

RESOLUTION NO. 2022-32166

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA CALLING FOR AN AUGUST 23, 2022 CITY OF MIAMI BEACH SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER CITY CHARTER SECTION 6.03 SHOULD BE AMENDED TO CREATE AN ADDITIONAL QUALIFYING REQUIREMENT THAT CANDIDATES SUBMIT DOCUMENTS EVIDENCING COMPLIANCE WITH THE CITY CHARTER'S EXISTING REQUIREMENT THAT CANDIDATES RESIDE IN CITY FOR AT LEAST ONE YEAR PRIOR TO QUALIFYING FOR OFFICE.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH:

SECTION 1.

In accordance with provisions of the Charter of the City of Miami Beach, Florida and the general laws of the State of Florida, a Special Election is hereby called and directed to be held in the City of Miami Beach, Florida, from 7:00 a.m. to 7:00 p.m. on Tuesday, August 23, 2022, for the purpose of submitting to the electorate the question as set forth hereinafter.

SECTION 2.

That the appropriate and proper Miami-Dade County election officials shall conduct the said Special Election hereby called, with acceptance of the certification of the results of said Special Election to be performed by the City Commission. The official returns for each precinct shall be furnished to the City Clerk of the City of Miami Beach as soon as the ballots from all precincts have been tabulated.

SECTION 3.

That the said voting precincts in the City of said Special Election shall be as established by the proper and appropriate Miami-Dade County Election Officials. All electors shall vote at the polling places and the voting precincts as determined by the Miami-Dade County Election Officials.¹

¹ Pursuant to City Code section 38-3(b): "The City Clerk shall further publish, in a newspaper meeting the requirements set forth in Florida Statute § 50.031 and on the City's website, the polling places for the election twice, once in the third week and once in the first week prior to the

SECTION 4.

Notice of the adoption of this Resolution and of its provisions calling this Special Election shall be given by publication in the Miami Herald, a newspaper of general circulation in Miami Beach, Miami-Dade County, Florida. Such publication shall be made in accordance with the provisions of Section 100.342, Florida Statutes, and Section 38-3 of the Code of the City of Miami Beach.

SECTION 5.

The Notice of Election shall be substantially in the following form:

THE CITY OF MIAMI BEACH, FLORIDA

NOTICE OF SPECIAL ELECTION

NOTICE IS HEREBY GIVEN THAT A SPECIAL ELECTION HAS BEEN CALLED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AND WILL BE HELD IN SAID CITY FROM 7:00 A.M. UNTIL 7:00 P.M. ON THE 23rd DAY OF AUGUST, 2022, AT WHICH TIME THERE SHALL BE SUBMITTED TO THE DULY REGISTERED AND QUALIFIED VOTERS OF THE CITY OF MIAMI BEACH THE FOLLOWING QUESTION:

Charter Section 6.03:
Creating Additional Qualification Requirement for City Commission Candidates:
Proof of Residency Documents

Shall Charter Section 6.03 regarding “qualifying” for City elected office, be amended to create an additional qualifying requirement that candidates submit one (1) or more proof of residency documents upon which candidates rely to evidence their compliance with the Charter’s existing requirement that candidates reside in the City for at least one year prior to qualifying for office?

Yes _____
No _____

Said Notice shall further set forth pertinent information regarding eligibility of electors to participate in said elections.

_____ week in which the election is to be held.”

SECTION 6.

That the official ballot to be used in the Special Election to be held on August 23, 2022 hereby called, shall be in substantially the following form, to-wit:

“OFFICIAL BALLOT”

Charter Section 6.03:

**Creating Additional Qualification Requirement for City Commission Candidates:
Proof of Residency Documents**

Shall Charter Section 6.03 regarding “qualifying” for City elected office, be amended to create an additional qualifying requirement that candidates submit one (1) or more proof of residency documents upon which candidates rely to evidence their compliance with the Charter’s existing requirement that candidates reside in the City for at least one year prior to qualifying for office?

Yes _____
No _____

SECTION 7.

The form of the ballots to be used in this Special Election and their preparation shall be in compliance with all statutory requirements relating to the use of mechanical or other approved voting machines or devices.

SECTION 8.

Registration of persons desiring to vote in the Special Election shall be in accordance with the general law of the State of Florida governing voter registration. Qualified persons may obtain registration forms to vote at the Office of the City Clerk, City Hall, 1700 Convention Center Drive, First Floor, Miami Beach, Florida 33139, during normal business hours, and at such other voter registration centers and during such times as may be provided by the Supervisor of Elections of Miami-Dade County. The Miami-Dade County Supervisor of Elections will register voters for this Special Election until 5:00 p.m. on July 25, 2022. All persons eligible to vote at this Special Election must be registered before the time and date set forth herein or have registered previously, as provided by law. Each person desiring to become a registered voter shall be responsible for properly filling out the registration form and returning it to the Miami-Dade County Elections

Department. All questions concerning voter registration should be directed to the Miami-Dade County Elections Department, 2700 N.W. 87th Avenue, Miami, Florida 33172; Telephone: (305) 499-VOTE (8683).

SECTION 9.

That voters participating via a Vote-by-Mail ballot in said Special Election shall be entitled to cast their ballots in accordance with the provisions of the Laws of the State of Florida with respect to such voting. All questions concerning Vote-by-Mail ballots should be directed to the Miami-Dade County Elections Department, 2700 N.W. 87th Avenue, Miami, Florida 33172; Telephone: (305) 499-VOTE (8683).

SECTION 10.

That the City of Miami Beach shall pay all expenses for conducting this Special Election, and will pay to Miami-Dade County or directly to all persons or firms, upon receipt of invoice or statement approved by the Supervisor of Elections of Miami-Dade County, Florida.

SECTION 11.

That if the Charter Amendment provided for in Sections 5 and 6 above shall be approved by a majority of the qualified electors of the City voting on the subject Charter Amendment, it shall be considered adopted and effective upon the City Commission's acceptance of certification of final election results.

SECTION 12.

Upon the Charter Amendment's approval by a majority of the qualified electors of the City voting on such measure in the election and the City Commission's acceptance of certification of final election returns, the City Clerk is hereby directed to have the subject Charter amendment incorporated into the City Charter, file such Amendment with the Clerk of the Circuit Court and file the revised Charter with the Department of State.

SECTION 13.

If any section, sentence, clause or phrase of this Resolution or of the ballot measure or the Charter Amendment set forth herein is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of said Resolution, ballot measure or Charter Amendment.

SECTION 14.

This Resolution shall be effective immediately upon its passage.

PASSED and ADOPTED this 4 day of May, 2022.

ATTEST:

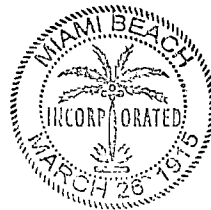


RAFAEL E. GRANADO
CITY CLERK

MAY 09 2022




DAN GELBER
MAYOR



(Requested by Commissioner Mark Samuelian)

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



City Attorney PAZ 4-21-22
Date RP

**AUGUST 23, 2022 CITY OF MIAMI BEACH SPECIAL ELECTION:
CITY CHARTER SECTION 6.03--
BALLOT QUESTION AND PROPOSED AMENDED CITY CHARTER TEXT**

I. BALLOT QUESTION:

**Charter Section 6.03:
Creating Additional Qualification Requirement for City Commission Candidates:
Proof of Residency Documents**

Shall Charter Section 6.03 regarding "qualifying" for City elected office, be amended to create an additional qualifying requirement that candidates submit one (1) or more proof of residency documents upon which candidates rely to evidence their compliance with the Charter's existing requirement that candidates reside in the City for at least one year prior to qualifying for office?

Yes _____

No _____

II. PROPOSED AMENDED CITY CHARTER TEXT:

Charter, Section 6.03: "Qualifying".

The City Commission shall cause to be placed on the ballot to be used in the general election the name of any qualified elector of the City residing within the City at least one year prior to qualifying and who, within the four (4) consecutive days immediately following the first Monday of September prior to said general election, 1) shall have submitted one (1) or more documents upon which he/she relies upon to evidence that he/she has resided in the City for at least one year prior to qualifying, which type document(s) shall include but not be limited to: a Florida government issued identification, a voter's registration card, driver's license, property tax receipt, homestead exemption, utility bill or lease agreement, 2) shall have paid to the City Clerk of the City of Miami Beach the sum equal to seven and one-half percent (7½%) of the annual salary of the office to which he/she seeks election as a qualifying fee, and 3) shall have been photographed and fingerprinted by the identification bureau of the Police Department of the City, unless such person shall file with the City Clerk no later than noon of the 14th day prior to the first day of qualifying as a candidate for such office, a petition approving his candidacy signed by sufficient qualified and registered voters to constitute not less than two percent (2%) of this number of such voters as the same shall be on the date sixty (60) days prior to the first day of qualifying as a candidate for office; in the event the Miami-Dade County Elections Department has not issued its certificate verifying the required number of valid signatures on the subject qualifying petition by 5:00 p.m. on the second day of the City's four-day qualifying period, the City's 7½% qualifying fee shall be waived by the City in the event the subject candidate should otherwise qualify for office pursuant to this Charter section. All candidates qualifying for office shall have taken, signed and subscribed to an oath or affirmation in writing in which he/she shall state (1) the title of the office for which he/she is a candidate; (2) that he/she is a qualified elector of the City of Miami Beach, Florida, and has resided in the City at least one year prior to qualifying; (3) his/her legal residence, by street and number; (4) that he/she is qualified under the ordinances (including Miami Beach City Code Chapter 38 governing "Elections") and Charter of the City of Miami Beach, Florida, to hold the office for which he/she is a candidate.

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Rafael A. Paz, City Attorney
DATE: May 4, 2022

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA CALLING FOR AN AUGUST 23, 2022 CITY OF MIAMI BEACH SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER CITY CHARTER SECTION 6.03 SHOULD BE AMENDED TO CREATE AN ADDITIONAL QUALIFYING REQUIREMENT THAT CANDIDATES SUBMIT DOCUMENTS EVIDENCING COMPLIANCE WITH THE CITY CHARTER'S EXISTING REQUIREMENT THAT CANDIDATES RESIDE IN CITY FOR AT LEAST ONE YEAR PRIOR TO QUALIFYING FOR OFFICE.

ANALYSIS

See attached Commission Memorandum.

SUPPORTING SURVEY DATA

N/A

FINANCIAL INFORMATION

See attached Commission Memorandum.

Applicable Area

Citywide

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

Office of the City Attorney

Sponsor

Commissioner Mark Samuelian

ATTACHMENTS:

Description

- Commission Memorandum
- Resolution

MIAMI BEACH

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
City Manager Alina T. Hudak

FROM: Rafael A. Paz, City Attorney



DATE: May 4, 2022

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA CALLING FOR AN AUGUST 23, 2022 CITY OF MIAMI BEACH SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER CITY CHARTER SECTION 6.03 SHOULD BE AMENDED TO CREATE AN ADDITIONAL QUALIFYING REQUIREMENT THAT CANDIDATES SUBMIT DOCUMENTS EVIDENCING COMPLIANCE WITH THE CITY CHARTER'S EXISTING REQUIREMENT THAT CANDIDATES RESIDE IN CITY FOR AT LEAST ONE YEAR PRIOR TO QUALIFYING FOR OFFICE.

Pursuant to the request of City Commissioner Mark Samuelian, the attached Resolution has been prepared calling for a City of Miami Beach Special Election to be held on August 23, 2022 for the purpose of submitting to the City's voters the following ballot question:

Charter Section 6.03:
Creating Additional Qualification Requirement for City Commission Candidates:
Proof of Residency Documents.

Shall Charter Section 6.03 regarding "qualifying" for City elected office, be amended to create an additional qualifying requirement that candidates submit one (1) or more proof of residency documents upon which candidates rely to evidence their compliance with the Charter's existing requirement that candidates reside in the City for at least one year prior to qualifying for office?

By way of background, City Charter Section 6.03 requires that a candidate for election to the City Commission be a resident of the City for at least 1 year prior to qualifying for office, and file with the City Clerk during the qualifying period his/her fingerprints and photograph, oath of candidacy, and payment of qualifying fee.¹

During the City's 2021 General Election season, Commissioner Samuelian was informed by several City residents of their beliefs that certain candidates had not resided in the City for the required-one year period—this concern was confirmed with regard to one such candidate who was disqualified/deemed ineligible by a Judge in the Eleventh Judicial Circuit Court for not having satisfied the subject one-year residency requirement.

¹ Fee applicable unless qualifying by petition.

Recognizing the significance of transparency to a healthy democracy, and for purposes of fostering the integrity of our municipal elections, Commissioner Samuelian is thus proposing presentation to the City's voters of an amendment to Charter Section 6.03 to create an additional qualification requirement whereby qualifying candidates must file 1 or more documents evidencing their compliance with the Charter's one-year residency requirement.² Commissioner Samuelian believes that by providing City residents and the public in general with greater opportunity to review and assess a City Commission candidate's compliance with the Charter's residency requirement, enhanced voter confidence and trust in the election process will be achieved.

Pursuant to Commissioner Samuelian's request, as City Attorney I have studied the subject proposal, and have opined that requiring all qualifying candidates to submit evidence of compliance with the City's existing residency requirement in order to enhance the voters' ability to evaluate those who seek City office, comports with legal dictates as it is both reasonable and nondiscriminatory, and justified by the City's important governmental interest of fostering transparency, fundamental to the integrity of our electoral system, and further warranted by related relevant and legitimate governmental interests sufficiently weighty to justify it.

The County's deadline for City Commission adoption of a Resolution placing a matter on the August 23, 2022 CMB Special Election ballot is May 27, 2022. Accordingly, it should further be noted that other than the Commission's May 25, 2022 Presentation and Awards meeting, the May 4, 2022 City Commission meeting is the last regularly-scheduled meeting of the City Commission at which a Resolution may be adopted placing a ballot question on the City's August 23, 2022 Special Election ballot.

FISCAL IMPACT STATEMENT

The Miami-Dade County Elections Department has provided the City Clerk with an estimate of approximately \$28,499.90 (Cost Estimate for One Page Ballot) and \$56,449.80 (Cost Estimate in the Scenario Multiple Questions Triggers an Additional Page) to conduct the August 23, 2022 Special Election, which includes the costs associated with 14 days of Early Voting. (See Department of Election Estimates). Additionally, the City will incur approximately \$42,000 in legally mandated advertisements, required by the Florida Statutes and the City Code, to notice this Special Election.

Amount(s)/Account(s):

\$28,499.90 – Estimate 1-page ballot (Scenario 1)

\$56,449.80 – Estimate 2-page ballot (Scenario 2)

\$42,000.00 – Legally Mandated Advertisements

Maximum Estimated Amount: \$98,449.80

Account: 011-9322-000312-90-400-592-00-00-00

RAP/JO/ag

² As with all qualification requirements, given the City Clerk's ministerial role in the processing of qualifying papers, any challenge to a candidate's compliance with Section 6.03's residency requirement and his/her eligibility to run for City office, remain subject to a legal challenge initiated by a private party in a Court of law.

ESTIMATE

City of Miami Beach - Piggyback Election - August 23, 2022

Rafael E. Granado, City Clerk
City of Miami Beach
1700 Convention Center Dr., #200
Miami Beach, FL 33139

Estimate N°: MBEACH-PB-082322
Estimate Date: December 16, 2021

Registered Voters:	50,498	Early Voting Days:	0
Precincts:	25	Early Voting Sites:	0
Polling Places:	-		
Permanent Absentee Ballots:	15,218		

Personnel	\$	-
<i>Salaries & Fringe Benefits, Overtime, Poll Workers</i>		
Polling Places		-
<i>Security, Polling Place Rentals</i>		
Supplies and Services		-
<i>Election Supplies, Communication Charges, Absentee Ballots Set Up</i>		
Trucks and Vehicles		-
<i>Truck Rentals, GSA Vehicles</i>		
Printing and Advertising		25,249.00
<i>Absentee, Early Voting & Precinct Ballots, Temporary Polling Place Change Notices, Newspaper Ads</i>		
Postage		-
<i>Absentee Ballots Sent and Business Reply, Temporary Polling Place Change Notices, Letters</i>		
Ballot Creation		660.00
<i>In-House & Outside Contractual Services, Translations - Based on one question</i>		
Administrative Overhead		2,590.90
<i>Indirect Costs, Logic & Accuracy, Post-Election Audits</i>		
	*TOTAL	<u>\$ 28,499.90</u>

* Please note these costs are estimates and are subject to change. This estimate does include the cost of ballot printing; however, if your question(s)/race(s) creates an additional ballot page, the cost will be adjusted accordingly.

For more information, you may contact:

Jose J. Ponce
Deputy Supervisor of Elections
Miami-Dade Elections Department
2700 NW 87 Avenue
Miami, Florida 33172

Office: 305-499-8320 E-mail: jose.ponce@miamidade.gov

ESTIMATE

City of Miami Beach - Piggyback Election - August 23, 2022 w/ additional page

Rafael E. Granado, City Clerk
City of Miami Beach
1700 Convention Center Dr., #200
Miami Beach, FL 33139

Estimate N°: MBEACH(2)-PB-082322
Estimate Date: December 16, 2021

Registered Voters:	50,498	Early Voting Days:	0
Precincts:	-	Early Voting Sites:	0
Polling Places:	-		
Permanent Absentee Ballots:	15,218		

Personnel	\$	-
<i>Salaries & Fringe Benefits, Overtime, Poll Workers</i>		
Polling Places		-
<i>Security, Polling Place Rentals</i>		
Supplies and Services		-
<i>Election Supplies, Communication Charges, Absentee Ballots Set Up</i>		
Trucks and Vehicles		-
<i>Truck Rentals, GSA Vehicles</i>		
Printing and Advertising		50,498.00
<i>Absentee, Early Voting & Precinct Ballots, Temporary Polling Place Change Notices, Newspaper Ads</i>		
Postage		-
<i>Absentee Ballots Sent and Business Reply, Temporary Polling Place Change Notices, Letters</i>		
Ballot Creation		820.00
<i>In-House & Outside Contractual Services, Translations - Based on one question</i>		
Administrative Overhead		5,131.80
<i>Indirect Costs, Logic & Accuracy, Post-Election Audits</i>		
	*TOTAL	<u>\$ 56,449.80</u>

* Please note these costs are estimates and are subject to change. This estimate does include the cost of ballot printing; however, if your question(s)/race(s) creates an additional ballot page, the cost will be adjusted accordingly.

For more information, you may contact:

Jose J. Ponce
Deputy Supervisor of Elections
Miami-Dade Elections Department
2700 NW 87 Avenue
Miami, Florida 33172

Office: 305-499-8320 E-mail: jose.ponce@miamidade.gov