

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER, ON BEHALF OF THE CITY, TO ENTER INTO CERTAIN INDEPENDENT CONTRACTOR AGREEMENTS FOR PROFESSIONAL AND OTHER SERVICES, AS REQUIRED, AND AS THE CITY MANAGER DEEMS IN THE BEST INTEREST OF THE CITY, SUBJECT TO AND CONTINGENT UPON THE FOLLOWING PARAMETERS: 1) THE CITY MANAGER SHALL ONLY ENTER INTO CONTRACTS TO PROVIDE SERVICES OR WORK RELATED TO VACANT BUDGETED POSITIONS, AS IDENTIFIED IN THE CITY'S APPROVED FISCAL YEAR (FY) 2017/2018 BUDGET; 2) THE AMOUNT OF THE FEE OR OTHER COMPENSATION UNDER SUCH CONTRACT(S) SHALL NOT EXCEED THE AUTHORIZED AMOUNT FOR THE RESPECTIVE CLASSIFICATION, AS SET FORTH IN THE CITY'S CLASSIFIED OR UNCLASSIFIED SALARY ORDINANCE (AS THE CASE MAY BE); 3) THE TERM OF ANY INDEPENDENT CONTRACTOR AGREEMENT AUTHORIZED HEREIN SHALL NOT EXTEND BEYOND THE END OF FY 2017/2018 (SEPTEMBER 30, 2018); 4) AT A MINIMUM, THE CITY MANAGER SHALL REQUIRE THAT ANY INDEPENDENT CONTRACTOR AGREEMENT ENTERED INTO PURSUANT TO THIS RESOLUTION SHALL UTILIZE THE CITY'S STANDARD FORM FOR INDEPENDENT CONTRACTORS (AS ATTACHED TO THE CITY COMMISSION MEMORANDUM ACCOMPANYING THIS RESOLUTION), PROVIDED THAT THE CITY MANAGER MAY INCORPORATE ADDITIONAL TERMS, WHICH MAY BE MORE STRINGENT, BUT NOT MORE LENIENT; 5) REQUIRING THE CITY MANAGER TO ISSUE A LETTER TO COMMISSION EACH FISCAL QUARTER COMMENCING ON JANUARY 1, 2018, WHICH DELINEATES THOSE INDEPENDENT CONTRACTOR AGREEMENTS THAT EXCEED \$50,000 AND 6) PROVIDING THAT THE AUTHORITY GRANTED TO THE CITY MANAGER PURSUANT TO THIS RESOLUTION SHALL BE BROUGHT TO THE CITY COMMISSION FOR RENEWAL AS PART OF THE ANNUAL OPERATING BUDGET APPROVAL.

WHEREAS, under the City Charter, the City Manager has the authority to appoint an employee into a vacant, budgeted position with a salary within the range established by the City Commission for the classification; and

WHEREAS, the City has eliminated positions in its annual budget since FY 2007/08; and the City has restricted hiring for vacant positions where appropriate; and

WHEREAS, these vacant positions are carefully analyzed for the purpose of identifying mission critical positions that should be filled, while allowing other positions to remain vacant; and

WHEREAS, the City needs to utilize independent contractors to replace those employees whose positions may have been eliminated, and to prevent hiring employees that might result in having to lay them off at the end of the fiscal year if their positions are eliminated; and

WHEREAS, in some instances where positions are vacant, the City has retained independent contractors to provide services or work; and

WHEREAS, because the City Code requires contracts in excess \$25,000 to be approved by the City Commission, these agreements have typically been limited to less than the maximum amount; and

WHEREAS, on rare occasions, independent contractor agreements for amounts over \$25,000 have been brought to the City Commission for approval; and

WHEREAS, in an effort to save costs, such as pension and health benefits, the Administration is recommending that the City Commission authorize the City Manager to negotiate, enter into, and execute certain independent contractor agreements, including those having an amount that may exceed \$25,000, subject to the following parameters:

- The independent contractor agreements authorized under this Resolution will be limited to services or work related to a vacant, budgeted position, as approved in the City's FY 2016/2017 operating budget; and
- The value of the agreement will not exceed the amount already authorized in the City's Classified or Unclassified Salary Ordinances, and the term of the agreement will not go beyond September 30, 2018; and
- Any agreement entered into will contain, at minimum, the provisions outlined in the City's standard form independent contractor agreement (a copy of which is attached hereto and incorporated herein); and
- The City Manager must issue a Letter to Commission ("LTC") each fiscal quarter, commencing on January 1, 2018, which delineates those Independent Contractor Agreements that exceed the \$50,000 threshold;

WHEREAS, the City Commission granted similar authority to the City Manager on September 20, 2010, for FY 2010/2011 and renewed such authority on September 27, 2011 for FY 2011/2012; and on September 27, 2012 for FY 2012/2013, on September 30, 2013 for FY 2013/14; on September 30, 2014 for FY 2014/15; on September 30, 2015 for FY 2015/16; and on September 30, 2016 for FY 2016/2017

WHEREAS, during the discussions for the initial authority, it was said that this request for authority would be brought back for renewal on an annual basis as part of the budget process.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby retroactively authorize the City Manager, on behalf of the City, to enter into independent contractor agreements for professional and other services, as required, and as the City Manager deems in the best interest of the City, subject to and contingent upon the following parameters: 1) the City Manager shall only enter into contracts to provide services or work related to vacant budgeted positions, as identified in the City's approved FY 2017/2018 budget; 2) the amount of the fee or other compensation under such contract(s) shall not exceed the authorized amount for the respective classification, as set forth, in the City's Classified or Unclassified Salary Ordinance (as the case may be); 3) the term of any independent contractor agreement authorized herein shall not extend beyond the end of FY 2017/2018 (September 30, 2018); 4) at a minimum, the City Manager shall require that any independent contractor agreement entered into pursuant to this Resolution shall utilize the City's standard form for independent contractors (as attached to the City Commission Memorandum accompanying this Resolution), provided that the City Manager may incorporate additional terms, which may be more stringent but not more lenient; 5) requiring the City Manager to issue a Letter to Commission each fiscal quarter, commencing on January 1, 2018, which delineates those independent contractor agreements that exceed \$50,000.00; and 6) providing that the authority granted to the City Manager pursuant to this Resolution shall be brought to the City Commission for renewal as a part of the annual operating budget approval.

PASSED and **ADOPTED** this _____ day of _____, 2018.

ATTEST:

Rafael E. Granado, City Clerk

Dan Gelber, Mayor

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION


City Attorney

1/4/18
Date