

**CITY OF PALM BEACH GARDENS  
CITY COUNCIL**

**Agenda Cover Memorandum**

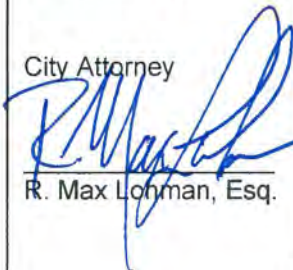

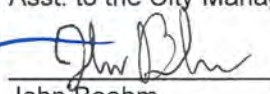
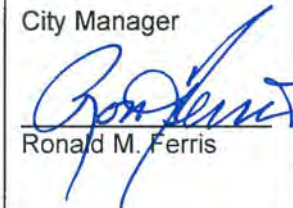
**Meeting Date: February 6, 2020**

**Subject/Agenda Item:**

**Discuss Request from the Americans Against Anti-Semitism for a Resolution by the City of Palm Beach Gardens to denounce the Boycott, Divestment and Sanctions Movement (BDS) as an anti-Semitic attempt to delegitimize Israel.**

**Recommendation to APPROVE**

**Recommendation to DENY**

<p><b>Reviewed by:</b></p> <p>City Attorney  R. Max Lohman, Esq.</p> <p>Finance Administrator  Allan Owens</p>	<p><b>Originating Dept.:</b> Administration  Asst. to the City Manager  John Boehm</p>	<p><b>Costs:</b> \$ _____ (Total)</p> <p>\$ _____ Current FY</p>	<p><b>Council Action:</b></p> <p><input type="checkbox"/> Approved</p> <p><input type="checkbox"/> Approved w/ Conditions</p> <p><input type="checkbox"/> Denied</p> <p><input type="checkbox"/> Continued to:</p>
<p><b>Submitted by:</b></p> <p>Department Director</p> <p>_____</p>	<p><b>Advertised:</b></p> <p>Date:</p> <p>Paper:</p> <p><input checked="" type="checkbox"/> Not Required</p>	<p><b>Funding Source:</b></p> <p><input type="checkbox"/> Operating</p> <p><input type="checkbox"/> Other</p> <p>----- -</p> <p><b>Contract/Agreement:</b></p> <p>Effective Date: <u>N/A</u></p> <p>Expiration Date: <u>N/A</u></p> <p><b>Budget Acct.#:</b> N/A</p>	<p><b>Attachments:</b></p> <ul style="list-style-type: none"> <li>• City of Hallandale Beach – Resolution No. 2019-012</li> <li>• Section 287.135, Florida Statutes</li> </ul>
<p><b>Approved by:</b></p> <p>City Manager  Ronald M. Ferris</p>	<p><b>Affected parties</b></p> <p><input type="checkbox"/> Notified</p> <p><input checked="" type="checkbox"/> Not required</p>		

**BACKGROUND:**

Boycott, Divestment, Sanctions (BDS) Movement

A Palestinian-led movement that began in 2005 calling for boycotts, divestment, and sanctions (BDS) as a form of non-violent pressure on Israel.

Americans Against Anti-Semitism

An organization established to combat antisemitism throughout the United States.

The Americans Against Anti-Semitism are requesting a Resolution by the City of Palm Beach Gardens to denounce the Boycott, Divestment and Sanctions Movement (BDS) as an anti-Semitic attempt to delegitimize Israel.

Attachment I: Hallandale Beach Resolution denouncing the Boycott, Divestment and Sanctions Movement (BDS) as an anti-Semitic attempt to delegitimize Israel.

Attachment II: Section 287.135 (7)(b), Florida Statutes, preempts any ordinance or rule of any agency or local governmental entity involving public contracts for goods or services of any amount with a company that has been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

**STAFF RECOMMENDATION: N/A**

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RESOLUTION NO. 2019-012

A RESOLUTION OF THE MAYOR AND CITY COMMISSION  
OF THE CITY OF HALLANDALE BEACH, FLORIDA,  
DENOUNCING THE BOYCOTT DIVESTMENT AND  
SANCTIONS MOVEMENT (BDS) AS AN ANTI-SEMITIC  
ATTEMPT TO DELEGITIMIZE ISRAEL; AND PROVIDING  
FOR AN EFFECTIVE DATE.

**WHEREAS**, the City of Hallandale Beach seeks to promote an inclusive environment; and

**WHEREAS**, strong relations between the United States and Israel have led to bilateral cooperation in many areas; and

**WHEREAS**, Israeli scientists and researchers, working locally or overseas, have made significant inventions and discoveries in fields such as medicine, chemistry, physics, optics, agricultural, economics, bio technical, and the list goes on. For example, the invention of ReWalk, a bionic walking assistance system that enables paraplegics to stand upright, walk and climb stairs, and the development of a robotic guidance system for spine surgery by Mazor Robotics, among the over 6,000 startups in currently in Israel; and

**WHEREAS**, the "boycott, divestment and sanctions" (BDS) movement seeks the "divestment" of university, municipal, church, union and other investment portfolios from companies that advocates claim "aid Israel's occupation", as well as the "boycott" of Israeli products, professionals, professional associations and academic institutions, and artistic performances (in Israel and abroad); and

**WHEREAS**, the BDS movement mirrors anti-Jewish/anti-Semitic tactics used by the Nazi regime. When the Nazis came to power, the lives of German Jews changed drastically. On April 1, 1933, the Nazis carried out the first nationwide, planned action against them: a boycott of Jewish businesses. Nazi spokesmen claimed the boycott was an act of revenge against both German Jews and foreigners, including US and English journalists; and

37           **WHEREAS**, the campaign claims to be driven by a principled concern for  
38 Palestinian human rights, but the idealistic message is arguably a smokescreen for a  
39 nationalist agenda to abolish the State of Israel; and

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41           **WHEREAS**, some supporters of BDS may genuinely believe that these efforts will  
42 encourage Israel to change policies with which they disagree. However, the predominant  
43 drive of the BDS campaign and its leadership is not criticism of policies, but the  
44 demonization and delegitimization of Israel; and

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46           **WHEREAS**, BDS campaigns promote a biased and simplistic approach to the  
47 complex conflict, and present this dispute over territorial and nationalist claims as the fault  
48 of only one party – Israel; and

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50           **WHEREAS**, the BDS campaign does not support Israeli-Palestinian peace efforts,  
51 and rejects a two-state solution to the conflict. If successful, BDS would almost certainly  
52 produce the expulsion of most Israeli Jews from their homeland and/or genocide of Jews  
53 in Israel as demonstrated by many BDS supporters who chant "from the river to the sea,"  
54 - a chant often used to call for the annihilation and obliteration of the Jewish people; and

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56           **WHEREAS**, the City recognizes the diaspora of 850,000 Jews expelled from  
57 Muslim countries during the past six-decades; and

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59           **WHEREAS**, many of the founding goals of the BDS movement, including denying  
60 the Jewish people the universal right of self-determination – along with many of the  
61 strategies employed in BDS campaigns are anti-Semitic. Many individuals involved in BDS  
62 campaigns are driven by opposition to Israel's very existence as a Jewish state; and

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64           **WHEREAS**, the City of Hallandale Beach supports a two-state solution wherein  
65 Israelis and Palestinians live side-by-side peacefully; and

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67           **WHEREAS**, the Mayor and City Commission wish to denounce the "Boycott,  
68 Divestment, and Sanctions" (BDS) movement as an anti-Semitic attempt to delegitimize  
69 Israel.

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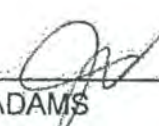
71 NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY  
72 COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA:

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74 SECTION 1. Recitals Adopted. That each of the above recitals are hereby  
75 adopted, confirmed, and incorporated herein.

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77 SECTION 2. The Mayor and City Commission hereby denounce the "Boycott,  
78 Divestment, and Sanctions" (BDS) movement as an anti-Semitic attempt to delegitimize  
79 Israel.

80 SECTION 3. This Resolution shall become effective immediately upon its adoption.

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83 APPROVED AND ADOPTED this 6<sup>th</sup> day of February, 2019.  
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90 JOY D. ADAMS  
91 MAYOR

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93 SPONSORED BY: COMMISSIONER ANABELLE LIMA-TAUB  
94

95 ATTEST:

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97 \_\_\_\_\_  
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99 JENORGEN GUILLEN, CMC  
100 CITY CLERK



114  
115 APPROVED AS TO LEGAL SUFFICIENCY AND  
116 FORM

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120 JENNIFER MERINO  
121 CITY ATTORNEY  
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FINAL VOTE ON ADOPTION

Mayor Adams	<u>Yes</u>
Vice Mayor Javellana	<u>No</u>
Commissioner Butler	<u>Yes</u>
Commissioner Lazarow	<u>Yes</u>
Commissioner Lima- Taub	<u>Yes</u>

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## The 2019 Florida Statutes

Title XIX  
PUBLIC  
BUSINESS

Chapter 287  
PROCUREMENT OF PERSONAL PROPERTY AND  
SERVICES

View Entire  
Chapter

### **287.135 Prohibition against contracting with scrutinized companies.—**

(1) In addition to the terms defined in ss. [287.012](#) and [215.473](#), as used in this section, the term:

(a) “Awarding body” means, for purposes of state contracts, an agency or the department, and for purposes of local contracts, the governing body of the local governmental entity.

(b) “Boycott of Israel” has the same meaning as defined in s. [215.4725](#).

(c) “Business operations” means, for purposes specifically related to Cuba or Syria, engaging in commerce in any form in Cuba or Syria, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment, or any other apparatus of business or commerce.

(d) “Local governmental entity” means a county, municipality, special district, or other political subdivision of the state.

(2) A company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services of:

(a) Any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. [215.4725](#), or is engaged in a boycott of Israel; or

(b) One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:

1. Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to s. [215.473](#); or

2. Is engaged in business operations in Cuba or Syria.

(3)(a) Any contract with an agency or local governmental entity for goods or services of \$1 million or more entered into or renewed on or after:

1. July 1, 2011, through June 30, 2012, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found to have submitted a false certification as provided under subsection (5) or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

2. July 1, 2012, through September 30, 2016, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found

to have submitted a false certification as provided under subsection (5), been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria.

3. October 1, 2016, through June 30, 2018, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company:

- a. Is found to have submitted a false certification as provided under subsection (5);
- b. Has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel;
- c. Has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
- d. Has been engaged in business operations in Cuba or Syria.

4. July 1, 2018, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found to have submitted a false certification as provided under subsection (5), been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria.

(b) Any contract with an agency or local governmental entity for goods or services of any amount entered into or renewed on or after July 1, 2018, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

(4) Notwithstanding subsection (2) or subsection (3), an agency or local governmental entity, on a case-by-case basis, may permit a company on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or a company engaged in business operations in Cuba or Syria, to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of \$1 million or more, or may permit a company on the Scrutinized Companies that Boycott Israel List to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of any amount, under the conditions set forth in paragraph (a) or the conditions set forth in paragraph (b):

(a)1. With respect to a company on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, all of the following occur:

- a. The scrutinized business operations were made before July 1, 2011.
- b. The scrutinized business operations have not been expanded or renewed after July 1, 2011.
- c. The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company.



d. The company has adopted, has publicized, and is implementing a formal plan to cease scrutinized business operations and to refrain from engaging in any new scrutinized business operations.

2. With respect to a company engaged in business operations in Cuba or Syria, all of the following occur:

a. The business operations were made before July 1, 2012.

b. The business operations have not been expanded or renewed after July 1, 2012.

c. The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company.

d. The company has adopted, has publicized, and is implementing a formal plan to cease business operations and to refrain from engaging in any new business operations.

3. With respect to a company on the Scrutinized Companies that Boycott Israel List, all of the following occur:

a. The boycott of Israel was initiated before October 1, 2016.

b. The company certifies in writing that it has ceased its boycott of Israel.

c. The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company.

d. The company has adopted, has publicized, and is implementing a formal plan to cease scrutinized business operations and to refrain from engaging in any new scrutinized business operations.

(b) One of the following occurs:

1. The local governmental entity makes a public finding that, absent such an exemption, the local governmental entity would be unable to obtain the goods or services for which the contract is offered.

2. For a contract with an executive agency, the Governor makes a public finding that, absent such an exemption, the agency would be unable to obtain the goods or services for which the contract is offered.

3. For a contract with an office of a state constitutional officer other than the Governor, the state constitutional officer makes a public finding that, absent such an exemption, the office would be unable to obtain the goods or services for which the contract is offered.

(5) At the time a company submits a bid or proposal for a contract or before the company enters into or renews a contract with an agency or local governmental entity for goods or services of \$1 million or more, the company must certify that the company is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and that it does not have business operations in Cuba or Syria. At the time a company submits a bid or proposal for a contract or before the company enters into or renews a contract with an agency or local governmental entity for goods or services of any amount, the company must certify that the company is not participating in a boycott of Israel.

(a) If, after the agency or the local governmental entity determines, using credible information available to the public, that the company has submitted a false certification, the agency or local governmental entity shall provide the company with written notice of its determination. The company shall have 90 days following receipt of the notice to respond in writing and to demonstrate that the determination of false certification was made in error. If the company does not make such demonstration within 90 days after receipt of the notice, the agency or the local governmental entity shall bring a civil action against the company. If a civil action is brought and the court determines that the company submitted a false certification, the company shall pay the penalty described in subparagraph 1. and all reasonable attorney fees and costs, including any costs for investigations that led to the finding of false certification.

1. A civil penalty equal to the greater of \$2 million or twice the amount of the contract for which the false certification was submitted shall be imposed.

2. The company is ineligible to bid on any contract with an agency or local governmental entity for 3 years after the date the agency or local governmental entity determined that the company submitted a false certification.

(b) A civil action to collect the penalties described in paragraph (a) must commence within 3 years after the date the false certification is submitted.

(6) Only the agency or local governmental entity that is a party to the contract may cause a civil action to be brought under this section. This section does not create or authorize a private right of action or enforcement of the penalties provided in this section. An unsuccessful bidder, or any other person other than the agency or local governmental entity, may not protest the award of a contract or contract renewal on the basis of a false certification.

(7) This section preempts any ordinance or rule of any agency or local governmental entity involving public contracts for goods or services of:

(a) One million dollars or more with a company engaged in scrutinized business operations.

(b) Any amount with a company that has been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

(8) The contracting prohibitions in this section applicable to companies on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or to companies engaged in business operations in Cuba or Syria become inoperative on the date that federal law ceases to authorize the states to adopt and enforce such contracting prohibitions.