buy American Facial Coverings and Masks Procurement Program.**

(1) *Policy and Scope.* This section shall be known as the “Buy American Facial Coverings and Masks Products Procurement Program” and is intended to set forth requirements to use facial coverings and masks products produced in the United States.

(2) *Definitions.*

For purposes of this section:

a. “County Mayor” shall mean the County Mayor and his or her designee.

b. “Facial coverings and masks products” shall mean any item, regardless of material, which is designed to be worn snugly over the nose and mouth of an individual to protect that individual from pollution or disease, and shall include but not be limited to such item which meets a United States Centers for Disease Control and Prevention definition of a mask for purposes of preventing the spread of COVID-19.

c. “Produced in the United States” shall mean, with respect to facial coverings and masks products, a product for which all manufacturing processes occur in the United States.

(3) *Facial Coverings and Masks Products Procurement and Contracting Requirement.* All solicitations and contracts for the purchase of facial coverings and masks products for direct use by the County shall include terms and specifications requiring that any facial coverings and masks products be produced in the United States.

(4) *Exceptions.* The requirement set forth in subsection 3 shall not apply if:

a. facial coverings and masks products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality;

- b. upon a written recommendation of the County Mayor approved by a majority vote of the Board members present, compliance with the procurement and contracting requirements in subsection 3 is not consistent with the best interests of the public;
  - c. the County contracts for services where the service provider is providing masks for its own employees; or
  - d. the purchase of masks and facial coverings is by the Jackson Health System.
- (5) *Federal law, Florida law and International Agreements.* This section shall be applied in a manner consistent with existing federal law, State of Florida law and any obligations applicable to Miami-Dade County under international agreements.

**Section 3.** The requirements of this ordinance shall not apply to any solicitation that was advertised for competition or is under contract before the effective date of this ordinance.

**Section 4.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 5.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, 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.

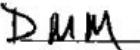
**Section 6.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:



Prepared by:



David M. Murray

Prime Sponsor: Chairman Jose "Pepe" Diaz