

# EXHIBIT "A"

RESOLUTION NO: 2021-31559

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, PURSUANT TO THE CITY'S DECLARATION OF A STATE OF EMERGENCY IN RESPONSE TO THE COVID-19 PANDEMIC, PRORATING THOSE PORTIONS OF THE FISCAL YEAR 2021 SUPPLEMENTAL BUSINESS TAX RECEIPT ("BTR") FEES RELATING TO BTR CATEGORIES INVOLVING THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES AFTER MIDNIGHT (THE "AFTER MIDNIGHT BTR CATEGORIES"), TO PROVIDE THAT FEES FOR THE AFTER MIDNIGHT BTR CATEGORIES SHALL NOT APPLY FOR THE PERIOD OF TIME IN FY2021 DURING WHICH THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES IS PROHIBITED DUE TO MIAMI-DADE COUNTY'S IMPOSITION OF A CURFEW.**

**WHEREAS**, the Coronavirus Disease 2019 ("Covid-19") is an acute respiratory illness caused by the SARS-CoV-2 virus which can spread rapidly from person to person and cause serious illness or death, and constitutes a clear and present threat to the health, life, safety and welfare of the people of the City of Miami Beach; and

**WHEREAS**, on March 9, 2020, Governor Ron DeSantis issued Executive Order 20-52, which declared a State of Emergency for the entire State of Florida as a result of Covid-19; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared the rapidly spreading Covid-19 outbreak a global pandemic; and

**WHEREAS**, on March 12, 2020, Miami-Dade County Mayor Carlos Gimenez declared a State of Emergency throughout Miami-Dade County due to the threats associated with Covid-19; and

**WHEREAS**, on March 12, 2020, the former City Manager, Jimmy L. Morales, declared a local State of Emergency for the City of Miami Beach (the "City"), as Covid-19 posed a health risk to the City's residents and visitors; and

**WHEREAS**, subsequently, both Miami-Dade County (the "County") and the City issued various Emergency Orders temporarily closing public and private facilities, including the temporary closure of all non-essential retail and commercial establishments and the closure of all restaurants for in-person dining; and

**WHEREAS**, Miami-Dade County has also imposed a curfew, applicable to all incorporated and unincorporated areas of the County, which presently prohibits persons (with limited exceptions) from being out after Midnight; and

**WHEREAS**, the foregoing measures have greatly limited economic activity in the City of Miami Beach, and continue to adversely impact City businesses; and

**WHEREAS**, the path to continuing the re-opening and viability of businesses in the City must balance business operation and economic recovery while still protecting the public's health, safety and welfare; and

**WHEREAS**, the County's imposition of a Midnight curfew has diminished the ability of businesses with supplemental business tax receipts ("BTRs") for the categories of "Midnight to 2

a.m. Alcohol" and "Midnight to 5 a.m. Alcohol" to generate additional revenue; and

**WHEREAS**, it is currently unknown when the current Midnight curfew will be lifted and allow businesses within these supplemental BTR categories to resume the sale and service of alcoholic beverages beyond Midnight; and

**WHEREAS**, in an effort to mitigate the economic impacts of the Covid-19 Pandemic on such businesses, the Mayor and City Commission desire to prorate the annual BTR fees for the categories of "Midnight to 2 a.m. Alcohol" and "Midnight to 5 a.m. Alcohol" for FY2021 (the "After Midnight BTR Categories"); and

**WHEREAS**, for those businesses that have already paid all (or a portion of) their Fiscal Year 2021 BTR fees for the After Midnight BTR Categories, the City will provide a prorated refund to the business based upon the date that the curfew is lifted. For example, if the curfew is lifted and such businesses may sell and serve alcoholic beverages after Midnight commencing on February 1, 2021, then a business would receive a refund equal to four (4) months' worth of the FY2021 BTR fees paid for the After Midnight BTR Categories; and

**WHEREAS**, in the event that such businesses are not allowed to sell and serve alcoholic beverages after Midnight by the end of FY2021 (September 30, 2021), then the entire portion of the BTR fee paid for the After Midnight BTR Categories will be refunded; and

**WHEREAS**, with respect to those businesses that have not yet paid the FY2021 BTR fees for the After Midnight BTR Categories, those businesses may contact the City once the curfew restrictions in applicable Emergency Orders are lifted, in order to activate their BTR for the After Midnight BTR Categories at a prorated amount, based upon the remaining period of time in FY2021 during which the businesses may lawfully sell and serve alcoholic beverages after midnight; and

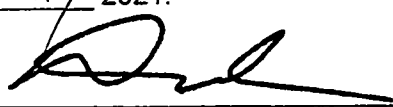
**WHEREAS**, after discussion at the Finance and Economic Resiliency Committee ("FERC") meeting on December 18, 2020, the FERC favorably recommended that the Mayor and City Commission adopt this Resolution at the January 13, 2021 City Commission meeting.

**NOW, THEREFORE, BE IT DULY RESOLVED THAT THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, pursuant to the City's Declaration of a State of Emergency in response to the COVID-19 pandemic, hereby prorate those portions of the Fiscal Year 2021 supplemental business tax receipt ("BTR") fees relating to BTR categories involving the sale and service of alcoholic beverages after midnight (the "After Midnight BTR categories"), to provide that fees for the After Midnight BTR Categories shall not apply for the period of time in FY2021 during which the sale and service of alcoholic beverages is prohibited due to Miami-Dade County's imposition of a curfew, as more fully set forth herein.

**PASSED and ADOPTED** this 13 day of January 2021.

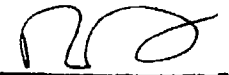
**ATTEST:**

  
Rafael E. Granado, City Clerk

  
Dan Gelber, Mayor

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**



  
City Attorney MAF 12-30-20  
Date



# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Raul J. Aguila, Interim City Manager  
DATE: January 13, 2021

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, PRORATING THOSE PORTIONS OF THE BUSINESS TAX RECEIPT FEES, PERTAINING TO THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES BEYOND MIDNIGHT, PAID BY VARIOUS BUSINESS ESTABLISHMENTS FOR THE PERIOD OF TIME COMMENCING OCTOBER 1, 2020 THROUGH SEPTEMBER 30, 2021, PURSUANT THE CITY'S DECLARATION OF A STATE OF EMERGENCY IN RESPONSE TO THE COVID-19 PANDEMIC

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### **BACKGROUND/HISTORY**

This item was referred to the Finance & Economic Resiliency Committee (FERC) at the November 18, 2020 City Commission meeting by Vice Mayor Meiner. The purpose of the item is to discuss the potential pro-ration of FY 2021 BTR fees for businesses serving alcohol from midnight to 2 am or midnight to 5 am due to the mandatory midnight curfew currently in effect in response to the COVID-19 pandemic. The FERC unanimously recommended the item to the full City Commission on December 18, 2020.

### **ANALYSIS**

BTR's are issued annually in accordance with Florida Statutes Chapter 205, as well as, locally governed by Article V, Section 102 of the Code of the City of Miami Beach. BTR's typically generate approximately \$5 million a year of revenue to the General Fund.

BTR's are modular in that businesses that wish to serve alcohol from midnight to 2 am or from midnight to 5 am are required to obtain an additional category to their BTR. The category for midnight to 2 am costs \$1,457 and the category for midnight to 5 am costs \$4,847. As shown in the table below, there are 129 current BTR's for the category for midnight to 2 am that generate \$187,953 and there are 175 current BTR's for the category for midnight to 5 am that generate \$848,225 of revenue to the City. The combined amount is \$1,036,178 which represents approximately 20% of total BTR revenues to the City.

<b>Category</b>	<b>Amount of BTRs</b>	<b>Costs</b>	<b>Total</b>
Midnight to 2 am Alcohol	129	\$1,457	187,953
Midnight to 5 am Alcohol	175	\$4,847	848,225

Total \$1,036,178

Chapter 205 states that Business Tax Receipts are due and payable on or before September 30th of each year and expire on September 30th of the succeeding year. Typically, the City mails and emails its 7,000 businesses their annual renewal notices in the Summer preceding the September 30th deadline.

The following changes have been made for the FY 2021 annual BTR renewal process to help assist the City's businesses given the challenges from COVID-19.

- Extending the FY 2020 BTR expiration dates from September 30, 2020 to December 31, 2020 (providing businesses an additional three months of economic recovery).
- Providing an option for businesses to split the FY 2021 BTR renewal from one payment to two payments and extending the due dates.
  - Payment 1 due: December 31, 2020 (half of the renewal fee)
  - Payment 2 due: March 31, 2021 (half of the renewal fee)

Staff has surveyed other municipalities regarding any changes that have been implemented to assist businesses affected by the COVID-19 emergency measures. The results are as follows:

- Miami: No extensions and/or refunds. BTRs not paid by September 30th, 2020 are subject to penalties.
- Hialeah: Extended the due date until October 31st, 2020. Gave businesses one extra month past the September 30th, 2020 deadline to pay their FY 2021 tax in full. Anything paid after the one-month extension is subject to late penalties.
- Fort Lauderdale: Extended the due date by one week. Gave businesses one extra week past the September 30th, 2020 deadline to pay their FY 2021 tax in full. Anything paid after the one-week extension is subject to late penalties.
- Hollywood: No extensions and/or refunds. BTRs not paid by September 30th, 2020 are subject to penalties.
- Orlando: Extended the due date by two weeks. Gave businesses two extra weeks past the September 30th, 2020 deadline to pay their FY 2021 tax in full. Anything paid after the two-week extension is subject to late penalties.

Given that many non-essential businesses experienced challenges from COVID-19 in FY 2020, the Administration does not recommend making any credits or refunds for the last fiscal year. In FY 2021, however, most businesses are operating under Stage 3 except those which normally serve alcohol after midnight due to the current midnight curfew. At this time, we are currently about 3 months into the new fiscal year and it is not clear when the midnight curfew may be lifted or if it would change to 2 am or some other time before 5 am. If the City Commission wishes to provide relief to businesses which would normally pay for the additional BTR categories to serve alcohol after midnight, the Administration recommends the following:

- For businesses that have already paid all or 50% of their BTR per the billing deadlines, the City would send a pro-rated refund to the business based on the date that the emergency orders affecting their operations is lifted. For example, if businesses were allowed to operate after midnight starting on February 1, 2021 then a business would

receive a refund for 4 months of the fiscal year. In the unlikely event that businesses are not allowed to operate after midnight by the end of the fiscal year, the entire applicable portion of the BTR bill would be refunded.

- For businesses that choose to not pay for the portion of their BTR allowing them to serve alcohol after midnight, they would need to contact the City once the emergency orders allow them to operate to activate that portion of their BTR at a pro-rated rate through the end of the fiscal year to avoid code compliance issues once they begin to operate after midnight.

The fiscal impact of this proposed measure is difficult to quantify given the uncertainty regarding the length of time the current curfew will be in place. Given that a third of the fiscal year has already elapsed, the minimum amount of lost revenue would be approximately \$250,000 and could be as high as approximately \$1 million if the midnight curfew is in place through the end of the fiscal year (September 30th).

### **SUPPORTING SURVEY DATA**

Based on the 2019 Community Satisfaction Survey, 59.9% of businesses indicated they would definitely/probably recommend the City of Miami Beach as a place to run a business.

### **CONCLUSION**

The City of Miami Beach is already providing more relief related to its BTR process for local businesses than any other city surveyed. If the City Commission wishes to provide relief to businesses which would normally pay for the additional BTR categories to serve alcohol after midnight, the Administration recommends that for businesses that have already paid all or 50% of their BTR per the billing deadlines, the City would send a pro-rated refund to the business based on the date that the emergency orders affecting their operations is lifted. For businesses that choose to not pay for the portion of their BTR allowing them to serve alcohol after midnight, they would need to contact the City once the emergency orders allow them to operate to activate that portion of their BTR at a pro-rated rate through the end of the fiscal year to avoid code compliance issues.

#### **Applicable Area**

Not Applicable

#### **Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?**

No

#### **Does this item utilize G.O. Bond Funds?**

No

#### **Legislative Tracking**

Finance

#### **Sponsor**

Vice-Mayor Steven Meiner

#### **ATTACHMENTS:**

##### **Description**

- Resolution