

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Ricardo J. Dopico, City Attorney

DATE: September 11, 2024 10:30 Second Reading Public Hearing

TITLE: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ADMINISTRATION," BY AMENDING ARTICLE II, ENTITLED "CITY COMMISSION," AND CREATING SECTION 2-18 ENTITLED "STOP THE PAUSE POLICY" TO ESTABLISH MINIMUM VOTING THRESHOLDS RELATING TO CRITICAL INFRASTRUCTURE PROJECTS HAVING AN ESTIMATED CONSTRUCTION COST ABOVE A STATED THRESHOLD; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

### **RECOMMENDATION**

### **BACKGROUND/HISTORY**

### **ANALYSIS**

At the request of the Commissioner Alex Fernandez, the proposed Ordinance is presented to the Mayor and City Commission for consideration.

The City of Miami Beach recognizes the importance of critical infrastructure projects that are essential to the health, safety, and well-being of its residents, commuters, and visitors.

As recognized by the Mayor and City Commission in Resolution No. 2024-33144 and by the Office of the Inspector General in OIG Opinion Nos. 24-05 and 24-12, it is in the best interest of the City to ensure that such critical infrastructure projects proceed without unnecessary interruptions or modifications once they have reached advanced stages of design or are shovel-ready.

The proposed Ordinance would codify more stringent voting thresholds necessary to take any action that would have the effect of pausing, delaying, stopping or materially modifying critical infrastructure projects at advanced stages to ensure continuity and completion, while allowing for exceptions in the case of unforeseen site conditions that materially impact the cost of the project, funding limitations, and/or funding emergencies, and provided, the Ordinance would not in any way limit the Commission's ability to accept the recommendation of the City Manager to reject all bids, to take any action the Commission deems necessary to protect the City's rights under a contract with a design consultant or contractor. In addition, the Ordinance contemplates that the approval of (a) material changes to increase the scope of a critical infrastructure project having an estimated construction cost of \$1,000,000 or more or (b) to approve an increase to the contract price relating to such a critical infrastructure project shall continue to require only a simple majority (i.e. 4/7th) vote of the City Commission.

The proposed Ordinance also clarifies its scope by defining “critical infrastructure projects” as only the following:

- (i) Projects relating to fire flow, stormwater systems, potable water, and sanitary sewer projects deemed by the city manager to be critical due to risk of failure;
- (ii) Utility projects to replace and/or upgrade systems that are at or near capacity; and
- (iii) Neighborhood Improvement Projects (“NIPs”) that have been approved by the city commission, that may include resiliency-related improvements such as road raising and harmonization.

### **FISCAL IMPACT STATEMENT**

N/A

**Does this Ordinance require a Business Impact Estimate?** Yes  
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on 8/21/2024.  
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

### **FINANCIAL INFORMATION**

### **CONCLUSION**

#### **Applicable Area**

Citywide

**Is this a “Residents Right to Know” item,  
pursuant to City Code Section 2-17?**

Yes

**Is this item related to a G.O. Bond  
Project?**

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481,  
includes a principal engaged in lobbying?** No

If so, specify the name of lobbyist(s) and principal(s):

#### **Department**

City Attorney

#### **Sponsor(s)**

Commissioner Alex Fernandez

#### **Co-sponsor(s)**

Commissioner David Suarez

**Condensed Title**

10:30 a.m. 2nd Rdg, Ch. 2, Stop the Pause Policy. (Fernandez/Suarez) CA