

RESOLUTION NO. 2023-32565

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MIAMI BEACH AND MIDDLE BEACH PARTNERSHIP INC. (THE "BID"), TO CONDUCT A SPECIAL MAIL BALLOT ELECTION TO DETERMINE WHETHER A MAJORITY OF THE AFFECTED PROPERTY OWNERS APPROVE THE CREATION OF A SPECIAL ASSESSMENT DISTRICT TO BE KNOWN AS THE 41ST STREET BUSINESS IMPROVEMENT DISTRICT, WHICH ELECTION SHALL BE CONDUCTED BY THE OFFICE OF THE CITY CLERK AND OFFICE OF THE CITY ATTORNEY, AND TO PROVIDE THAT THE BID SHALL COVER THE COSTS OF CONDUCTING SUCH ELECTION.

WHEREAS, on March 27, 2023, the Mayor and City Commission adopted Resolution No. 2023-32544, which created, pursuant to Chapter 170, Florida Statutes, and subject to the approval of a majority of the affected property owners, a special assessment district to be known as the 41st Street Business Improvement District (the "District"), for a term of ten (10) years, to stabilize and improve that certain area of the City of Miami Beach herein referred to as the 41st Street retail business district, which District is generally bounded on the west by Alton Road, on the east by Indian Creek Canal, and consists of properties abutting West 41st Street/Arthur Godfrey Road, through promotion, management, marketing, and other similar services; and provided for the levy and collection of special assessments, which shall increase by five (5%) percent every two (2) years; and

WHEREAS, the Mayor and City Commission have called for a special mail ballot election (the "Election") to determine whether a majority of the affected property owners approve the creation of the District; and

WHEREAS, the City and Middle Beach Partnership, Inc., a Florida not-for-profit corporation (the "BID"), desire to enter into a Memorandum of Understanding ("MOU"), attached as Exhibit "A" hereto, pursuant to which the City shall agree to conduct the Election, and the BID shall agree to cover the City's costs of the Election, including the City's staff costs, as well as the cost of postage, printing, mailing, supplies, advertising, and translation; and

WHEREAS, the Office of the City Clerk and Office of the City Attorney shall conduct the Election; and

WHEREAS, the Office of the City Clerk and Office of the City Attorney have prepared special mail ballot election procedures for the Election, which procedures shall be incorporated in the MOU.

NOW, THEREFORE, THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, hereby approve and authorize the City Manager to execute a Memorandum of Understanding between the City of Miami Beach and Middle Beach Partnership, Inc. (the "BID"), to conduct a special mail ballot election to determine whether a majority of the affected

property owners approve the creation of a special assessment district to be known as the 41st Street Business Improvement District, which election shall be conducted by the Office of the City Clerk and Office of the City Attorney, and to provide that the BID shall cover the costs of conducting such election.

PASSED AND ADOPTED this 28 day of April, 2023.

ATTEST:



MAY 02 2023

Rafael E. Granado, City Clerk



Dan Gelber, Mayor

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION



City Attorney NK

4-19-23
Date

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF MIAMI BEACH, FLORIDA AND
MIDDLE BEACH PARTNERSHIP, INC.
TO CONDUCT A SPECIAL MAIL BALLOT ELECTION
TO APPROVE THE CREATION OF THE SPECIAL ASSESSMENT DISTRICT
TO BE KNOWN AS THE 41ST STREET BUSINESS IMPROVEMENT DISTRICT
AND TO PROVIDE FUNDING FOR THE CITY'S COSTS ASSOCIATED THEREWITH**

This Memorandum of Understanding ("MOU") is hereby entered into this MAY 16 2023 day of _____, 2023, by and between the City of Miami Beach, a Florida municipal corporation with offices at 1700 Convention Center Drive, Miami Beach, Florida 33139 ("City"), and Middle Beach Partnership, Inc., a Florida not-for-profit corporation with offices at 975 41st Street, Suite 600, Miami Beach, FL 33140 (the "BID") (altogether, the "Parties").

RECITALS

WHEREAS, on March 27, 2023, the Mayor and City Commission adopted Resolution No. 2023-32544, which created, pursuant to Chapter 170, Florida Statutes, and subject to the approval of a majority of the affected property owners, a special assessment district to be known as the 41st Street Business Improvement District (the "District"), for a term of ten (10) years, to stabilize and improve the 41st Street retail business district through promotion, management, marketing, and other similar services;

WHEREAS, Resolution No. 2023-32544 provides for the levy and collection of special assessments, which shall increase by five (5%) percent every two (2) years; and

WHEREAS, the District is generally bounded on the west by Alton Road, on the east by Indian Creek Canal, and consists of properties abutting West 41st Street/Arthur Godfrey Road; provided, however, that the following properties shall be excluded and exempted from the District: (1) residential properties; (2) any property owned by a City, County, State, or Federal governmental entity or school district; and (3) any property owned or occupied by a religious institution and used as a place of worship or education (as defined in Section 170.201(2), Florida Statutes); and

WHEREAS, a special mail ballot election shall be held to determine whether, pursuant to Chapter 170, Florida Statutes, a majority (50% plus one) of the affected property owners approve the creation of the District (the "Election"); and

WHEREAS, the City and the BID hereby agree to the terms of this MOU, which shall set forth the obligations of the Parties with respect to the Election.

NOW, THEREFORE, in consideration of the foregoing, the parties agree as follows:

1. **RECITALS**

The recitals are true and correct and hereby incorporated into and made a part of this MOU.

2. **CITY'S OBLIGATIONS**

The City, through the Office of the City Clerk and Office of the City Attorney, shall provide the following services relative to the Election:

- A. Conduct the Election, pursuant to the Special Mail Ballot Election Procedures, attached hereto and incorporated herein as Exhibit "A."
- B. Prepare and disseminate any documents necessary to effectuate the Election, including the official ballot, instruction sheet, and form affidavit affirming the voter's authority to vote on behalf of a property owner, as well as any notices and advertisements required by law.
- C. Communicate with the Mayor and City Commission regarding the progress of the Election.

3. **TERM AND EXPIRATION DATE**

This MOU and the Parties' obligations hereunder shall commence upon the full execution of this MOU, and shall terminate upon the City Clerk's certification of the results of the Election to the City Commission.

4. **COMPENSATION**

The BID shall pay and/or reimburse the City for all costs necessary to conduct the Election, including the City's staff costs, as well as the cost of postage, printing, mailing, supplies, advertising, and translation (the "Fee"), as set forth in the proposed budget, attached hereto as Exhibit "B." The total Fee due to the City shall not exceed **\$30,000**, unless otherwise mutually agreed to and approved, in writing, by the Parties. For purposes of this Section 4, the City Manager shall be authorized to act on behalf of the City.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the parties have affixed their signatures, effective on the date first written above.

CITY OF MIAMI BEACH, FLORIDA

ATTEST:

By:



Rafael E. Granado
City Clerk

5/16/2023
Date



Alina T. Hudak
City Manager

5/9/23
Date

MIDDLE BEACH PARTNERSHIP, INC.

ATTEST:

By:



Signature

ANITA GROSSMAN
Print Name / Title

5/1/23
Date



Ira Giller
President

5/1/23
Date



APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

 4-19-23
City Attorney NK Date

41st STREET BUSINESS IMPROVEMENT DISTRICT SPECIAL MAIL BALLOT ELECTION PROCEDURES

The following procedures shall govern the special mail ballot election, which shall be conducted by the Office of the City Clerk and Office of the City Attorney, to determine whether a majority (50% plus one) of the affected property owners approve the creation of the proposed 41st Street Business Improvement District (the "District") (altogether, the "Election").

1. Middle Beach Partnership, Inc. (the "BID"), shall provide the City Clerk with a Certified List, approved by the BID president and attested to by the BID secretary, of each benefited property address within the District, and each property owner's mailing address. In addition, the BID will provide the City with a mailing label and a return-mailing label for each address. The format of the mailing labels and return-mailing labels (the "Labels") shall be as determined by the City.
2. The City reserves the right to hire a consultant, at the sole cost and expense of the BID, to verify the accuracy of the names of the property owners and mailing addresses submitted by the BID pursuant to Section 1 above.
3. The Office of the City Attorney shall draft the ballot question.
4. Upon the BID's approval of the ballot question, and the City's receipt of the Labels and Certified List, the Office of the City Clerk, in consultation with the Office of the City Attorney, shall prepare the Official Ballot. The City's seal will be embossed on each Official Ballot.
5. The City shall translate or arrange the translation of any documents necessary to effectuate the Election, including the Official Ballot.
6. The mail package for each Official Ballot shall be as follows:

Envelope 1: Envelope 1, the outer envelope, shall be affixed with a mailing label provided by the BID. This envelope shall contain (i) the Official Ballot, (ii) a form affidavit affirming the voter's authority to vote on behalf of the property owner (the "Affidavit"), (iii) an instruction sheet detailing when the Official Ballot must be returned and the date, time, and location of when the Official Ballots received will be opened, (iv) Envelope 2, and (v) Envelope 3.

Envelope 2: Envelope 2, which will be placed inside Envelope 1, shall be stamped and pre-addressed for mailing to the Office of the City Clerk. A return address label printed with the folio number, name of the property owner, and mailing address of the property owner shall be affixed to Envelope 2.

Envelope 3: Envelope 3 is the ballot secrecy envelope. To preserve the secrecy of the ballot, the property owner will be instructed to remove the Official Ballot from Envelope 1, and cast a vote by drawing a circle around the appropriate ballot response. After voting, the property owner will be instructed to place the completed Official Ballot inside Envelope 3, seal Envelope 3, and place Envelope 3 into Envelope 2. The property owner will be instructed to place the Affidavit inside Envelope 2 and not to place the Affidavit inside Envelope 3, to preserve the secrecy of the ballot. The property owner shall return a sealed Envelope 2, containing the Affidavit and a sealed Envelope 3, to the City by (i) mailing the pre-addressed Envelope 2 to the Office of the City Clerk, or (ii) physically bringing Envelope 2 directly to the Office of the City Clerk.

7. The Office of the City Clerk shall mail all Official Ballots to the property owners on the same day, via First Class U.S. Mail, unless the BID notifies the City in writing that the BID desires that the Official Ballots be sent via FedEx or any other delivery service, at the BID's expense; in such event, the BID shall provide the City with pre-addressed labels and any and all necessary packing and mailing materials for that particular delivery service. In the event that the BID elects to use a delivery service other than U.S. Mail, the procedure in Section 6 shall still apply, except that Envelope 1 shall be placed inside a postage prepaid envelope for that particular delivery service.
8. As voting envelopes are returned, the Office of the City Clerk shall track, on a daily basis, the number of ballots received, by property address, using the Certified List. The count will be posted on the City's website at the end of each day.
9. In the event that, following the tenth (10th) day after the start of the Election, a property owner has not yet received an Official Ballot, the property owner may submit a written request to the City Clerk for a Duplicate Ballot. Upon receipt of the property owner's request, the City Clerk shall promptly mail a Duplicate Ballot to the property owner. If the BID elects, pursuant to Section 7, to use a delivery service other than U.S. Mail, the BID shall provide the City with a pre-addressed label and any and all necessary packing and mailing materials for that particular delivery service. If a property owner does not receive the Duplicate Ballot, the property owner may, again, submit a written request to the City Clerk for a Duplicate Ballot; however, the property owner (or a representative of the property owner) shall be required to retrieve the Duplicate Ballot from the Office of the City Clerk in person.
10. If the Office of the City Clerk receives two or more envelopes referencing the same folio number, the ballots in those envelopes shall be voided, and that property owner will be considered to have not voted.
11. The Canvassing Board for this special mail ballot election shall consist of the following individuals:

- a. Rafael E. Granado, City Clerk
 - b. Faroat Andasheva, Senior Assistant City Attorney
 - c. Rogelio A. Madan, Development & Resiliency Officer, Planning Department
12. A "yes" vote of the owners of a simple majority (50% plus one) of the affected properties is required to approve the creation of the proposed District.
13. A property owner who fails to return an Official Ballot to the Office of the City Clerk within the allotted timeframe will be considered to have voted "no" to the creation of the District.
14. The City Clerk shall keep the BID president informed of all election-related activities, and the BID president is responsible for disseminating all information to the owners of properties within the District.
15. The ballots will be opened at a publicly noticed meeting of the Canvassing Board, at a prescribed date, time, and location, as follows:
- a. Envelope 2 will be opened and Envelope 3 and the Affidavit will be removed from Envelope 2.
 - b. Envelope 2 will be placed in a separate stack.
 - c. The Canvassing Board will review the Affidavit to ensure that it is complete and validly executed and notarized. If the Affidavit is not complete or validly executed or notarized, the Affidavit will be stapled to the corresponding Envelope 3 and rejected. If the Affidavit is complete and validly executed and notarized, the Affidavit and Envelope 3 will be placed in separate stacks.
 - d. If the Affidavit is deemed valid, the corresponding Envelope 3 will be opened and the Official Ballot will be removed and placed in a separate stack.
 - e. Those Official Ballots deemed valid pursuant to Section 15(d) herein will be counted. The Office of the City Clerk will prepare a tally of "yes" votes, "no" votes, unreturned ballots, and rejected ballots.
 - f. The Canvassing Board will review any ballot lacking a clear ballot response to determine, if possible, the voter's intent.
16. Once the count has been finalized and the count is reconciled, the Office of the City Clerk will prepare an Official Election Certification.

**41st Street Business Improvement District
2023 Special Election
With First-Class Mail Cost Estimate**

Notice of Special Election Ads & Canvassing Board	half	6	\$460	\$2,760.00
Resolution Calling for a Special Election	full	1	\$735	\$735.00
Sample Ballot	half	1	\$460	\$460.00
Notice of Public Hearing - Final Assessment Roll	full	2	\$735	\$1,470.00
El Nuevo Herald	Page	No.	Cost	
Aviso de Elección Especial y Junta de Escrutinio	quarter	6	\$1,400	\$8,400.00
Muestra de Boleta	quarter	1	\$1,400	\$1,400.00
Translating to Spanish services				\$1,000.00
Printing				
Ballots 5 x 7 in color		62	\$0.18	\$11.16
Ballot Instructions 5 x 7 in white		62	\$0.18	\$11.16
Affidavits		62	\$0.18	\$11.16
Final Assessment - Estimated 5 pages		310	\$0.09	\$27.90
stamps - Envelope No. 1 First-Class		62	\$1.74	\$107.88
stamps - Envelope No. 2 First-Class		62	\$1.50	\$93.00
stamps (Final Assessment Roll) First-Class		62	\$0.60	\$37.20
Supplies				
White flat envelopes 7 1/2 x 10 1 box		1	\$79.96	\$79.96
Brown envelopes, 9.5 x 12 1 box		1	\$31.99	\$31.99
Office envelopes (62 @ \$0.13) 1 box		1	\$27.89	\$27.89
#10 envelopes regular 1 box		1	\$12.50	\$12.50
Labels - 5161 Avery		1	\$51.19	\$51.19
Labels - 6878 Avery		1	\$26.69	\$26.69
Paper for Ballots		1	\$32.00	\$32.00
Paper for Ballot Instructions		1	\$32.00	\$32.00
Paper for Affidavits		1	\$10.00	\$10.00
Labor				
40 hours @ \$36.92 per hour		40	\$36.92	\$1,476.80
Miscellaneous costs			\$500.00	\$500.00

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Alina T. Hudak, City Manager
DATE: April 28, 2023

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MIAMI BEACH AND MIDDLE BEACH PARTNERSHIP INC. (THE "BID"), TO CONDUCT A SPECIAL MAIL BALLOT ELECTION TO DETERMINE WHETHER A MAJORITY OF THE AFFECTED PROPERTY OWNERS APPROVE THE CREATION OF A SPECIAL ASSESSMENT DISTRICT TO BE KNOWN AS THE 41ST STREET BUSINESS IMPROVEMENT DISTRICT, WHICH ELECTION SHALL BE CONDUCTED BY THE OFFICE OF THE CITY CLERK AND OFFICE OF THE CITY ATTORNEY, AND TO PROVIDE THAT THE BID SHALL COVER THE COSTS OF CONDUCTING SUCH ELECTION.

RECOMMENDATION

Adopt the Resolution which is sponsored by Commissioner Steven Meiner.

BACKGROUND/HISTORY

Chapter 170, Florida Statutes, authorizes any municipality, subject to the approval of a majority of the affected property owners, to levy and collect special assessments against property benefitted for the purpose of stabilizing and improving retail business districts, wholesale business districts, or nationally recognized historic districts, or any combination of such districts, through promotion, management, marketing, and other similar services.

On October 26, 2022, the Mayor and City Commission adopted Resolution No. 2022-32348 which, in pertinent part, authorized the Offices of the City Manager and City Attorney to work with the Steering Committee of 41st Street commercial property owners, for the purpose of establishing a special assessment district, pursuant to Chapter 170, Florida Statutes, to stabilize and improve the 41st Street retail business district, through promotion, management, marketing, and other similar services.

On March 27, 2023, the Mayor and City Commission adopted Resolution No. 2023-32544, which created, pursuant to Chapter 170, Florida Statutes, and subject to the approval of a majority of the affected property owners, a special assessment district to be known as the 41st

Street Business Improvement District (the "District"), for a term of ten (10) years, to stabilize and improve that certain area of the City of Miami Beach herein referred to as the 41st Street Business Improvement District, which District is generally bounded on the west by Alton Road, on the east by Indian Creek Canal, and consists of properties abutting West 41st Street/Arthur Godfrey Road, through promotion, management, marketing, and other similar services. The resolution also provided for the levy and collection of special assessments which shall increase by five (5%) percent every two (2) years.

A separate Resolution has been placed on the April 28, 2023 City Commission meeting agenda, calling for a special mail ballot election to be held from June 5, 2023 to June 27, 2023, to determine whether a majority of the affected property owners approve the creation of the District (the "Election").

ANALYSIS

The attached Resolution approves and authorizes the City Manager to execute a Memorandum of Understanding (the "MOU") between the City and Middle Beach Partnership, Inc. (the "BID"), which MOU is attached as Exhibit "A" to the Commission Memorandum, pursuant to which the City shall agree to conduct the Election in accordance with the Election Procedures that are an exhibit to the MOU. The BID shall agree to cover the City's costs of the Election, including the City's staff costs, as well as the cost of postage, printing, mailing, supplies, advertising, and translation, all of which are summarized in a Cost Estimate exhibit to the MOU.

SUPPORTING SURVEY DATA

As currently proposed in its Year 1 Budget, the District's most heavily weighted area of services focuses on branding and marketing. According to the 2022 City of Miami Beach Community Survey, when asked what type of support would help advance their business, the highest number of responses—reflecting some 27.5% of businesses participating in the survey—selected 'support with business marketing, branding, and social media'.

FINANCIAL INFORMATION

If the City Commission authorizes the MOU and the Election is administered by the Office of the City Clerk, the related costs will be reimbursed entirely by the BID. A summary of the related costs for the Election in the amount of approximately \$18,805.48 are detailed in the Cost Estimate attached as an exhibit.

CONCLUSION

The owners of property proposed to be assessed will vote in the Election on whether to assess themselves, and if a majority of the owners vote to approve the assessments, any concerned property owner will, subsequently, have an opportunity to address the City Commission (serving as the Equalizing Board) at a duly noticed public hearing. With commercial property owners voting to assess themselves and invest collectively in services that benefit the district, the BID could serve as an economic funding tool and forge a unified voice among 41st Street stakeholders in their relationship with the City.

The Administration recommends that the City Commission proceed with this subsequent step in the creation of the proposed District by adoption of the Resolution as set forth above.

Applicable Area

Middle Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Strategic Connection

Prosperity - Revitalize targeted areas and increase investment.

Legislative Tracking

Economic Development

Sponsor

Commissioner Steven Meiner

ATTACHMENTS:

Description

- ▣ Resolution
- ▣ Exhibit A - Draft MOU
- ▣ Exhibit B - Election Procedures
- ▣ Exhibit C - Cost Estimate