

**CITY OF MIRAMAR
PROPOSED CITY COMMISSION AGENDA ITEM**

Meeting Date: August 18, 2021

Presenter's Name and Title: Burnadette Norris Weeks, Esq., City Attorney

Prepared By: Michelle Austin Pamies, Esq., City Attorney

Temp. Reso. Number: 7472

Item Description: Temp. Reso. #R7472 authorizing the **Public Rights Project**, a project of the Tides Center, Community Justice Project, and Southern Poverty Law Center to file a **lawsuit** on behalf of the City of Miramar, Florida, that facially **challenges Section 1 of CS/HB 1 (2021)**. *(Sponsored by Mayor Wayne M. Messam) (City Attorney Burnadette Norris-Weeks)*

Consent ☐ Resolution ☒ Ordinance ☐ Quasi-Judicial ☐ Public Hearing ☐

Instructions for the Office of the City Clerk: None

Public Notice – As required by the Sec. ____ of the City Code and/or Sec. ____, Florida Statutes, public notice for this item was provided as follows: on _____ in a _____ ad in the _____; by the posting the property on _____ and/or by sending mailed notice to property owners within ____ feet of the property on _____
(fill in all that apply)

Special Voting Requirement – As required by Sec. _____, of the City Code and/or Sec. _____, Florida Statutes, approval of this item requires a _____ (unanimous, 4/5ths etc.) vote by the City Commission.

Fiscal Impact: Yes ☒ No ☐

REMARKS: None

Content:

- **Agenda Item Memo from the City Manager to City Commission**
- **Resolution TR7472**



**CITY OF MIRAMAR
INTEROFFICE MEMORANDUM**

TO: Mayor, Vice Mayor, & City Commissioners

FROM: *ve* Vernon E. Hargray, City Manager *V. Hargray*

BY: Burnadette Norris Weeks, Esq., City Attorney

DATE: August 12, 2021

RE: Temp. Reso. No. 7472, authorizing the Public Rights Project, a project of the Tides Center, Community Justice Project, and Southern Poverty Law Center to file a lawsuit against the Florida Governor and Florida Attorney General on behalf of the City of Miramar, Florida, that facially challenges Section 1 of CS/HB 1 (2021)

RECOMMENDATION: The City Manager recommends approval of Temp. Reso. #R7472, authorizing the Public Rights Project, a project of the Tides Center, Community Justice Project, and Southern Poverty Law Center to file a lawsuit on behalf of the City of Miramar, Florida, that facially challenges Section 1 of CS/HB 1 (2021).

ISSUE: City Commission approval is required to authorize the City of Miramar to file a lawsuit challenging Section 1 of CS/HB 1 (2021).

BACKGROUND: Following the nationwide and Florida racial justice protests of the Summer of 2020, the Florida Governor, Ron DeSantis, signed into law CS/HB 1, which, among other things, attempts to discourage protests by permitting any person who participates in a peaceful protest that turns violent (even if such violence occurs without the involvement of the protestor) to be arrested and charged with a third-degree felony. If a city's budget reduces the operating budget of the city's law enforcement agency, HB 1 permits the state attorney for the judicial circuit in which a city is located or any member of the city's governing body to file an appeal by petition to the Administration Commission, a body that is comprised of the Governor and his cabinet. The Administration Commission will review the petition through an expedited process that gives cities only five (5) days to file a reply. Following its review, the Administration Commission can

approve, amend, or modify the city's challenged budget. HB 1 does not provide cities with the ability to appeal the decision to a court of competent jurisdiction.

The City of Miramar has approved a Voluntary Retirement Incentive Program ("VRIP"). Some police officers have taken advantage of the VRIP, thereby reducing the payroll line item from the Police Department Budget for 2022. Accordingly, under HB1, the City of Miramar may be subject to an appeal of its budget decision. Public Rights Project, Community Justice Project, and Southern Poverty Law Center are willing to file a lawsuit on behalf of the City of Miramar, Florida, that facially challenges Section 1 of CS/HB 1 (2021) on various legal grounds. The lawsuit will be at no cost or liability to the City. The City of Gainesville has already approved being a plaintiff in the lawsuit; and it is expected that other cities may also participate in the lawsuit.

Temp. Reso. No. 7472
8/10/21
8/10/21

**CITY OF MIRAMAR
MIRAMAR, FLORIDA**

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, AUTHORIZING THE PUBLIC RIGHTS PROJECT, A PROJECT OF THE TIDES CENTER, COMMUNITY JUSTICE PROJECT, AND SOUTHERN POVERTY LAW CENTER TO FILE A LAWSUIT ON BEHALF OF THE CITY OF MIRAMAR, FLORIDA, THAT FACIALLY CHALLENGES SECTION 1 OF CS/HB 1 (2021); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Miramar exercises control over its annual budget as a means to respond to the diverse needs, interests, and values of the community it represents; and

WHEREAS, the City is currently considering and structuring its FY 2022 Budget; and

WHEREAS, the City has instituted a city-wide Voluntary Retirement Incentive Program ("VRIP"), that, among other things, will institute a two-year freeze on the positions of any police officer who opts to retire early under the VRIP; and

WHEREAS, this city-wide voluntary retirement program will have the effect of reducing the salary line item of the City's law enforcement budget; and

WHEREAS, Section 1 of CS/HB 1 creates a State executive review process that is triggered when a City Commissioner or the State Attorney in the applicable Judicial Circuit objects to a funding reduction to the operating budget of the City's law enforcement agency; and

Reso. No. _____

Temp. Reso. No. 7472
8/10/21
8/10/21

WHEREAS, CS/HB 1 delegates this process to the Administration Commission comprised of the Governor and Cabinet, which has the power to amend or modify the budget as to each separate item within the operating budget of the City's law enforcement agency with no limiting principles on the Administration Commission's discretion; and

WHEREAS, Public Rights Project, Community Justice Project and Southern Poverty Law Center have prepared a draft complaint for consideration by the City Commission; and

WHEREAS, the City Commission has reviewed the draft complaint and has weighed the considerations, including the protection of the City of Miramar's budgeting authority and municipal autonomy, and desires to move forward as a participant in the litigation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA:

Section 1. The City Commission hereby states that it is suffering a current injury because its FY 2022 budget considerations are impacted by HB 1; and

Section 2. The City Commission hereby authorizes Public Rights Project, Community Justice Project, and the Southern Poverty Law Center to file a lawsuit bringing a facial challenge to Section 1 of CS/HB 1 on behalf of the City as a Plaintiff, seeking declaratory, injunctive, and other appropriate relief, as set forth in the draft complaint shared with and reviewed by the members of the City Commission.

Temp. Reso. No. 7472
8/10/21
8/10/21

Section 3. This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this _____ day of _____, _____.

Mayor, Wayne M. Messam

Vice Mayor, Yvette Colbourne

ATTEST:

City Clerk, Denise A. Gibbs

I HEREBY CERTIFY that I have approved
this RESOLUTION as to form:

City Attorney
Austin Pamies Norris Weeks Powell, PLLC

Requested by Administration

Commissioner Winston F. Barnes
Commissioner Maxwell B. Chambers
Vice Mayor Yvette Colbourne
Commissioner Alexandra P. Davis
Mayor Wayne M. Messam

Voted

