



City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Raul J. Aguila, Interim City Manager

DATE: April 21, 2021

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ADOPTING THE THIRD AMENDMENT TO THE GENERAL FUND, ENTERPRISE FUNDS, INTERNAL SERVICE FUNDS, AND SPECIAL REVENUE FUNDS BUDGETS FOR FISCAL YEAR 2021 AS SET FORTH IN THIS RESOLUTION AND IN THE ATTACHED EXHIBIT "A."**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

STRATEGIC PLAN SUPPORTED

Organizational Innovation – Ensure strong fiscal stewardship

ANALYSIS

The budgets for the General Fund, Enterprise Funds, Internal Service Funds, and Special Revenue Funds for Fiscal Year (FY) 2021 were adopted by the Mayor and City Commission on September 29, 2020, through Resolution No. 2020-31428.

The First Amendment to the General Fund, Enterprise Funds, Internal Service Funds, and Special Revenue Funds budgets for FY 2021 was adopted by the Mayor and City Commission on November 18, 2020, through Resolution No. 2020-31497.

The Second Amendment to the General Fund, Enterprise Funds, Internal Service Funds, and Special Revenue Funds budgets for FY 2021 was adopted by the Mayor and City Commission on March 17, 2021, through Resolution No. 2021-31646.

Section 166.241(4)(c), Florida Statutes, requires that a municipality's budget amendment must be adopted in the same manner as its original budget.

MEMORIAL DAY WEEKEND PROGRAMMING

On April 1, 2021, the City Administration provided an update on the planned and proposed programming for the upcoming 2021 Memorial Day Weekend via Letter to Commission (LTC# 138-2021).

The Hyundai Air & Sea Show will take place on May 29-30, 2021, in Lummus Park from 10th Street to 14th Place, as per the agreement with A National Salute to America's Heroes, LLC. Due to the

continued impact of the COVID-19 pandemic, the event will have a smaller footprint than in previous years and added responsive measures including, but not limited to, social distancing, mask/face covering requirements, enhanced sanitation/cleaning protocols, and touchless service innovations. The current agreement allows for a concert and fireworks display at the expense of the event producer; however, the event organizer has advised the City that due to lack of sponsors for the concert and fireworks, funds will not be available to produce the programming.

The City Administration is, therefore, recommending the appropriation of \$350,000 of Resort Tax fund balance to provide a concert at Pride Park and other programming during the Memorial Day weekend, as well as associated services and contingencies related to the proposed concert and other programming. Additional details regarding the programming proposed can be found in a companion item on the April 21, 2021 Commission agenda.

In addition to the programming proposed during the Memorial Day weekend, the City Administration is recommending the appropriation of \$300,000 of Resort Tax fund balance to increase the resources for policing and code enforcement during this high impact period to further enhance public safety.

In total, this proposed amendment appropriates \$650,000 of Resort Tax fund balance for Memorial Day activities.

RENT ASSISTANCE PROGRAM

Beginning in March 2020, the City identified a variety of sources to create a pool of funding to provide immediate financial relief for residents whose household incomes were adversely impacted by COVID-19, including internal, state, and federal funds for which each have specific eligibility requirements, except for the General Fund.

At the March 26, 2021 Finance and Economic Resiliency Committee (FERC), the City Administration provided an update on the status of the rent assistance program and expressed concern that at the pace in which funds are being utilized to provide rent assistance, it is estimated that the remaining available funds would be exhausted in April. After extensive discussion, the FERC recommended that an additional \$100,000 of General Fund reserves be allocated per month, for 2 more months, for a total of \$200,000, to be referred to the full City Commission for approval, with a limitation that restricts funding being provided to the same household(s) for no more than 6 months.

This proposed budget amendment would appropriate \$200,000 of General Fund reserves for the continuation of the rent assistance program as recommended by the FERC at its March 26, 2021 meeting.

CONVENTION CENTER LEGAL FEES

Clark Construction Group, LLC ("Clark") is the City of Miami Beach's construction manager for the Miami Beach Convention Center ("MBCC") renovation project, which is comprised of a 1.5 million square foot renovation and expansion of the MBCC, including approximately 500,000 square feet of exhibit halls, meeting rooms, pre-function and support spaces, a new 60,000 square foot grand ballroom, and a new rooftop parking area.

On July 9, 2019, the City declared Clark in default of its contractual obligations related to the construction of the MBCC project. Subsequently, on January 31, 2020, Clark filed a lawsuit against the City and Hill International Inc. ("Hill"), the City's owner's representative for the MBCC project.

The claims Clark has alleged against the City include: (1) seeking a court declaration that the City is required to grant time extensions; (2) seeking a court declaration that the City is required to release retainage; (3) Breach of Contract; and (4) Breach of Covenant of Good faith and Fair Dealing. The City disputes Clark's allegations and claims.

On February 20, 2020, the City filed its Answer, Counterclaim, and Third-Party Complaint. The City's Counterclaim against Clark alleges: (1) Breach of Contract and (2) Breach of the Covenant of Good Faith and Fair dealing. Additionally, the City filed a Third-Party Complaint against Clark's performance bond sureties for Breach of Performance Bond. The performance bond guarantees Clark's performance of its contractual obligations to the City under the construction Contract, and secures the City by causing the sureties to assume liability for any and all damages, including, but not limited to, liquidated damages arising from Clark's default of its contractual obligations under the contract.

The City, Clark, and Hill have engaged in extensive discovery, with over 6 million documents being exchanged, and the City anticipates in excess of 60 depositions in connection with the litigation. Additionally, the parties have engaged a litany of experts in various fields, including construction scheduling, delays, design, and construction manager standard of care. The parties have also engaged in two rounds of mediation and the Court has required another mediation take place prior to trial.

The City intends on vigorously defending the lawsuit and asserting its affirmative claims against Clark. Clark has yet to complete the work, and Clark's multiple and continuing breaches of contract have caused the City to sustain considerable damages.

To do so, it is anticipated that approximately \$4.0 million will be necessary for legal-related fees, which the City proposes be transferred from the Convention Center Capital Renewal & Replacement (CRR) Fund and appropriated in the Convention Center Operating Fund. The funds currently in the Convention Center CRR Fund, totaling approximately \$5.0 million, reflect accumulated excess prior year revenues from the proceeds of the additional one percent bed tax levied solely for the purposes of expanding, enlarging, renovating, and/or improving the Miami Beach Convention Center, including debt service related thereto, that have been set aside for Capital Renewal and Replacement as adopted by Resolution No. 2012-27902.

This proposed amendment transfers \$4.0 million from the Convention Center CRR Fund to be appropriated in the Convention Center Operating Fund for the City to defend itself against the lawsuit and assert its affirmative claims against Clark and its sureties.

CONCLUSION

The Administration recommends that the Mayor and City Commission adopt the Third Amendment to the General Fund, Enterprise Fund, Internal Service Fund, and Special Revenue Fund budgets for FY 2021 described herein and further detailed in the attached Exhibit "A."

RJA/JW/TOS

Exhibit "A"

GENERAL FUND	FY 2021 Amended Budget	3rd Budget Amendment	FY 2021 Revised Budget
REVENUES			
Operating Revenues			
Ad Valorem Taxes	\$ 193,218,000		\$ 193,218,000
Ad Valorem - Capital Renewal & Replacement	\$ 807,000		\$ 807,000
Ad Valorem - Pay-As-You-Go Capital	\$ 2,592,000		\$ 2,592,000
Ad Valorem - Normandy Shores	\$ 18,000		\$ 18,000
Other Taxes	\$ 24,083,000		\$ 24,083,000
Licenses and Permits	\$ 13,925,000		\$ 13,925,000
Intergovernmental	\$ 11,254,000		\$ 11,254,000
Charges for Services	\$ 13,061,000		\$ 13,061,000
Fines and Forfeits	\$ 1,069,000		\$ 1,069,000
Interest Earnings	\$ 2,769,000		\$ 2,769,000
Rents and Leases	\$ 5,954,000		\$ 5,954,000
Miscellaneous	\$ 15,125,000		\$ 15,125,000
Resort Tax Contribution	\$ 18,639,000		\$ 18,639,000
Other Non-Operating Revenue	\$ 36,505,000	200,000	\$ 36,705,000
Total General Fund	\$ 339,019,000	\$ 200,000	\$ 339,219,000
APPROPRIATIONS			
Department			
Mayor and Commission	\$ 2,517,000		\$ 2,517,000
City Manager	\$ 4,798,000		\$ 4,798,000
Marketing and Communications	\$ 2,221,000		\$ 2,221,000
Office of Management and Budget	\$ 1,466,000		\$ 1,466,000
Org. Dev Performance Initiatives	\$ 1,119,000		\$ 1,119,000
Finance	\$ 6,358,000		\$ 6,358,000
Procurement	\$ 2,705,000		\$ 2,705,000
Human Resources/Labor Relations	\$ 2,794,000		\$ 2,794,000
City Clerk	\$ 1,844,000		\$ 1,844,000
City Attorney	\$ 6,150,000		\$ 6,150,000
Housing & Community Services	\$ 3,887,000		\$ 3,887,000
Planning	\$ 6,095,000		\$ 6,095,000
Environment & Sustainability	\$ 1,248,000		\$ 1,248,000
Tourism and Culture	\$ 3,242,000		\$ 3,242,000
Economic Development	\$ 1,372,000		\$ 1,372,000
Code Compliance	\$ 6,477,000		\$ 6,477,000
Parks & Recreation (incl. Golf Courses)	\$ 34,283,000		\$ 34,283,000
Property Management	\$ 2,054,000		\$ 2,054,000
Public Works	\$ 13,577,000		\$ 13,577,000
Capital Improvement Projects	\$ 5,551,000		\$ 5,551,000
Police	\$ 119,514,000		\$ 119,514,000
Fire	\$ 91,890,000		\$ 91,890,000
Citywide (incl. Operating Contingency)	\$ 15,940,000	200,000	\$ 16,140,000
Subtotal General Fund	\$ 337,102,000	\$ 200,000	\$ 337,302,000
TRANSFERS			
Normandy Shores	\$ 111,000		\$ 111,000
Capital Renewal & Replacement	\$ 43,000		\$ 43,000
Info & Comm Technology Fund	\$ 300,000		\$ 300,000
Pay-As-You-Go Capital Fund	\$ 252,000		\$ 252,000
Parking Fund	\$ 1,211,000		\$ 1,211,000
Subtotal Transfers	\$ 1,917,000	\$ 0	\$ 1,917,000
Total General Fund	\$ 339,019,000	\$ 200,000	\$ 339,219,000

Exhibit "A"

ENTERPRISE FUNDS	FY 2021 Amended Budget	3rd Budget Amendment	FY 2021 Revised Budget
REVENUE/APPROPRIATIONS			
Building	\$ 16,756,000		\$ 16,756,000
Convention Center	\$ 30,707,000	4,000,000	\$ 34,707,000
Water	\$ 38,058,000		\$ 38,058,000
Sewer	\$ 50,397,000		\$ 50,397,000
Stormwater	\$ 32,830,000		\$ 32,830,000
Sanitation	\$ 22,580,000		\$ 22,580,000
Parking	\$ 37,646,000		\$ 37,646,000
Total Enterprise Funds	\$ 228,974,000	\$ 4,000,000	\$ 232,974,000

INTERNAL SERVICE FUNDS	FY 2021 Amended Budget	3rd Budget Amendment	FY 2021 Revised Budget
REVENUE/APPROPRIATIONS			
Information Technology	\$ 18,286,000		\$ 18,286,000
Risk Management	\$ 22,535,000		\$ 22,535,000
Central Services	\$ 1,052,000		\$ 1,052,000
Office of Inspector General	\$ 2,027,000		\$ 2,027,000
Property Management	\$ 11,715,000		\$ 11,715,000
Fleet Management	\$ 15,088,000		\$ 15,088,000
Medical and Dental Insurance	\$ 40,258,000		\$ 40,258,000
Total Internal Service Funds	\$ 110,961,000	\$ 0	\$ 110,961,000

SPECIAL REVENUE FUNDS	FY 2021 Amended Budget	3rd Budget Amendment	FY 2021 Revised Budget
REVENUE/APPROPRIATIONS			
Education Compact	\$ 641,000		\$ 641,000
IT Technology Fund	\$ 2,034,000		\$ 2,034,000
Residential Housing	\$ 813,000		\$ 813,000
Sustainability	\$ 958,000		\$ 958,000
Tree Preservation Fund	\$ 105,000		\$ 105,000
Commemorative Tree Trust Fund	\$ 3,000		\$ 3,000
Resort Tax	\$ 69,533,000	650,000	\$ 70,183,000
Tourism and Hospitality Scholarships	\$ 80,000		\$ 80,000
Cultural Arts Council	\$ 2,633,000		\$ 2,633,000
Waste Haulers	\$ 111,000		\$ 111,000
Normandy Shores	\$ 287,000		\$ 287,000
Biscayne Point Special Taxing District	\$ 221,000		\$ 221,000
Allison Island Special Taxing District	\$ 221,000		\$ 221,000
Biscayne Beach Special Taxing District	\$ 221,000		\$ 221,000
5th & Alton Garage	\$ 643,000		\$ 643,000
7th Street Garage	\$ 2,049,000		\$ 2,049,000
Transportation Fund	\$ 8,883,000		\$ 8,883,000
People's Transportation Plan	\$ 4,239,000		\$ 4,239,000
Police Confiscation Fund - Federal	\$ 130,000		\$ 130,000
Police Confiscation Fund - State	\$ 164,000		\$ 164,000
Police Unclaimed Property	\$ 29,000		\$ 29,000
Police Crash Report Sales	\$ 25,000		\$ 25,000
Police Training Fund	\$ 25,000		\$ 25,000
Red Light Camera Fund	\$ 1,407,000		\$ 1,407,000
E-911 Fund	\$ 669,000		\$ 669,000
Art in Public Places (AIPP)	\$ 21,000		\$ 21,000
Beachfront Concession Initiatives	\$ 74,000		\$ 74,000
Beach Renourishment	\$ 1,575,000		\$ 1,575,000
Adopt-A-Bench Program	\$ 20,000		\$ 20,000
Off-Duty Services Fund	\$ 200,000		\$ 200,000
Convention Center Renewal and Replacement	\$ 0	4,000,000	\$ 4,000,000
Total Special Revenue Funds	\$ 98,014,000	\$ 4,650,000	\$ 102,664,000