

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, URGING THE CITY'S INSPECTOR GENERAL ("IG") TO TAKE THE FOLLOWING ACTIONS REGARDING THE INTERNAL CITY AUDITS PREVIOUSLY PERFORMED ON THE CITY'S TWO (2) TOWING PERMITTEES, BEACH TOWING SERVICES, INC., AND TREMONT TOWING, INC. (WHICH AUDITS ARE STILL IN "DRAFT", NON-FINAL FORM): (1) TRANSMIT THE DRAFT AUDIT REPORTS TO THE TOWING PERMITTEES, AND ALLOW THE PERMITTEES TO PROVIDE ANY COMMENTS, IN WRITING, TO THE IG NO LATER THAN FEBRUARY 1ST, 2020; (2) FOLLOWING THE FEBRUARY 1ST "COMMENT PERIOD" DEADLINE, REQUESTING THAT THE IG TAKE SUCH ACTION(S) AS NECESSARY TO FINALIZE THE AUDITS, (INCORPORATING, AS THE IG DEEMS NECESSARY, ANY COMMENTS PROVIDED BY THE TOWING PERMITTEES), BY A DATE NO LATER THAN FEBRUARY 10, 2020; AND (3) REQUESTING THE IG TO PLACE A FOLLOW-UP DISCUSSION ITEM REGARDING THE FINAL TOWING AUDIT REPORTS ON THE FEBRUARY 12, 2010 CITY COMMISSION AGENDA; AND FURTHER EXTENDING CURRENT TOWING PERMITS OF THE TOWING PERMITTEES, CURRENTLY SET TO EXPIRE ON FEBRUARY 28, 2020, ON A MONTH-TO-MONTH BASIS FOR UP TO SIX (6) MONTHS AFTER THE EXPIRATION DATE.

WHEREAS, on or about December, 2018, the City of Miami Beach Internal Auditor (the "City Auditor") and his staff undertook an audit of the City's two (2) towing permittees, Beach Towing Services, Inc., and Tremont Towing, Inc. (hereinafter, the "Towing Permittees"); and

WHEREAS, nearing the end of his auditing process, the City Auditor met with representatives of the Towing Permittees on March 11, 2019, and May 16, 2019, to discuss the draft audit reports (hereinafter, the "Draft Audit Reports"), and to receive feedback, suggested revisions, and/or other comments, as is customary during the City's internal auditing process; and

WHEREAS, on April 30, 2019, the Miami New Times contacted the City requesting a copy of the Draft Audit Reports, and was informed that such Reports were still in progress; not yet finalized; and, therefore, not subject to disclosure under Florida Public Records law; and

WHEREAS, at the June 5, 2019 City Commission meeting, the Towing Permittees, through their representatives, appeared before the City Commission to request that, in lieu of finalizing the Draft Audit Reports, the City retain an outside independent auditing firm to conduct an audit of the Towing Permittees (with such outside auditor to be contracted by the City, and paid for by the Towing Permittees); and

WHEREAS, following the discussion, the City Commission voted 4-3 to suspend the City's internal audit (in progress), and hire an outside auditing firm; and

WHEREAS, in accordance with the City Commission's direction, on or about October, 2019, the City entered into a contract with RSM US LLP to perform the outside independent audit of the Towing Permittees; and

WHEREAS, although the independent audits were to have been completed by December 31, 2019, they have not yet commenced; and

WHEREAS, on November 4, 2019, the Miami New Times initiated a lawsuit against the City to compel the City to release the Draft Audit Reports; and

WHEREAS, on November 14, 2019, the Eleventh Circuit Court for and in Miami-Dade County ruled for the Miami New Times, ordering the City to provide the Miami New Times with the Draft Audit Reports of its internal auditor; and

WHEREAS, the City appealed the ruling to the Third District Court of Appeal, and filed a motion to stay the Lower Court's order, which was granted on November 19, 2019; and

WHEREAS, the litigation is still pending; and

WHEREAS, in addition, following successful passage of a ballot question on November 5, 2019, the Mayor and City Commission amended the City Charter to provide for the creation of a City of Miami Beach Office of Inspector General ("IG"), to perform, among other things, investigations, audits, reviews, and oversight of municipal matters; and

WHEREAS, considering (i) the costly public records lawsuit currently pending in the Third District Court of Appeal; (ii) the establishment of the Office of Inspector General; (iii) the fact that the Draft Audit Reports prepared by the City's Internal Auditor were near completion; and (iv) the outside independent audits have not even commenced, at this time it would be in the best interest of the City to finalize the Draft Audit Reports previously prepared by the Internal Auditor; and

WHEREAS, it is imperative that the City proceed to finalize the Draft Audit Reports, not only in light of the aforesaid litigation, but because the City's towing permits with the Towing Permittees expire on February 28, 2020, and the City Commission should be able to consider the results and findings of the audit reports prior to, and as a component of, whether to renew the towing permits with the Towing Permittees; and

WHEREAS, furthermore, the City's current towing permits with the Towing Permittees, which are set to expire on February 28, 2020, should be extended on a month-to-month basis for up to six months after the expiration date.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby urge the City's Inspector General ("IG") to take the following actions regarding the internal City audits previously performed on the City's two (2) towing permittees, Beach Towing Services, Inc., and Tremont Towing, Inc. (which audits are still in "draft", non-final form): (1) transmit the draft audit reports to the Towing Permittees, and allow the permittees to provide any comments, in writing, to the IG no later than February 1st, 2020; (2) following the February 1st "comment period" deadline, request that the IG take such action(s) as necessary to finalize the audits, (incorporating, as the IG deems necessary, any comments provided by the Towing Permittees), by a date no later than February 10, 2020; and (3) request the IG to place a follow-up discussion item regarding the final towing audit reports on the February 12, 2010 City Commission agenda; and further extend current towing permits of the Towing Permittees, currently set to expire on February 28, 2020, on a month-to-month basis for up to six (6) months after the expiration date.

PASSED AND ADOPTED this ____ day of _____, 2020.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner David Richardson)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

22 Oct 1-16-20
City Attorney Date
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