



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: Alina T. Hudak, City Manager

DATE: June 23, 2021

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ADOPTING THE FOURTH 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.

The Third 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 April 21, 2021, through Resolution No. 2021-31689.

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.

CULTURAL ARTS EMERGENCY FUND

On May 13, 2020, the Mayor and City Commission adopted Resolution 2020-31268 accepting the recommendations of the Finance and Economic Resiliency Committee (FERC), at its April 17 and April 24, 2020 meetings, approving the use of prior year accumulated Cultural Arts Council (CAC) fund balance and endowment funds to establish a “Cultural Arts Emergency Fund” in the amount of \$1.0 million to provide financial assistance to Miami Beach-based cultural organizations experiencing revenue losses due to the COVID-19 crisis.

As part of the FY 2021 budget adopted through Resolution 2020-31428, an additional \$1.0 million of CAC fund balance and endowment funds was allocated to provide further funding relief to cultural organizations in the City of Miami Beach impacted by COVID-19, of which \$500,000 was appropriated at the commencement of FY 2021 as part of the adopted budget and the remaining \$500,000 balance was proposed to be appropriated mid-year of FY 2021.

At the April 30, 2021 Finance and Economic Resiliency Committee (FERC) meeting, the City Administration provided an update on the status of the CARES Act funds received by the City, as well as an update on the status of the funding previously allocated to provide financial assistance to Miami Beach-based cultural organizations experiencing revenue losses due to COVID-19. Based on discussion, the FERC recommended that, among other things and in addition to the previous funding allocated to provide further funding relief to cultural organizations in the City of Miami Beach impacted by COVID-19, up to an additional \$1.0 million be allocated to expand cultural activation and programming in the City.

This proposed amendment appropriates the remaining \$500,000 balance of the \$1.0 million allocated in the FY 2021 budget adopted through Resolution 2020-31428 to provide further funding relief to cultural organizations in the City of Miami Beach impacted by COVID-19 from prior year accumulated CAC fund balance and endowment funds, as well as an additional \$1.0 million of General Fund reserves (CARES Act Funds) to be used to expand cultural activation and programming as recommended by the Finance and Economic Resiliency Committee (FERC) at its April 30, 2021 meeting.

The table below provides a summary of the funds allocated to provide financial assistance to Miami Beach-based cultural organizations experiencing revenue losses due to the COVID-19 crisis and to expand cultural activation and programming in the City of Miami Beach, including the additional funding proposed for appropriation in this budget amendment.

Purpose	FY 2020	FY 2021
COVID-19 Relief (CAC Fund Balance)	\$1.0 million	
COVID-19 Relief (CAC Fund Balance)		\$0.5 million
Total Funding Appropriated To-Date	\$1.0 million	\$0.5 million
COVID-19 Relief (CAC Fund Balance)		\$0.5 million
Expand Cultural Activation and Programming (General Fund Reserves/CARES Act Funds)		\$1.0 million
Total Proposed		\$1.5 million
Total	\$1.0 million	\$2.0 million

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.

At the April 21, 2021 City Commission meeting, the City Administration presented the 3rd Amendment to the FY 2021 Operating Budget, which recommended the appropriation of \$4.0 million of Convention Center Renewal and Replacement (CRR) funds to be transferred to the Convention Center Operating Fund for legal fees associated with the City defending itself against the lawsuit and asserting its affirmative claims against Clark and its sureties.

After extensive discussion and concerns expressed, the Mayor and City Commission approved, as amended, the appropriation of \$2.0 million (reduced from \$4.0 million) of Convention Center Renewal and Replacement (CRR) funds to be transferred to the Convention Center Operating Fund, through Resolution 2021-31689, to allow for the City Attorney's Office to cover the legal fees related to the lawsuit through June 2021 and schedule one-on-one meetings with the Mayor and City Commission to provide more detailed information regarding the lawsuit before returning to the Mayor and Commission to request the additional funds needed for the City to continue to defend itself against the lawsuit and assert its affirmative claims against Clark and its sureties.

This proposed amendment appropriates the remaining \$2.0 million to be transferred from the Convention Center CRR Fund to the Convention Center Operating Fund, of the original \$4.0 million recommended by the City Administration on April 21, 2021.

CONCLUSION

The Administration recommends that the Mayor and City Commission adopt the Fourth 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."

ATH/JW/TOS

Exhibit "A"

GENERAL FUND	FY 2021 Amended Budget	4th 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	\$ 36,705,000	1,000,000	\$ 37,705,000
Total General Fund	\$ 339,219,000	\$ 1,000,000	\$ 340,219,000
	FY 2021 Amended Budget	4th Budget Amendment	FY 2021 Revised Budget
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)	\$ 16,140,000	1,000,000	\$ 17,140,000
Subtotal General Fund	\$ 337,302,000	\$ 1,000,000	\$ 338,302,000
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	\$ 339,219,000	\$ 1,000,000	\$ 340,219,000

Exhibit "A"

ENTERPRISE FUNDS	FY 2021 Amended Budget	4th Budget Amendment	FY 2021 Revised Budget
REVENUE/APPROPRIATIONS			
Building	\$ 16,756,000		\$ 16,756,000
Convention Center	\$ 32,707,000	2,000,000	\$ 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	\$ 230,974,000	\$ 2,000,000	\$ 232,974,000

INTERNAL SERVICE FUNDS	FY 2021 Amended Budget	4th 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	4th 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	\$ 69,833,000		\$ 69,833,000
Tourism and Hospitality Scholarships	\$ 80,000		\$ 80,000
Cultural Arts Council	\$ 2,633,000	500,000	\$ 3,133,000
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	\$ 2,000,000	2,000,000	\$ 4,000,000
Total Special Revenue Funds	\$ 100,314,000	\$ 2,500,000	\$ 102,814,000